

# OLMSTEAD SUBCABINET PROCEDURES

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## PREAMBLE

On January 28, 2013, Governor Dayton created the Olmstead Subcabinet to develop and implement a comprehensive Minnesota Olmstead Plan that uses measurable goals to increase the number of people with disabilities receiving services that best meet their individual needs in the most integrated setting, consistent with the U.S. Supreme Court's decision in *Olmstead v. L.C.*, 527 U.S. 581 (1999).<sup>1</sup> On January 28, 2015, the Governor issued a second Executive Order defining the Subcabinet's duties, and requiring the Subcabinet to adopt procedures to execute its duties.<sup>2</sup>

On April 25, 2013, the federal district Court in *Jensen, et. al. v. DHS, et. al.*, ordered the State and the Department of Human Services (DHS) to develop and implement a comprehensive *Olmstead* Plan that uses measurable goals to increase the number of people with disabilities receiving services that best meet their individual needs in the most integrated setting, consistent with the *Olmstead* decision.<sup>3</sup>

Minnesota's Olmstead Plan was approved by the Court on September 29, 2015.<sup>4</sup> The Plan was subsequently amended by the Subcabinet in June 2016, February 2017, and March 2018.

## Article I PURPOSE OF PROCEDURES

The purpose of these procedures is to set forth clear and orderly processes for the Subcabinet to implement the Olmstead Plan in furtherance of the Orders of the Governor and the Court.

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<sup>1</sup> Executive Order 13-01, January 28, 2013.

<sup>2</sup> Executive Order 15-03, January 28, 2015.

<sup>3</sup> *Jensen, et. al. v. Department of Human Services, et. al.*, Civil No. 09-cv-1775 (DWF/FLN) Doc. 212.

<sup>4</sup> *Id.* At Doc. 510.

## **Article II** **MEMBERSHIP**

### **A. COMMISSIONER MEMBERS.**

Subcabinet members are appointed by the Governor. Members are the Commissioner, or the Commissioner's designee, of the following State agencies and *ex-officio* members from two State entities.<sup>5</sup>

1. Department of Human Services;
2. Minnesota Housing Finance Agency;
3. Department of Employment and Economic Development;
4. Department of Transportation;
5. Department of Corrections;
6. Department of Health;
7. Department of Human Rights;
8. Department of Education.
9. Ombudsman for the State of Minnesota Office of the Ombudsman for Mental Health and Developmental Disabilities (*ex-officio* member); and
10. Executive Director of the Minnesota Governor's Council on Developmental Disabilities (*ex-officio* member).

### **B. MEMBER DESIGNEES.**

Each member may designate one person from the member's agency to serve in his or her stead on the Subcabinet, and only that designee may serve until such time as the member replaces the designee with a different designee. A member may establish or replace a designee by providing written notice to the Chair.

A designee alternate may also be named using the same procedures used for naming a designee. The Chair has discretion to approve or reject a request for a designee alternate.

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<sup>5</sup> Executive Order 15-03, January 28, 2015.

The member's designee or designee alternate shall exercise the rights and responsibilities of the member when the member is not present. It is the expectation that Commissioner designees and designee alternates will be Deputy or Assistant Commissioners. Exceptions may be granted at the discretion of the Chair.

The Olmstead Implementation Office (OIO) shall maintain a list of all member designees and designee alternates.

#### C. EX OFFICIO MEMBERS.

The Ombudsman for the State of Minnesota Office of the Ombudsman for Mental Health and Developmental Disabilities and the Executive Director of the Minnesota Governor's Council on Developmental Disabilities are *ex officio* members of the Subcabinet.<sup>6</sup> The *ex officio* members are voting members and may serve on Subcabinet committees.

#### D. CHAIR.

A Subcabinet chair will be designated by the Governor.

#### E. MEMBER EXPECTATIONS.

Members are expected to:

1. Attend assigned meetings;
2. Serve on workgroups and subcommittees as the Chair requests;
3. Prepare for active participation in discussion and decision-making by consulting with agency staff, and by reviewing meeting materials;
4. Act as the liaison between the Olmstead Subcabinet and the member's agency or office;
5. Inform the member's agency or office about Subcabinet activities and actions;
6. Ensure the member's agency takes appropriate steps to further progress on Olmstead Plan goals and to comply with OIO Compliance Procedures; and
7. Perform such other duties as required to fulfill the obligations of the Subcabinet.

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<sup>6</sup> Executive Order 15-03, January 28, 2015

**Article III**  
**DUTIES OF THE CHAIR**

The Subcabinet chair shall:

- A. Chair Subcabinet meetings and develop meeting agendas in consultation with the Executive Committee;
- B. Serve on the Executive Committee;
- C. Be responsible for establishing, amending, and updating Subcabinet procedures;
- D. Provide direction to the OIO; supervise the performance of the Executive Director of the OIO; and annually evaluate the Executive Director's performance;
- E. Designate the OIO Director of Compliance, who shall report to the Chair;
- F. Provide direction to compliance staff assigned to the OIO; supervise performance of the OIO Director of Compliance; and annually evaluate the OIO Director of Compliance's performance;
- G. Direct OIO staff to annually prepare a budget, staffing plan and work plan that is sufficient to carry out OIO activities in a timely and high-quality manner;
- H. Appoint chairpersons and other members of committees, in consultation with other Subcabinet members; and to appoint another commissioner member of the Subcabinet to chair a meeting of the Subcabinet or the Executive Committee in the absence of the Chair.
- I. Provide leadership to the Subcabinet; and
- J. Serve as a spokesperson for the Olmstead Subcabinet.

**Article IV**  
**OPEN MEETINGS**

All Subcabinet, committee, and workgroup meetings shall be open to the public and to the extent possible and practicable, conducted in accordance with Minnesota Statutes, Chapter 13D.

## Article V **COMMITTEES**

### A. EXECUTIVE COMMITTEE.

The Subcabinet shall establish an executive committee comprised of three Commissioner Members, which shall include the Subcabinet chair and the Commissioner of Human Services, or his or her designee or designee alternate. All three members shall have a vote. A majority of executive committee members or their designees or designee alternates shall constitute a quorum.

#### 1. RESPONSIBILITIES OF EXECUTIVE COMMITTEE.

The executive committee is responsible for preliminary review of agenda items before presentation to the Subcabinet, for developing recommendations to the Subcabinet, and for conducting the interim business of the Subcabinet.

#### 2. AUTHORITY OF THE EXECUTIVE COMMITTEE.

The executive committee shall have authority to act on behalf of the Subcabinet during the interim between regularly scheduled Subcabinet meetings.

#### 3. MEETINGS.

The Executive Committee shall meet at the call of the chair.

### B. OTHER SUBCABINET COMMITTEES.

The Chair, in consultation with the Subcabinet, may establish any other committees comprised of members of the Subcabinet as necessary to carry out the Subcabinet's responsibilities.

### C. SPECIALTY COMMITTEES.

The Subcabinet may establish specialty committees that may include members outside of the Subcabinet. Each specialty committee shall develop a charter that describes the scope of its work, and shall report regularly to the Subcabinet if directed. The Chair shall approve members of any specialty committee.

**Article VI**  
**SUBCABINET MEETINGS**

A. **SCHEDULE.**

The Subcabinet shall hold no fewer than six regularly scheduled meetings annually. The Subcabinet may hold additional meetings as directed by the Chair.

B. **RULES.**

All Subcabinet and committee meetings shall be conducted in accordance with Robert's Rules of Order, newly revised, 11<sup>th</sup> edition, unless otherwise specified in these procedures.

C. **QUORUM.**

A majority of the Subcabinet members or their designees or designee alternates shall constitute a quorum necessary to conduct Subcabinet business.

D. **VOTES.**

Voting will be conducted by voice vote. A roll call vote may be taken on any issue at the request of one or more of Subcabinet members present. Commissioners' designees or designee alternate shall have a vote if the Commissioner is not present. Votes on an action taken in the meeting shall be recorded in a journal kept for that purpose. The journal must be open to the public during all normal business hours where records of the Subcabinet are kept.

F. **ACCESSIBILITY.**

Subcabinet meetings shall be held in locations and be conducted in a manner accessible to people with disabilities. Subcabinet materials shall be provided in forms accessible to people with disabilities.

F. **NOTICE.**

A schedule of regular meetings shall be kept on file in the OIO office and shall be posted on the Olmstead website. Notice of special meetings shall be given according to the requirements of Minnesota Statutes, Chapter 13D, to the extent possible and practicable.

G. AGENDA AND MATERIALS.

The OIO shall prepare and distribute meeting agenda and materials to the Subcabinet members seven calendar days before meetings of the full Subcabinet. The OIO will make reasonable efforts to also post the meeting agenda and materials to the Olmstead website seven calendar days before meetings of the full Subcabinet.

H. KEEPING OF MINUTES.

The OIO shall keep and publish minutes of Subcabinet and Executive Committee meetings. The minutes shall provide a record of all matters presented to the Subcabinet, including all reports and materials, presented motions, actions, and all votes taken. The draft minutes of Subcabinet and Executive Committee meetings shall be published on the Olmstead website within fourteen calendar days of the meeting.

I. PUBLIC COMMENT.

The Olmstead Subcabinet will utilize reasonable measures to facilitate public comment at meetings of the full Subcabinet.

**Article VII**  
**SUBCABINET DUTIES**

The Subcabinet's duties, established by Executive Order, are:

A. GENERAL DUTY.

The Subcabinet shall implement Minnesota's Olmstead Plan.

B. SPECIFIC DUTIES AS SET FORTH IN EXECUTIVE ORDER.

1. Provide oversight for and monitor the implementation and modification of the Olmstead Plan, and the impact of the Plan on the lives of people with disabilities;
2. Provide ongoing recommendations for further modification of the Olmstead Plan;
3. Ensure interagency coordination of the Olmstead Plan implementation and modification process;
4. Convene periodic public meetings to engage the public regarding Olmstead Plan implementation and modification;
5. Engage persons with disabilities and other interested parties in Olmstead Plan implementation and modification and develop tools to keep these individuals aware of the progress on the Plan;

6. Continue to implement the ongoing Quality of Life survey process to measure the quality of life of people with disabilities over time;
7. Convene, as appropriate, workgroups consisting of consumers, families of consumers, advocacy organizations, service providers, and/or governmental entities of all levels that are both members, and non-members, of the Subcabinet;
8. Appoint any successor to the current Executive Director of the Olmstead Implementation Office (OIO); and
9. Maintain procedures to ensure they define a clear decision-making process, facilitate execution of the Subcabinet's duties, and appropriately define the role of the OIO, and revise such procedures as necessary.

## **Article VIII**

### **OLMSTEAD IMPLEMENTATION OFFICE**

#### **A. REPORTING.**

The Executive Director of the OIO shall report to the Subcabinet chair. The OIO Director of Compliance shall report to the Subcabinet chair.

#### **B. DUTIES.**

The duties of the OIO are as described in the Olmstead Plan in the section titled Plan Management and Oversight.

#### **C. COMPLIANCE.**

The OIO Director of Compliance will maintain OIO Compliance Procedures that document how Subcabinet agencies will work with OIO.

## **Article IX**

### **WORKGROUPS**

The Subcabinet may convene workgroups consisting of consumers, their families, advocacy organizations, service providers, and/or other governmental entities. Workgroups may include members of the Subcabinet. Each workgroup shall develop a charter that describes the scope of its work, and shall report regularly to the Subcabinet if directed. The Chair shall approve members of any workgroup, with input from the Subcabinet members.



**Article X**  
**AMENDMENTS**

The Subcabinet may amend these procedures as appropriate to carry out Subcabinet duties. Amendments shall be by majority vote.