

**II. ORGANIZATIONAL ADMINISTRATION**

**II.1 Staff**

**2013 MTARS Finding (1)**

The Director shall hire, supervise, and annually evaluate the staff of the Council. Sec. 125(c)(9)

The Council Director (not the Governor) should hire Council staff and supervise and annually evaluate them. Instead the:

- Council Director submits hiring recommendations to the Governor and the Governor has the final authority to hire two deputy level staff.
- The Council has the final approval for the hiring of other staff.

**California State Council on Developmental Disabilities Response**

**COUNCIL RESPONSE (1):** The Council agrees with this finding.

**CORRECTIVE ACTION (1):** The Council proposes amending state law, the Lanterman Act, to provide that the Executive Director of the Council is the hiring authority for all Council staff. It is the Council’s intent to propose substantive revisions to the Lanterman Act to address this and other MTARS findings of noncompliance. The Governor’s office has indicated its support for relinquishing hiring authority in order to come into compliance with the DD Act.

**STAFF ASSIGNED:** Mark Polit, Deputy Director for Policy and Planning and Natalie Bocanegra, Staff Counsel; Council’s MTARS Committee to oversee process.

**TIMELINES:** Effective January 17, 2014, Assembly Member Wesley Chesbro agreed to sponsor a bill with intent language: “it is the intent of the Legislature to make statutory changes to Division 4.5 of the Welfare & Institutions Code as it pertains to the operations, structure and responsibilities of the Council. These changes will bring state law into full compliance with federal law, in order to provide for the continued operation of the Council.” Assembly Bill 1595 (AB 1595) was introduced on February 3, 2014. Please refer to **Attachment B** for an anticipated legislative timeline and outline of legislative concepts. **Attachment C** is AB 1595. The Council anticipates that the bill will be signed by the Governor in September 2014 and take effect January 1, 2015.

**June 2<sup>nd</sup> Status Update (1):** In May 14, AB 1595 passed from the Assembly Appropriations Committee to the Assembly floor by consent. On May 23, the bill then passed the Assembly by a vote of 73-0, and has now moved to the Senate, where it is to be heard in the Senate Human Services Committee on June 24.

On May 28, the MTARS Committee voted to amend AB 1595 based on concerns expressed by AIDD on technical assistance calls and in writing on May 27. On May 29, the full Council voted to accept the recommendations of the MTARS Committee, opening the way to amend AB 1595 to address AIDD comments. The text of the Council resolution reads:

- (1) Start the legislation with the DD Act and federal language authorities in the revisions to statute.
- (2) Review AIDD comments and make sure that language in statute reflects Council independence, free from state interference.
- (3) Add language that some state provisions in statute can be done by Council with federal funds, if it is consistent with the Council’s State Plan. Otherwise the Council may engage in other activities using other funds.

A workgroup will draft amendments, as directed by the Council, under the direction of the Council Chair, Molly Kennedy. The drafting workgroup is comprised of Catherine Blakemore (ED of Disability Rights California), Kris Kent (Assistant Secretary of the Health and Human Services Agency), Eric Gelber (Legislative Director of DDS), Mark Polit (SCDD Acting ED), and Natalie Bocanegra (SCDD Staff Counsel). We plan to amend the new language into AB 1595 by the Senate Human Services Committee meeting on June 24. All bills must be sent to the Governor by August 31, and signed or vetoed by the Governor by September 30. Bills signed by the Governor take effect January 1, 2015.

**III. MEMBERSHIP**

**III.1 Membership policies**

**2013 MTARS Finding (2)**

Membership recommendations solicited by Governor from a broad range of organizational sources including non-state agency members of the Council. Sec125(b)(1)(B)

The Council’s membership nomination and appointment process has been historically inhibited by state bureaucracy. It is unclear if and how membership recommendations are solicited from a broad range of DD/ID organizational sources and non-state agency members of the Council.

**California State Council on Developmental Disabilities Response**

**COUNCIL RESPONSE (2):** The Council agrees that it is in limited compliance with this finding. In this instance, California state law is consistent with the DD Act. The Lanterman Act, Welfare and Institutions Code (WIC) Section 4521 includes the following provision:

*4521(c) Prior to appointing the 31 members pursuant to this section, the Governor shall request and consider recommendations from organizations representing, or providing services to, or both, persons with developmental disabilities, and shall take into account socioeconomic, ethnic, and geographic considerations of the state.*

However, the Council has historically been somewhat passive in its involvement in the recruitment of new Council members. Currently, individual Council members may informally recommend that a colleague or acquaintance apply for appointment, but there is no organized process for soliciting their recommendations and submitting them to the Governor’s Appointment office as required in Section 125(b)(1)(B). The Governor does proactively seek input from a variety of ID/DD organizations, but that effort is conducted independent of the Council’s involvement.

**CORRECTIVE ACTION (2):** The Council will amend its bylaws to establish a Membership Committee to recruit, solicit and advise the Governor on appointments to the Council. Its membership will consist exclusively of self-advocates and family advocates who are community leaders and who may or may not be Council members. Part of the rationale for selecting non-Council members in addition to Council members to sit on this Committee is to permit the Council to strategically reach out to influential individuals in the I/DD field who have extensive contacts. In many cases, these individuals are not eligible to themselves sit on the Council because they wear multiple hats as both self/family advocate and disability professional. The Committee will consist of at least three members, a majority of whom are Council members.

Consistent with Council Bylaws, the Chair shall be a Council member. The Committee will meet quarterly at minimum and more frequently as needed. The bylaws will define its membership and responsibilities and will include language in Section 125(b)(1)(B) that the Membership Committee will “coordinate Council and public input to the Governor regarding all recommendations.” Among its duties will be to develop recruitment materials and publicity strategy. The Membership Committee will, at least quarterly, solicit recommendations for candidates via social media, and email/web alerts from among the regional advisory committees, self-advocacy groups, family support groups, the Federal Partners and service providers. The Chair of the Membership Committee will be charged with submitting the Committee’s recommendations to the Governor’s Appointment Office.

**STAFF ASSIGNED:** Dr. Mike Clark, Interim Executive Director; MTARS Committee to oversee implementation.

**TIMELINES:** Council to amend Bylaws to create Membership Committee at its March 20, 2014 meeting. Chair to complete appointments to the Committee by May 9, 2014. Membership Committee to hold first meeting in June 2014. Please refer to **Attachment D** for Council’s February 2014 draft updated Bylaws.

**Attachment E** consists of the MTARS Committee Roster and Agendas

**June 2<sup>nd</sup> Status Update (2):** On May 29, the Council voted to revise the bylaws to establish a membership committee. The Council Chair has appointed members of the committee and a chair. The Membership Committee will hold its first meeting in June. The committee will be staffed by the incoming Interim Executive Director, Dr. Mike Clark. A copy of the membership roster the approved bylaws revision is attached.

<i>III.1 Membership policies (continued)</i>	<i>2013 MTARS Finding (3)</i>
Members reflect the state’s diverse geographic locations, race, and ethnicity. Sec.125(b)(1)(C)	The appointment process for obtaining new Council members has hindered compliance with the DD Act. Currently, SCDD’s membership composition does not meet the requirements for geographic, racial, and ethnic diversity.

**California State Council on Developmental Disabilities Response**

**COUNCIL RESPONSE (3):** The Council has historically had several vacancies and currently has four vacancies for positions recommended by the Area Boards. However for the current 15 non-agency members of the Council, the ethnic and racial representation is as follows: 21% Latino, 7% black, 7% Asian. The membership is currently geographically diverse as well. By design, the Council has historically enjoyed geographic diversity, since 13 seats are filled by members from the 13 regions covering the entire state.

**CORRECTIVE ACTION (3):** The newly constituted Membership Committee will formally take the lead in conducting outreach to unrepresented regions of the state and underserved communities. The Chair of the Membership Committee will solicit from among non-agency Council members, the regional advisory committees, self-advocacy leaders and family support groups, especially those whose membership is composed of individuals from traditionally underserved ethnic or racial minority communities. Based on the many findings relating to membership policies, the Council has begun to develop legislative language to amend the Lanterman Act. This will result in an appointment process that continues to

promote geographic, racial and ethnic diversity. Currently, geographic diversity is established by having a seat assigned to each of the 13 regional advisory committees. It is anticipated that revisions to the Lanterman Act will preserve the geographic diversity by assuring that there will be at least one Council member from the geographic area encompassing each of the Council’s regional offices. The local regional advisory committees will be encouraged to recommend potential candidates, but the Governor retains authority to select the Council membership.

**STAFF ASSIGNED:** Dr. Mike Clark, Interim Executive Director; MTARS Committee to oversee

**TIMELINES:** As cited above with Membership Committee holding first meeting by June 30, 2014. Based on conversations with the Governor’s Appointment staff, we are optimistic that all vacancies will be filled by July 2014. Please see **Attachment F** for Council roster effective February 6, 2014.

**June 2<sup>nd</sup> Status Update (3):** As discussed under corrective action #2, the membership committee has been formed and is scheduled to meet in June. As discussed under corrective action #1, AB 1595 has been passed to Senate. There are no planned amendments relevant to this corrective action.

**III.1 Membership policies (continued)**

**2013 MTARS Finding(4)**

The Council has provisions to rotate membership. Sec.125(b)(2)

Each regional office (i.e. Area Board) representative has to be nominated by the governor. Membership rotation has been historically inhibited by the state’s bureaucratic appointment process. For example, one regional office has not had representation on the Council for two years.

**California State Council on Developmental Disabilities Response**

**COUNCIL RESPONSE (4):** There have historically been challenges in filling Council vacancies. The requirement that these seats be filled by Governor-appointed representatives of each regional office’s board has complicated the appointment process.

**CORRECTIVE ACTION (4):** The anticipated revisions to the Lanterman Act which are being proposed, will streamline the appointment process significantly. The Council intends to also request that statutory language be revised so that a member’s term begins on the date of their appointment. Additional statutory language will be crafted so that members can continue to serve while awaiting replacement.

**STAFF ASSIGNED:** Dr. Mike Clark, Interim Executive Director, for activities of the Membership Committee; Mark Polit to oversee the legislative process; both overseen by MTARS Committee.

**TIMELINES:** As cited above, by June 30 2014 for first meeting of Membership Committee. Anticipated revisions to state law will go into effect January 1, 2015. Beginning no later than June 30 2014, via the Membership Committee as its vehicle, it is anticipated that the Council will enjoy a collaborative and shared mission with the Governor’s office in constituting the Council.

**June 2<sup>nd</sup> Status Update (4):** The revisions in law through AB 1595, discussed above in Status Update (1), have moved from the Assembly to the Senate. There are no planned amendments to AB 1595 relevant to this corrective action.

<b>III.1 Membership policies</b>	<b>2013 MTARS Finding(5)</b>
<p>The Council has provisions that allow continuation of membership until a new member is appointed. Sec.125(b)(2)</p>	<p>The Council did not provide evidence of a policy for allowing the continuation of Council membership until a replacement member could be appointed.</p>
<p><b>California State Council on Developmental Disabilities Response</b></p>	
<p><b>COUNCIL RESPONSE (5):</b> The Council agrees with this finding, as there are conflicting provisions of state law.</p> <p>In compliance with the DD Act, the Lanterman Act currently states:  <i>4521(g) A member may continue to serve following the expiration of his or her term until the Governor appoints that member's successor.</i></p> <p>However, the Lanterman Act also contains a provision which contradicts both the DD Act and Section 4521(g), quoted above:  <i>4521(d) ... In no event shall any member described in paragraph (1) of, subparagraphs (E) and (H) of paragraph (2) of, and paragraph (3) of, subdivision (b) serve for more than a total of six years of service.</i></p> <p><b>CORRECTIVE ACTION (5):</b> The Council is proposing an amendment to the Lanterman Act to clarify that Council member may continue serving until a new member is appointed. The bylaws will be updated in November 2014 to reflect changes in the Lanterman Act from AB 1595.</p> <p><b>STAFF ASSIGNED:</b> Mark Polit, Deputy Director for Policy and Planning with oversight by MTARS Committee</p> <p><b>TIMELINES:</b> As previously cited, legislation has been introduced with the assumption that it will be signed by the Governor in September and go into effect January 1, 2015.</p> <p><b>June 2<sup>nd</sup> Status Update (5):</b> The revisions in law through AB 1595, discussed above in Status Updated (1), have moved from the Assembly to the Senate. There are no planned amendments to AB 1595 relevant to this corrective action.</p>	
<b>III.1 Membership policies (continued)</b>	<b>2013 MTARS Finding(6)</b>
<p>The Council has a process to notify Governor re: membership and vacancies. Sec. 125(b)(2)</p>	<p>The Council did not provide evidence of a transparent and effective process to notify Governor regarding membership vacancies.</p>
<p><b>California State Council on Developmental Disabilities Response</b></p>	
<p><b>COUNCIL RESPONSE (6):</b> Although a process exists in state law to address vacancies, in practice there have indeed been long-standing vacancies. The Lanterman Act states:  <i>4521(g) .... The state council shall notify the Governor regarding membership requirements of the council and shall notify the Governor at least 60 days before a member's term expires, and when a vacancy on the council</i></p>	

*remains unfilled for more than 60 days.*

**CORRECTIVE ACTION (6):** The Membership Committee shall propose to the Council a formalized process for documenting these provisions and the Council will adopt revisions to its bylaws accordingly. This will include: 1) Notifying the Governor six months in advance when feasible; 2) Submitting multiple recommendations to the Governor for consideration; 3) Soliciting support from the DSA when vacancies remain for more than four months; 4) Reporting persistent vacancies to AIDD through the PPR process; 5) Soliciting technical assistance from AIDD when persistent vacancies exist.

**STAFF ASSIGNED:** Dr. Mike Clark, Interim Executive Director, with MTARS Committee overseeing process

**TIMELINE:** Membership Committee to propose revisions to bylaws by December 31, 2014.

**June 2<sup>nd</sup> Status Update (6):** The revisions in law through AB 1595, discussed above, have moved from the Assembly to the Senate. There are no planned amendments to AB 1595 relevant to this corrective action.

On May 29, The Council revised the bylaws to form a membership committee that meets at least quarterly, solicits recommendations for candidates, makes recommendations to the Governor, and reports to the Council quarterly on these activities. The Council chair has appointed members and a chair of the committee. The first meeting of the membership committee will be in June.

**III.2 Membership requirements**

**2013 MTARS Finding(7)**

60% of membership represent individuals with DD in the following categories:  
Sec.125(b)(3); Sec.125(b)(5)

- 1/3 individuals with DD
- 1/3 parents and guardians of children with developmental disabilities or immediate relatives of guardians of adults with developmental disabilities
- 1/3 combination
- At least one is immediate relative or guardian of an individual with developmental disabilities who resides or previously resided in an institution or an individual with developmental disabilities who currently/previously resided in an institution in the State.  
Sec.125(b)(6)

Historically the Council has had long term vacancies. Several membership rosters have been submitted since last year and four membership vacancies were filled just prior to the on-site monitoring visit. An updated membership roster is requested as part of the FY14 State Plan Amendment to AIDD to ensure compliance.

**California State Council on Developmental Disabilities Response**

**COUNCIL RESPONSE (7):** The Council has historically had several vacancies.

**CORRECTIVE ACTION (7):** With the creation of the Membership Committee, we foresee a more engaged Council, wherein the Council will actively involve itself in seeking out and promoting candidates for the

Governor’s consideration. The Chair of the Membership Committee and the staff assigned to support that Committee will be working with the Governor’s Office to rapidly fill existing vacancies. An updated membership roster was submitted as part of the FY14 State Plan Amendment. (**Attachment F** contains the current Council roster as of February 3, 2014.) It should also be noted that the Governor’s Assistant Appointment Secretary, Sarah Greenseid, sits on the MTARS Committee with the commitment of the Governor’s office to ensure the state’s compliance with the DD Act.

**STAFF ASSIGNED:** Dr. Mike Clark, Interim Executive Director, with oversight by MTARS Committee

**TIMELINES:** Immediate and ongoing, calls to Governor’s office bi-monthly, at minimum. A follow-up email will be sent to document the contact. Council members, staff and regional advisory members will be informed of an aggressive campaign to recruit new members via an email to be disseminated by February 28, 2014.

**June 2<sup>nd</sup> Status Update (7):** On May 29, The Council revised the bylaws to form a membership committee that meets at least quarterly, solicits recommendations for candidates, makes recommendations to the Governor, and reports to the Council quarterly on these activities. The Council chair has appointed members and a chair of the committee. The first meeting of the membership committee will be in June.

**IV. PROGRAM ADMINISTRATION**

**IV.1. Five Year State Plan**

**2013 MTARS Finding(8)**

The plan shall focus on Council efforts to bring about the purpose of this subtitle, by specifying 5-year goals, as developed through data driven strategic planning, for advocacy, capacity building, and systemic change related to the areas of emphasis, to be undertaken by the Council. Sec.124(c)(4)(A)

There was inadequate evidence that the:

- Council engages in data-driven strategic planning to develop the State Plan and takes the primary role in the planning process.
- State Plan is the Council’s Plan and that activities are undertaken by the Council versus the State Plan being one that is configured by and for the Area Boards.
- Council is free from state interference in the development of the State Plan. The state’s DD agency awarded the Council two contracts: (1) Client Rights Advocacy and (2) Volunteer Advocacy Services. This state supported work is documented in the Goal 2 in the Council’s State Plan which states: “local offices provide assistance that include systems navigation, technical assistance, attendance to Individualized Education Plan meetings and assistance with due process”. The review team heard more about these two projects during interviews and public forum testimony than any other Council supported activity. While AIDD does not question the merit of the projects and the quality of the work being done by Council staff, it raises serious questions about whether the state is directing the

Council's State Plan or whether the Council is developing the State Plan.

**California State Council on Developmental Disabilities Response**

**COUNCIL RESPONSE (8):** In developing the California State Council State Plan, the Council is very unique and fortunate in having 13 local offices placed throughout the State. Compared to other states, California is an exceptionally large and diverse State with the 8<sup>th</sup> largest economy in the world. Further, because of the vast size and complexity of the State, the California State Council developed a unique, comprehensive, data-driven strategy to gather information in developing the State Plan. In past Plan development cycles, the Council relied on organizing public meetings which drew sparse audiences to a few central locations. Notwithstanding the richness of that material, it was limiting and did not utilize the networks and contacts of each of our regional offices.

The regional offices of the Council developed local needs assessments, utilizing the skills and insights of their advisory board members, local officials, school district personnel, and service providers.

The **Area Board Implementation Guide** assisted each of our local offices in focusing their energy and identifying the needs of their community. The process included a number of locally based public forums, which provided additional input to the work of the staff and volunteers who assisted the local offices in carrying out the identified local needs. At least one Council member attended each regional forum. It was this process repeated across each region that contributed to the development of the Council's State Plan. This was the first time that such a large number of local citizens had the opportunity to directly provide significant input into the development of the State Plan.

The work of the **Strategic Planning Sub-Committee** was to take this extensive data, quantify it, organize it into focus areas, and ultimately establish measurable goals and outcomes. The draft State Plan was presented to the Council which recommended revisions that were made by the Strategic Planning Sub-Committee. The State Plan that was ultimately submitted by the Council reflected data and stakeholder input that was collected throughout the state.

Please see **ATTACHMENT G** for documentation of the State Plan development process, including agendas/minutes of Strategic Planning Subcommittee

**CORRECTIVE ACTION (8):** As described in greater detail in the subsequent Section on Program Performance Report, the Council previously had a Strategic Planning Sub-Committee which oversaw the development of the 5 Year State Plan. That committee went dormant when the Planning Specialist position became vacant in 2011. As described in the later section, the Council intends to reconstitute as a Standing Committee, the State Plan Committee to both oversee implementation of the current State Plan, draft and submit to the Council the annual PPR, recommend State Plan Amendments as necessary, and begin planning for each subsequent 5 Year State Plan. It will be the job of the State Plan Committee to present to the Council at each Council meeting a document that demonstrates the Council's progress toward the specific goals and objectives.

**STAFF ASSIGNED:** Mark Polit, Deputy Director for Policy and Planning; Staff analyst with specialty in planning, starting in June; State Plan Committee reports to Council; MTARS Committee to ensure timely actions taken.

**TIMELINES:** Chair to appoint members of State Plan Committee by April 1, 2014. The Committee will meet quarterly with its first meeting to occur no later than June 30, 2014

**June 2<sup>nd</sup> Status Update (8):** The Bylaws were revised by the Council on May 29 to establish a State Plan Committee. The committee will advise the Council on the collection and reporting of information on unmet needs, priorities and emerging issues; make recommendations to the Council regarding priorities, goals and objectives for the State Plan; advise the Council on the implementation and reporting of progress on the State Plan; and make recommendations to the Council on priorities for grants to meet State Plan goals and objectives. The Council Chair has already selected the Chair and membership of the State Plan Committee (see attached roster).

The first meeting of the State Plan Committee will be June 23. This meeting will include training by Sheryl Matney of NACDD on the responsibilities of the Council with respect to state plan development, tracking implementation, and amending the state plan. The focus will be on where we are currently in the cycle: Gathering data on and ensuring adequate plan implementation. The State Plan Committee will begin its review of how the regional offices contribute to plan implementation, including the gathering of data and the Council's review of that data. This is the first step in developing more strategic control of implementation of the State Plan.

The MTARS Committee is charged with overseeing the implementation of the MTARS Corrective Action Plan and making recommendations to the Executive Committee and the Council related to the CAP. Therefore, The MTARS Committee will monitor the work of the State Plan Committee and independently review in depth the current State Plan, the controls over implementation of the State Plan, and the council organizational structure. These reviews will take place over the next several months and may lead to additional recommendations to the Executive Committee and the full Council.

The State Plan Committee should be supported by the Planning Specialist, a position appointed by the Governor. This position has been vacant for nearly three years. The candidate recommended by the Council's executive director for Planning Specialist was not appointed by the Governor to fill that position. Since the appointment process for a staff position can take significant time, the Council's Acting Executive director advertised on May 23<sup>rd</sup> for a comparable position through civil service to directly hire an analyst who can fill many of the functions of the Planning Specialist. The posting will close on June 9, and we hope to hire a qualified candidate by the June 23<sup>rd</sup> meeting of the State Plan Committee. The Deputy Director of Policy and Planning will then staff the State Plan Committee with the assistance of this analyst. The Planning Specialist position will no longer be critical path for implementation of this corrective action and will be filled at a later time.

**COUNCIL RESPONSE (8) REGARDING THE COUNCIL'S TWO CONTRACTS (BULLET 3)**

Council staff evidently gave confusing information when discussing the two state contracts (actually, Interagency Agreements) held by SCDD as the AIDD team's understanding of the nature of the two contracts is inaccurate. To clarify, the Council has two contracts with DDS: one contract is to provide both Client Rights Advocacy and Volunteer Advocacy Services (CRA/VAS), solely to the 1383 residents of California's state developmental centers. The second contract is to administer the National Core Indicators surveys statewide, known in California as the Quality Assurance Program.

The references made in the Finding regarding the outpouring of support for Goal 2 activities, are actually references to the advocacy, collaboration, training, and outreach that is conducted in the community by the staff that are housed in our local area offices. These activities are quantified in the State Plan as Objectives 2a), 2b), and 2c). The CRA/VAS contract is referenced in Objective 2d) of Goal 2: "The Council will collaborate with federal developmental disability partners and other key stakeholders to protect the rights of residents in Developmental Centers and other large facilities. The Council will be involved in the planning and implementation of any closure process of a Developmental Center."

The CRA/VAS contract is limited in scope to providing advocacy and training to the residents, families and staff of California's five state-operated facilities, including self-advocacy assistance. There are only twelve Council employees throughout the state who work on the CRA/VAS contract and they are solely assigned to that contract and solely paid via that contract. These funds are identified in the Budget Section of the PPR as non-federal funds.

It should be noted that the Council entered into this contract voluntarily as it was seen as a means for having a voice in the state's policies and long term service planning especially as it relates to the planned closure of California's remaining institutions. As with any contract, either party, DDS or SCDD, may terminate the contract.

In 1997 legislation was passed to address a persistent conflict of interest in the provision of client's rights advocacy services for individuals served in the community by the network of regional centers and the individuals who lived in state-run institutions. The contract requires the Council to:

(1) Provide clients' rights advocacy services to persons with developmental disabilities who are consumers of regional centers and to individuals who reside in the state developmental centers and hospitals, including ensuring the rights of persons with developmental disabilities, and assisting persons with developmental disabilities in pursuing administrative and legal remedies.

(2) Investigate and take action as appropriate and necessary to resolve complaints from, or concerning persons with, developmental disabilities residing in licensed health and community care facilities regarding abuse, and unreasonable denial, or punitive withholding, of rights guaranteed under this division.

(3) Provide consultation, technical assistance, supervision and training, and support services for clients' rights advocates that were previously the responsibility of the Office of Human Rights.

(4) Coordinate the provision of clients' rights advocacy services in consultation with the department, stakeholder organizations, and persons with developmental disabilities and their families representing California's multicultural diversity.

(5) Provide at least two self-advocacy trainings for consumers and family members. (our emphasis)

As a result of our role in the developmental centers, the State Council has been a key participant in the closure of three state institutions and the movement of former residents into an array of innovative new community living models.

For a clearer understanding of the scope of work and duties of staff assigned to this contract, please refer to **ATTACHMENT H** which consists of the CRA/VAS Interagency Agreement. Additionally, **ATTACHMENT I** contains the staff roster for the project. **ATTACHMENT J** contains the 2013 CRA and VAS Annual Reports.

**CORRECTIVE ACTION (8):** The Council welcomes AIDD's guidance on the appropriateness of our work on this contract. It should be noted that the existence of this state contract has in no way deterred the Council from taking a variety of policy positions, even when critical of the administration and including criticism of the state's continued reliance on institutional settings. Most recently, the Council was an invited participant on the 2013 Task Force on the Future of California's State Developmental Centers.

**STAFF ASSIGNED:** Mark Polit, Deputy Director of Policy and Planning; MTARS committee to oversee

**June 2<sup>nd</sup> Status Update (8):** No action expected regarding this finding.

IV.1. Five Year State Plan	2013 MTARS Finding(9)
<p>Plan must include assurances related to:</p> <ul style="list-style-type: none"> <li>➤ (B) USE OF FUNDS - <i>At the request of any State, a portion of such funds provided to such State under this subtitle for any fiscal year shall be available to pay up to 1 /2 (or the entire amount if the Council is the designated State agency) of the expenditures found to be necessary by the Secretary for the proper and efficient exercise of the functions of the designated State agency, except that not more than 5 percent of such funds provided to such State for any fiscal year, or \$50,000, whichever is less, shall be made available for total expenditures for such purpose by the designated State agency</i></li> <li>➤ (C) STATE FINANCIAL PARTICIPATION.—<i>The plan shall provide assurances that there will be reasonable State financial participation in the cost of carrying out the plan.</i></li> <li>➤ (D) CONFLICT OF INTEREST.—<i>The plan shall provide an assurance that no member of such Council will cast a vote on any matter that would provide direct financial benefit to the member or otherwise give the appearance of a conflict of interest.</i></li> <li>➤ (K) STAFF ASSIGNMENTS.—<i>The plan shall provide assurances that the staff and other personnel of the Council, while working for the Council, will be responsible solely for assisting the Council in carrying out the duties of the Council under this subtitle and will not be assigned duties by the designated State agency, or any other agency, office, or entity of the State.</i></li> <li>➤ (L) NONINTERFERENCE.—<i>The plan shall provide assurances that the designated State agency, and any other agency, office, or entity of the State, will not interfere with the advocacy, capacity building, and systemic change activities, budget, personnel, State Plan development, or plan implementation of</i></li> </ul>	<p>The Council did not provide adequate evidence that the plan is supported by the assurances in Section 125(c)(5)(B - D) and (K - L).</p> <p>Regarding (B) <i>Use of Funds</i>, the review team could not draw any conclusions about the Council based on the information provided about the expenditures for the DSA. It was stated during interviews that:</p> <ul style="list-style-type: none"> <li>• The DSA charges the Council an indirect rate for the services it provides.</li> <li>• The rate stated by Council staff was in excess of the 5% or \$50,000 limit.</li> <li>• Staff did not know the DSA’s indirect policy and no written policy was provided.</li> <li>• The Council is required to pay the indirect rate. The Council staff stated it does so from two contracts the state awards to the Council.</li> </ul> <p>In regards to (C) <i>State Financial Participation</i>, when the review team inquired about how the state provides match, there were comments about state contract funds being factored in but there was a tremendous lack of clarity on this matter.</p> <p>In regards to (D) <i>Conflict of Interest</i>, the majority of the Council is comprised of non-agency representatives who are Area Board representatives. There are 13 Areas Board representatives on the Council and 7 “at large” members. The Area Board representatives sit on the State Council and on the Advisory Committee to the Area Boards. This dual role presents a conflict of interest and gives the appearance of a conflict of interest. The Council does not have a policy or procedure to address this.</p> <p>In regards to (K) <i>Staff Assignments</i>, it appears that Council staff is carrying out work directed by the state and not necessarily the Council through the state funded Client Rights Advocacy and Volunteer Advocacy Services projects. Through these contracts, Council staff conducts assessments and monitoring in the State’s developmental</p>

<p><i>the Council, except that the designated State agency shall have the authority necessary to carry out the responsibilities described in section 125(d)(3).</i></p> <p>Sec.124(c)(5)</p>	<p>centers. Providing direct services is outside the purview of the Council’s responsibilities. Furthermore, this work is in support of the two state contracts and therefore directs the work carried out by Council staff located in the regional office. Since it is work created by and for the state, it raises questions as to whether the Council staff is assisting the Council or the state.</p> <p>In regards to (L) <i>Noninterference</i>, it is very difficult to conclude whether the Council is free of interference:</p> <ul style="list-style-type: none"> <li>• To avoid duplication, issues related to interference with the budget process are described under <i>VI.1 Fiscal Requirements</i></li> <li>• To avoid duplication, issues related to interference with personnel are described under <i>II.1 Staff</i></li> <li>• To avoid duplication, issues related to interference with State Plan development are described in the Section above <i>IV.1. Five Year State Plan</i>.</li> </ul>
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**California State Council on Developmental Disabilities Response**

**COUNCIL RESPONSE (9 B and C):** The Council agrees that there has been a lack of clarity on the two issues of (B) Use of Funds; and (C) State Financial Participation. With the staff turnover experienced in recent years, there is a lack of institutional knowledge. This is an area in which the Council would appreciate technical assistance.

To clarify our current practice, the Council has an Interagency Agreement (IA) in the amount of \$390,000 with the California Department of Social Services (CDSS) to provide administrative support services in the areas of accounting; some IT support; some human resources services; procurement; and contracting. We have assigned \$50,000 of these costs to the DSA functions. However, the scope of administrative work performed by the Department of Social Services far exceeds the required duties of the DSA. For example, the Council does not have state-approved delegated purchasing authority. Its purchasing authority is held by DSS and therefore, all contracts are encumbered by DSS on behalf of SCDD. We believe it is appropriate for the Council to assign some of the cost of our CDSS Interagency Agreement as General Management costs. If not for this Interagency Agreement, the Council would have to bring these functions in-house, at substantially greater cost. The \$390,000 CDSS IA is broken down as follows:

- \$50,000.....DSA Functions
- \$136,960..... Council General Management costs
- \$92,040.....Funds from State CRA/VAS contract
- \$111,000.....Funds from State QA (NCI) contract

The CDSS states that the cost of providing the support services as outlined in the IA, far exceeds the

\$390,000 paid by SCDD. According to the CDSS, the services more accurately cost \$620,000. Therefore, the difference between the \$620,000 worth of support services provided to the Council versus the \$390,000 paid for these services, represents California's State Financial Participation.

Please see **ATTACHMENT K** for a copy of the CDSS Interagency Agreement as well as supplemental information from CDSS on this matter.

Additionally, it should be noted that, to a very large degree, the California Council implements its State Plan through staff activities which requires no match. In Fiscal Year 2013, the Council awarded \$580,414 in grants, which represents 9% of our allotment. The grantees did provide matching/in-kind funds for a total match of \$284,276 or nearly 50% of the funds awarded. Please see **ATTACHMENT L** for (FY 2013) Cycle 35 Grants and the current (FY 2014) Cycle 36 Grants.

**CORRECTIVE ACTION (9 B and C):** We provide this added documentation in order to assure sufficient clarity. The Council welcomes input from AIDD if further evidence is required to ensure that we are properly addressing assurances.

**STAFF ASSIGNED:** Dr. Mike Clark, Interim Executive Director; Administrative Committee to oversee and report to MTARS Committee

**June 2<sup>nd</sup> Status Update (9B, 9C):** No action planned regarding this finding

**Response(9) Regarding (D), Conflict of Interest**

The California State Council on Developmental Disabilities (Council) is comprised of 31 members; 11 members are agency representatives, 7 members are statewide, or "at-large" and 13 members are from the local area advisory boards.

The regional advisory board members are appointed first by the Governor to the area advisory board and secondly by the Governor to the Council.

For California, the Legislature expressly determined that the planning activities of the Council depend on the direct involvement of Council members familiar with the structure and operation of services and programs for persons with developmental disabilities in areas throughout the state. The Legislature found this necessary due to the expansive geographical size of the state of California and its complexity and diversity. To this end, WIC 4525 expressly exempts Council members from the local area advisory boards from the conflict of interest criteria.

**CORRECTIVE ACTION (9 D):** Based on the many findings relating to membership policies, as previously reported, the Council has begun to develop legislative language to amend the Lanterman Act. This is intended to result in an appointment process that eliminates the perceived conflict of interest. Currently, geographic diversity is established by having a seat assigned to each of the 13 regional advisory committees. It is anticipated that revisions to the Lanterman Act will preserve the geographic diversity by assuring that there is at least one Council member from each of the geographic areas that encompasses each regional office. The local regional advisory committees will be encouraged to recommend potential candidates to the Council's Membership Committee and directly to the Governor's Appointment Office, but

the Governor retains authority to select the Council membership.

**STAFF ASSIGNED:** Mark Polit, Deputy Director for Policy and Planning for legislative action; Staff Counsel to confer on Conflict of Interest provisions; MTARS Committee to oversee.

**TIMELINES:** As previously noted, legislation is expected to be effective January 1, 2015.

**June 2<sup>nd</sup> Status Update (9D):** The revisions in law through AB 1595, discussed above, have moved from the Assembly to the Senate. There are no planned amendments to AB 1595 relevant to this corrective action, except that regional offices and advisory committees will no longer be required.

**RESPONSE TO K (Staff Assignments):** Our response is addressed under **Response 8**, previously cited. It should again be noted that the Council’s activities with respect to serving the residents of state developmental centers is documented in the State Plan under Objective 2d; thus staff who implement the CRA/VAS contract are carrying out work that is consistent with the Council’s role and mission, with leveraged state funds.

**IV.2 State Plan Implementation**

**2013 MTARS Finding(10)**

The Council shall implement the State Plan by conducting and supporting advocacy, capacity building, and systemic change activities Sec.125(c)(5)

The Council’s 5-year plan implementation does not promote advocacy, capacity building, and systemic change at the state level. As discussed above, the review team heard more about the two state funded projects implemented by the Area Boards. Since so much attention was paid to the two state funded projects, the review team did not hear about a coherent set of activities implemented by the Council at the state level.

The Council is providing direct services through the two state contracts. This type of activity is outside the purview of the Council’s responsibilities and appears to overlap with P&A functions.

**California State Council on Developmental Disabilities Response**

**COUNCIL RESPONSE (10):** The Council believes it is in compliance with this provision of Sec.125(c)(5).

The review team focused a great deal on the relationship between the Council’s local offices and the Council. As such, we did not fully explore our state level work on advocacy, capacity building, and systemic change. Apparently, the Council and its staff did not adequately communicate the state level work the Council performs. We will discuss some of this information below and add information on activities since the review team has visited.

In 2013, the Council sponsored AB 1041, Employment First Policy, and played a major role in SB 468, Self-Determination, a bill sponsored by Disability Rights California and Autism Society of Los Angeles. On October 10, 2013, Governor Brown signed both bills into law, creating a turning point in how California delivers services and supports to people with IDD. Combined, these bills may be the most significant

change in California law affecting people with IDD since the passage of the Lanterman Act in 1969. These bills are fundamental to the purpose of the DD Act in promoting self-determination, independence, productivity, and integration and inclusion in all facets of community life. Also, as the DD Act envisioned, the Council worked very closely on both bills with some of our federal partners (DRC on SB 468 and the Tarjan Center, UCLA, on AB 1041).

With respect to state-level capacity building, for example, the Council worked with self-advocacy leaders to establish the Statewide Self-Advocacy Network (SSAN). The SSAN is supported by the Council, but will eventually be an independent 501(c)(3) organization. It is comprised of representatives from each of the 13 regions, the Council's Self-Advocacy Advisory Committee, each of the four federal DD partners, the California Foundation for Independent Living Centers, and People First of California. This is a dynamic group of self-advocacy leaders from around the state that is focused on influencing state level policy and building self-advocacy capacity and leadership at the local level.

Other examples of state level capacity building would include our sponsorships of major statewide conferences, an annual major contribution to the Youth Leadership Forum, which trains self-advocacy leaders of the future, and the Council's Program Development Grants.

With respect to state level advocacy, the PPRs submitted annually contain significant information on the extent of state level advocacy. Since the review team visited in January, the Council wrote 308 letters (including 240 to state legislators, 10 to the Governor, and 57 to the California Congressional Delegation and US Senators). In addition, the Council had over 145 legislative, Congressional and administration meetings.

Besides AB 1041, Employment First Policy, the Council sponsored two other bills: (1) The Council worked closely with Autism Speaks to co-sponsor SB 163, which sought to protect the rights of families to be reimbursed for insurance co-pays and deductibles for autism therapies approved by the state. That bill was defeated. The Council will continue to work with autism advocates to seek protection for those rights. (2) The Council also co-sponsored SB 577 which would create a new service category for job exploration and discovery. This bill is an important part of the strategy to remove barriers to the employment of people with developmental disabilities in integrated competitive employment. This was a two-year bill, passed out of the Senate in January 2014, and is now being considered by the Assembly.

At the federal level, the Council opposed the proposed sequestration cuts to health and human services and wrote the entire California Congressional delegation, informing them of the potential impact on individuals with developmental disabilities and their families. The Council also opposed proposed federal cuts to federal health programs, such as Medicaid. Council staff visited and spoke with staff and members in 15 congressional offices.

With respect to systems change, the Council has been a leading advocate for the last six years for making integrated competitive employment an option for people with developmental disabilities in the state. For example, during this time, the Council sponsored six pieces of employment related legislation. Three of these were signed into law: (1) SB 1270 (2006) authorized the Council to conduct extensive public meetings with stakeholders, consumers, and family members to recommend to the Legislature and Governor steps to increase integrated employment options and more individualized day services. (2) In

2009, at the Council's request, AB 287 established the Employment First Committee within the Council that serves as a forum for all relevant departments and stakeholders to meet and develop strategies to improve employment outcomes. (3) In October of 2013, the Governor signed AB 1041, the Employment First Policy. In part because of the Council's work over the years, this Employment First Policy was not just an executive order or a statement by the department, but represents a consensus view of the DD stakeholder community.

Also with respect to systems change, the Council has played a key role, since 1998, in development of the Self-Determination option in California. The area boards have been partners with the regional centers in implementation of the five Self-Determination pilots. They staffed the pilot advisory committees at the local and state level. The Council contributed significantly to the first Self-Determination bill in 2011 and to the legislation that was signed into law this year.

Beside these highlights, the Council is active in most of the key state level policy forums affecting people with IDD. The Council is a lead agency in California Employment Consortium for Youth (CECY), a project of national significance funded by AIDD. The Council convenes the Employment First Committee which complements the work of CECY in providing a forum for key stakeholders and departments to address barriers to employment of people with IDD. The Council was recently represented on the Secretary's "Future of the DCs Task Force", which made recommendations supported by the Administration for the downsizing and closure of the DCs and the development of a new generation of community services for people with high behavioral needs. We are represented on the ODEP Vision Quest state team comprised of key department, academic and advocacy representatives. We participate in a cross-disability collaboration between leaders of the Tarjan Center and Councils and Committees with statutory responsibilities for the employment of people with disabilities. We participate in stakeholder workgroups convened by the department on state budget and, currently, Self-Determination. We have participated for the last 12 years in broad stakeholder collaborations within the I/DD advocacy and stakeholder communities (The Community Imperative Strategy Group and the Lanterman Coalition). And finally, the Council has a strong internal policy structure with a Deputy Director of Policy and planning, policy support staff, and a Legislative and Public Policy Committee that usually meets 8 or 9 times per year and makes recommendations to the Council on legislation, policy, regulation and state budget issues.

While there is already a great deal of activity, we strive to have a much larger influence and more effectively drive state level policy on a broader scale. We are also increasing the exchange of information between headquarters and regional offices. We appreciated the MTARS' team suggestions for improved work with the regional offices.

Our state level policy work is inextricably linked to and benefits enormously from the Council's regional presence. The Legislative and Public Policy Committee (LPPC) and the Council benefit from the regional offices and regional advisory committees' close connection to their communities. What is happening locally informs our decision making at the state level.

The Council also benefits from our reach into local communities when advancing policy change. For example, the information alerts distributed by the Council are typically forwarded on through our local office databases to what is ultimately a broad statewide network of local/regional/minority organizations and their contact lists. This multiplier effect would indicate that a Council information alert on a topic of

high interest would reach at least 30,000 individuals. In 2013, the Council's work on both Employment First Policy and Self-Determination legislation helped contribute to a huge outpouring of support for these bills, and ultimately, their being signed into law.

Finally, once new policy is adopted, it is necessary to ensure implementation of that policy through information dissemination; training people with developmental disabilities, families, professionals and local regional centers; monitoring the implementation in local communities, where the policies are being implemented; and advocating for corrective actions when implementation lags.

Please refer to **Attachments M** and **N** for further information on the Council's self-advocacy activities and its most recent Employment First Report, which is disseminated to the Legislature and the Governor.

**CORRECTIVE ACTION (10):** The newly reconstituted State Plan Committee, which will hold its first meeting by June 30, 2014, will develop a template that captures data on state plan implementation at both the local and statewide level. It will be distributed on at least a quarterly basis to the full Council and utilized to complete the PPR.

**STAFF ASSIGNED:** Mark Polit, Deputy Director for Policy and Planning; Staff planning analyst; State Plan Committee

**TIMELINES:** Starting no later than June 30, 2014 and quarterly thereafter.

**June 2<sup>nd</sup> Status Update (10):** The Bylaws were revised by the Council on May 29 to establish a State Plan Committee. Among its responsibilities, the committee will advise the Council on the collection and reporting of information on unmet needs, priorities and emerging issues and advise the Council on the implementation and reporting of progress on the State Plan. The Council chair has already selected the chair and membership of the State Plan Committee (attached).

The first meeting of the State Plan Committee will be June 23. This meeting will include training by Sheryl Matney of NACDD on the responsibilities of the Council with respect to state plan development, tracking implementation, and amending the state plan. The focus will be on where we are currently in the cycle: Gathering data on and ensuring adequate plan implementation. The State Plan Committee will begin its review of how the regional offices contribute to plan implementation, including the gathering of data and the Council's review of that data. This is the first step in developing more strategic control of implementation of the State Plan.

As discussed under status update (8), the MTARS Committee is charged with overseeing the implementation of the MTARS Corrective Action Plan and making recommendations to the Executive Committee and the Council related to the CAP. Therefore, The MTARS Committee will monitor the work of the State Plan Committee and independently review in depth the current State Plan and the controls over implementation of the State Plan.

<b>V. EVALUATION AND REPORTS</b>	
<b>Program Performance Report</b>	<b>2013 MTARS Finding(11)</b>
<p>The Council annually prepares and transmits to the Secretary a report containing information about the progress made in achieving the goals. The report includes:</p> <ul style="list-style-type: none"> <li>• Extent to which each goal of Council was achieved. Sec.125(c)(7)(A)</li> <li>• Description of strategies that contributed to achieving goals. Sec.125(c)(7)(B)</li> <li>• Extent to which each goal was not achieved, describes factors that impeded goal achievement. Sec.125(c)(7)(C)</li> <li>• Separate information on self-advocacy goal. Sec.125(c)(7)(D)</li> </ul>	<p>Overall the Council’s Program Performance Report does not specifically describe how each Area Board is contributing to State Plan implementation. Because there are 13 regional offices implementing different parts of the Council State Plan, it is difficult to determine how State Plan achievement is being measured and evaluated.</p> <p>Some Area Boards referenced using "mini-plans" to document which parts of the Council State Plan they were implementing. Other Area Boards did not provide evidence of having "mini-plans". Without consistent use of Area Board "mini-plans" or some other tool it is unclear how the Council can assess progress made in achieving goals.</p>
<b>California State Council on Developmental Disabilities Response</b>	
<p><b>COUNCIL RESPONSE (11):</b> The State Council funds 13 regional offices throughout the state. Each office has program staff that offer ongoing outreach, education, training and technical assistance to their local community. These activities are aligned with the Developmental Disabilities Act and are vital in furthering the objectives of the State Plan. The Council provides ongoing monitoring of the regional offices to ensure their activities correlate to the implementation of the State Plan.</p> <p>The Council is cognizant that it is the Council’s State Plan, not the Area Boards’. With a broad ambitious State Plan and many staff throughout the state implementing it, the compiling of data for the Program Performance Report is challenging. We have been further hampered in that the position of Planning Specialist that would assist in coordination of this effort has been vacant for two years.</p> <p>For the 2012 PPR, California used DD Suite for the first time. All program staff were given access to DD Suite and each staff entered activity narratives directly; however, staff were not held to a specific schedule for reporting activities and outcomes. As a result, the PPR data lacked continuity and cohesion. This year the Council developed an Activity Form, which is a tool to achieve consistency in reporting progress on State Plan-related activities. All program staff now use the Activity form for reporting on each distinct activity. The Activity Reports are turned in to the Deputy Director for Policy and Planning on a bimonthly basis (per the timeline structure of DD Suite) and data is entered into DD Suite by one individual. This approach has resulted in a far more cohesive PPR. It has also resulted in a far more accurate document, demonstrating even better outcomes.</p> <p>While the PPR is a comprehensive report of the Council’s overall performance in implementing the State Plan, the individual Activity Forms provide the more specific data and document the details on how each objective is being implemented. The Activity Forms tell the Council what each regional office is doing to implement the State Plan. The State Plan Committee will be able to use the Activity Forms to better assess</p>	

the performance of each regional office and the Council overall in implementing the State Plan. This in turn will also permit the Council to do more accurate budget planning and grant planning to fill the gaps in achieving outcomes. Please see **ATTACHMENT O** for a sample of several Activity Forms and **ATTACHMENT P** for the 2013 PPR.

**CORRECTIVE ACTION (11):** The Council had a Strategic Planning Committee to oversee the development of the State Plan and the ongoing progress in implementing the State Plan. When the Planning Specialist position became vacant two years ago, however, the Strategic Planning Committee became inactive. In 2013, the Council took steps to reinstate a re-named State Plan Subcommittee; however, at this point it has not yet convened. The Council Executive Director is in the process of filling the Planning Specialist position, having identified a qualified candidate to fill the position of Planning Specialist on January 23, 2014. It is anticipated that the individual will begin her position on or around April 1, 2014. The Planning Specialist will be responsible for training program staff in reporting obligations and ensuring that the Council is kept abreast of progress made in implementing the State Plan. The State Plan Committee will be charged with reviewing the individual Activity forms and based on that data, developing a matrix that illustrates the Council's progress in implementing the State Plan. The chart will be provided to the Council at least quarterly. The information will be used by the Program Development Committee (PDC) to assist in determining priorities for grants. It will be used by the Administrative Committee to help guide fiscal priorities.

**STAFF ASSIGNED:** Mark Polit, Deputy Director for Policy and Planning who will supervise the Planning Specialist; MTARS Committee to oversee.

**TIMELINES:** The State Plan Committee will meet beginning no later than June 30 2014 and will convene at a minimum, quarterly. The Chair will appoint the members of this Committee no later than April 1, 2014.

**June 2<sup>nd</sup> Status Update (11):** The Bylaws were revised by the Council on May 29 (see attached) to establish a State Plan Committee. Among its responsibilities, the committee will advise the Council on the collection and reporting of information on unmet needs, priorities and emerging issues and advise the Council on the implementation and reporting of progress on the State Plan. The Council chair has already selected the chair and membership of the State Plan Committee.

The first meeting of the State Plan Committee will be June 23. This meeting will include training by Sheryl Matney of NACDD on the responsibilities of the Council with respect to state plan development, tracking implementation, and amending the state plan. The focus will be on where we are currently in the cycle: Gathering data on and ensuring adequate plan implementation. The State Plan Committee will begin its review of how the regional offices contribute to plan implementation, including the gathering of data and the Council's review of that data. This is the first step in developing more strategic control of implementation of the State Plan.

The candidate recommended by the Council's executive director for Planning Specialist was not appointed by the Governor to fill that position. Since the appointment process for a staff position can take significant time, the Council's Acting Executive director advertised on May 23<sup>rd</sup> for a comparable position through civil service to directly hire an analyst who can fill many of the functions of the Planning Specialist. The posting will close on June 9, and we hope to hire a qualified candidate by the June 23<sup>rd</sup> meeting of the State

Plan Committee. The Deputy Director of Policy and Planning will then staff the State Plan Committee with the assistance of this analyst. The Planning Specialist position will no longer be critical path for implementation of this corrective action and will be filled at a later time.

An accounting of the manner in which funds paid to the State for a fiscal year were expended. Sec.125(c)(7)(G)

The Council presented several documents that detailed different aspects of how the federal allotment is being spent, but overall the review team could not determine how the budget is developed and executed and how expenditure data is calculated.

**VI. FISCAL**

**VI.1 Fiscal Requirements**

**2013 MTARS Finding(12)**

Council has authority to prepare, approve, and implement a budget to fund programs, projects, and activities. Sec125(c)(8)

The Council did not provide adequate evidence on how it developed or implemented its budget to fund programs, projects, and activities. Council members expressed a strong need for more fiscal transparency and training on state versus federal fiscal policy and the Council’s budget development/implementation process.

In addition, the Lanterman continues to include language that is inconsistent with the DD Act, posing challenges for the Council to be in compliance with the federal law:

- The Lanterman Act requires the Council to provide funding to Area Boards.
- The Lanterman Act provisions require the Council to hire staff at the deputy director level thereby interjecting a line item in the Council’s budget and limiting its authority to develop a budget.

**California State Council on Developmental Disabilities Response**

**COUNCIL RESPONSE (12):** In this section we address both Sec 125(c)(7)(G): The PPR includes an accounting of the manner in which funds paid to the State for a fiscal year were expended; and Sec 125(c)(8) Fiscal Requirements since both specifically address the Council’s role in developing, implementing and tracking its budget.

As the MTARS report later states, at the time of the site visit the Council lacked a Budget Officer (Administrative Service Manager) and unfortunately, the previous Executive Director had provided little budgetary information to the Council. The Administrative Committee was re-established in January 2013 and has met ten (10) times in 2013, nearly monthly. The Administrative Committee’s first undertaking was to develop a 2013 Administrative Work Plan, based on the recommendations of the November 2012 Audit Report from the Department of Health Care Services. Additionally, the Committee ensured that the Council received quarterly expenditure reports in 2013 and approved the Council’s budget for FY 2014.

In May 2013, Council members received governance training, which included their obligations to approve

and monitor the budget, from NACDD technical assistance staff.

At its July 2013 Council meeting, members received training from our Department of Finance (DOF) Analyst on the state budgeting process. Because the California Council implements its State Plan largely through staff activities and because it also retains a network of 13 regional offices, a large proportion of the federal grant is assigned to personnel and facility costs. Since these are largely predictable costs, much though not all, of the budget is necessarily based on historical expenditures. The budget approved by the Council breaks out costs in two categories: Personal Services and Operating Expenses and Equipment. However, the Administrative Committee reviewed a more detailed line item budget. It was the Administrative Committee that examined the Council's allocation of funds to determine how we would absorb the sequestration cut in FY 13 and into the future. The Administrative Committee recommended and the Council agreed that staff vacancies at the local area offices would not be filled.

Additionally, the re-established Administrative Committee receives programmatic and grant information from the Program Development Committee (PDC) that is used to guide fiscal decisions. The Chair of the Administrative Committee also sits on the PDC.

In 2000, California Department of Finance staff devised a cost allocation methodology that would enable the Council to assign costs by state plan goal. That methodology has been reviewed and revised periodically, most recently with the development of the current state plan. The formula is utilized by the state's primary accounting system, known as **Calstars**. As a result, Calstars provides monthly expenditure data, broken out several different ways, including by state plan goal.

For further insight into the Council's efforts to correct identified fiscal weaknesses and inadequacies, please also refer to the attached Fiscal Integrity and State Manager's Accountability Act report (FISMA Report). The FISMA report is a required biannual report of California state departments to examine the adequacy of the agency's system of internal controls.

As previously stated, the Council is pursuing legislation that will bring state law into compliance with the federal DD Act. This will include revised language that removes any provision that interferes with the Council's autonomy in establishing its budget.

**ATTACHMENT Q:** Administrative Committee Roster; **ATTACHMENT R:** Administrative Committee packets of January 2013, February 2013, March 2013, April 2013, June 2013, July 2013, August 2013, October 2013, November 2013, January 8, 2014, January 22, 2014. Quarterly budget reports and Council's approved 2014 budget (two versions, with and without sequestration cut) are included. **ATTACHMENT S:** November Calstars report; **ATTACHMENT T:** FISMA Report

**CORRECTIVE ACTION (12):** The Council has made steady progress in establishing the necessary oversight and ensuring that the Council members are well informed about fiscal and budget processes. The Council now receives quarterly expenditure reports, develops and approves the annual budget. Further, the Council recognizes and welcomes that AIDD staff will be providing close supervision of our progress in this area. The Administrative Committee will continue to meet monthly. The Administrative Committee has set the following priorities for its work in 2014:

1. Ensure that all MTARS noncompliance findings of a fiscal/administrative nature are resolved.

2. Take a more active role in developing the Council’s 2015 budget. (Presented at May 2014 Council meeting)
3. Ensure that the Council has a comprehensive Policies and Procedures Manual. (Completion by December 31, 2014)
4. Oversee the process of establishing an MOU with the DSA and evaluating the functions of the DSA. (Evaluation completed by May 2014. MOU completed by November 30, 2014.)

**(Refer to Attachment U: 2014 Administrative Work Plan**

**STAFF ASSIGNED:** Dr. Mike Clark, Interim Executive Director; Mark Polit, Deputy Director of Policy and Planning; Natalie Bocanegra, Staff Counsel; Catherine Blakemore, Disability Rights California; Eric Gelber, Legislative Director, DDS; Kris Kent, Assistant Secretary, DSA; Administrative Committee to oversee administrative activities. MTARS Committee to oversee legislation.

**TIMELINES:** Ongoing, monthly

**June 2<sup>nd</sup> Status Update (12):** On May 29<sup>th</sup>, the Council approved the 2014/15 State Council budget and the contracts manual. The budget is attached as part of the Administrative Committee agenda of May 27, attached. The Contracts Manual has been previously submitted. The Council adopted the manual with the understanding that staff would make technical changes to the manual. The updated manual will be submitted with the July 1 update.

Staff Counsel is reviewing the status of current procedures and the need for updating or creation of new policies and procedures. The November Council meeting is scheduled to approve a full policies and procedures manual.

The revisions in law through AB 1595, discussed above, have moved from the Assembly to the Senate.

In response to AIDD comments, on May 28, the MTARS Committee voted to amend AB 1595 based on concerns expressed by AIDD on technical assistance calls and in writing on May 27. On May 29, the full Council voted to accept the recommendations of the MTARS Committee (see status update (1)), opening the way to amend AB 1595 to address AIDD comments. A workgroup will draft amendments, as directed by the Council, under the direction of the incoming Council Chair, Molly Kennedy. The drafting workgroup is comprised of Catherine Blakemore (ED of Disability Rights California), Kris Kent (Assistant Secretary of the Health and Human Services Agency), Eric Gelber (Legislative Director of DDS), Mark Polit (SCDD Currently Acting ED), and Natalie Bocanegra (SCDD Staff Counsel). We plan to amend the new language into AB 1595 by the Senate Human Services Committee meeting on June 24.

<b>VI.2 Fiscal Policies</b>	<b>2013 MTARS Finding(13)</b>
<p>Council has policies to carry out appropriate subcontracting activities. Sec.125(c)(8)(A)</p> <p>Council directs expenditures of funds for grants, contracts, interagency agreements that are binding contracts and other activities authorized by State Plan approval.</p>	<p>The Council did not provide adequate evidence of that it has accurate financial accounting and record keeping:</p> <ul style="list-style-type: none"> <li>• At the time of the on-site visit, the Administrative Services Manager position was vacant and the Council did not have a staff person dedicated to managing the Council’s finances.</li> </ul>

<p>Sec.125(c)(8)(C)                  Grantee shall keep records that disclose:</p> <ul style="list-style-type: none"> <li>• Amount and disposition of assistance by recipient</li> <li>• Total cost of project or undertaking in connection with assistance given</li> <li>• Amount of project costs supplied by other sources</li> <li>• Such other records that will facilitate an effective audit</li> </ul> <p>Sec.103</p>	<ul style="list-style-type: none"> <li>• The Council could only provide limited information on the Council's fiscal policies during the on-site visit pertinent to the requirements in the DD Act.</li> <li>• The Council experienced fiscal impropriety under the previous Executive Director (Board Resource contract)</li> <li>• The state auditor's findings substantiate the immediate need for financial management systems. (Reference: <i>California Department of Finance Management Letter dated August 17, 2012</i>)</li> </ul>
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**California State Council on Developmental Disabilities Response**

**COUNCIL RESPONSE (13):** The Council agrees that these findings accurately describe the Council in January 2013, but has since taken a number of strong steps to rectify that situation. We believe that the Council is now on a far stronger fiscal footing and that our policies and practices are transparent to the members, the public, and our business associates.

In July 2013 the Council was able to hire a new Budget Officer (the delay was due to legal procedures associated with the previous budget officer) She has been working closely with Department of Finance staff and our accounting colleagues at the CDSS.

Immediately following her appointment as Acting (now Interim) Executive Director, Ms. Newton sought and received approval from the Council to enter into an Interagency Agreement for the California Department of Health Care Services Financial Audits Branch (FAB) to expand upon the Department of Finance Management Letter's findings, issued August 17, 2012. (Note: Department of Finance (DOF) staff were unavailable to conduct the follow-up.) The DSA was instrumental in securing the services of the FAB audit staff. Specifically, the request was for the audit team to examine all of the Council's practices around contracting and procurement and to provide recommendations. Those recommendations became the basis for an **Administrative Work Plan** which staff has been implementing throughout 2013 and Council has been overseeing, through the Administrative Committee. The Administrative Committee regularly reports to the Council on our progress.

In December 2013, staff completed a draft **Contract and Purchasing Manual** that to a large degree is based upon the manual utilized by the Department of Social Services. The Manual focuses on the Council's procedures for contracting and procurement. The draft Manual was reviewed by the Administrative Committee in January 2014. A second draft will be presented at the February 27, 2014 Administrative Committee meeting. It is anticipated that the Contract and Purchasing Manual will be one element of a more comprehensive Policies and Procedures Manual to be developed throughout 2014. Target completion date: December 31, 2014. The Council does continue to be hampered by staff management vacancies, especially that of the Chief Deputy for Administration. We have been assured that the Governor's Appointment Office will cooperate with the Council's Interim Executive Director in filling these positions expeditiously during this transitional period while legislation is pending to remove the Governor's hiring authority.

Please see **ATTACHMENT V:** Department of Health Care Services Audit Report and **ATTACHMENT W:**

2013 and 2014 SCDD Work Plans and **ATTACHMENT X: SCDD Draft Contract Manual**

**CORRECTIVE ACTION (13):** The Council is advertising for a Chief Deputy for Administration (advertisements have been placed in Monster, Idealist, Opportunity Knocks, Exec Searches, and Capitol Weekly) and a Deputy for Area Board Operations. The Administrative Committee will review a second draft of the Contract and Purchasing Manual in February 2014 and it will go to the Council for review and approval thereafter. As opportunities arise, administrative staff are attending contract development and oversight classes. For example, the contract analyst is registered for a two day class titled “Monitoring Grants and Cooperative Agreements for Federal Personnel” in April 2014.

**STAFF ASSIGNED:** Mike Clark, Interim Executive Director and Administrative Committee

**TIMELINES:** Refer to Corrective Action above

**June 2<sup>nd</sup> Status Update (13):** The contracts manual was approved by the Council on May 29. The Contracts Manual has been previously submitted. The Council adopted the manual with the understanding that staff would make technical changes to the manual. The updated manual will be submitted with the July 1 update.

The Council Acting Executive Director and the incoming Interim Executive Director interviewed and has requested that the Governor’s Office move forward with the appointment of a qualified candidate for the position of Chief Deputy. We are hoping for an appointment in the beginning of June. Contract and procurement staffs have continued to upgrade their skills through classes offered by the Department of General Services. In the last year, they have attended classes and workshops on: Basic Acquisition Certification Program, Acquisitions under \$5,000, Evaluation Criteria, Documentation, and Statement of Work.

**VII. DESIGNATED STATE AGENCY**

**VII.2 Responsibilities of DSA**

**2013 MTARS Finding(14)**

- Receives, accounts for, and disburses funds under subtitle based on State Plan. Sec125(d)(3)(C)(i)
- Provides the appropriate fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, funds paid to the state. Sec125(d)(3)(C)(ii)
- Keeps and provides access to records as Secretary and Council may determine necessary and timely financial reports regarding status of expenditures, obligations, and liquidation by agency or Council, and use of Federal and non-Federal shares.

As mentioned above the Council’s recent experience with fiscal impropriety under the previous Executive Director (Board Resource contract) and the state auditor’s findings substantiates the DSA’s need to establish processes, policies, and procedures that promote:

- Accurate receipt, accounting, and disbursement of funds
- Provision of appropriate fiscal control and fund accounting procedures necessary to assure proper disbursement of, and accounting for, funds paid
- Access to records as the Secretary and Council may determine necessary
- Timely development and dissemination of financial reports regarding status of expenditures, obligations, and liquidation by agency or Council,

<p>Sec125(d)(3)(D)</p> <ul style="list-style-type: none"> <li>• Provides required non-Federal share. Sec125(d)(3)(E)</li> <li>• Assists in obtaining appropriate State Plan assurances and consistency with state law. Sec125(d)(3)(F)</li> <li>• Enters into MOU at request of Council. Sec125(d)(3)(G)</li> </ul>	<p>and use of Federal and non-Federal shares</p> <p>The Council does not have a Memorandum of Understanding with the DSA.</p> <p>There was no evidence that the Council has conducted a formal evaluation of the DSA at any point and time.</p> <p>Several Council staff position and DSA functions appear duplicative. Several DSA functions are performed by Council staff at the central office, specifically in the areas of: contracting, budget, fiscal, and personnel.</p>
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**California State Council on Developmental Disabilities Response**

**COUNCIL RESPONSE (14):** The Council Interim Executive Director has met on multiple occasions with the DSA throughout 2013, specifically to discuss DSA functions.

Currently, the DSA is in the process of obtaining final approval from the California Department of General Services on their revised fiscal control and purchasing authority policies and procedures. Based on these policies and procedures, the Council’s legal Counsel has adapted it and developed a Contract and Purchasing Manual policy handbook that establishes procedures to ensure accurate and appropriate fiscal controls. As previously noted, that manual is currently under review by the Administrative Committee. Once approved by the Committee, the Full Council will review and approve, anticipated at the May 2014 Council meeting. (Please refer to **ATTACHMENT X**)

Council staff members have already attended several trainings regarding their fiduciary obligations as well as proper and standard accounting procedures that will ensure accuracy and dependability in accounting and disbursement of funds.

All policies and procedures ensure that while staff is responsible for the daily work, the full Council retains control over authorizing expenditure of funds in accordance with federal laws, rules, and State Plan goals and objectives.

Neither the Council nor the DSA perceive duplication of Council staff duties with DSA functions. The Department of Social Services’ Interagency Agreement (Attachment K) identifies DSA functions in considerable detail. We have attached the Duty Statements for our Contract Analyst, Contract/Procurement Analyst, Personnel Specialist, Budget Officer, and Information Systems Specialist. While it is certainly true that those positions correspond to DSA functions, Council staff coordinate duties with DSA (DSS) staff. They are complementary, not duplicative. For example, the Council’s Personnel Specialist is the first line contact with our 65 (federally funded) employees. She handles duties associated with changes in benefits, salary, work hours, promotion or adverse actions. DSA staff have access to the state government mainframe and State Controller’s Office and therefore are charged with inputting the transactional changes. Additionally, there are no Council staff who carry out accounting functions. Without direct access to Calstars, the state’s multimillion dollar accounting system, we depend on DSS to handle these functions in a more cost effective manner than we could.

**ATTACHMENT K: DSS Interagency Agreement; ATTACHMENT Y: FIVE (5) DUTY STATEMENTS**

**CORRECTIVE ACTION (14):** The Council agrees that it will develop and enter into a Memorandum of Understanding (MOU) with the DSA during calendar year 2014. This effort will be coordinated by the Administrative Committee. The DSA is represented on the Administrative Committee by Kristopher Kent, Assistant Secretary, Health and Human Services Agency. The Council itself will approve the MOU and it will be signed by the Chairperson.

The Council agrees that it will conduct a formal evaluation of the DSA during calendar year 2014 again through the Administrative Committee. It should be noted, however, that Council management has met periodically with DSA staff to address deliverables, timelines, best practices in IT support and communication, among other issues.

**STAFF ASSIGNED:** Dr. Mike Clark, Interim Executive Director, and the Administrative Committee

**TIMELINES:** Review current DSA functions; review sample MOUs from other states by April 2014 Administrative Committee. Draft MOU and meet with DSA to discuss review by July 2014 Administrative Committee. Meet with DSA and discuss/revise as needed draft MOU by September 2014. Execute and sign MOU at November 2014 Council meeting

**June 2<sup>nd</sup> Status Update (14):** On May 29, the Council accepted the review of the DSA, completing that portion of the corrective action. On May 27<sup>th</sup> the Administrative Committee began its review of the MOUs with DSAs from other states (See attached Administrative Committee packet of May 27, 2014).

# State Council on Developmental Disabilities

Revisions Adopted May 29, 2014  
(Pending Verification)



## BY-LAWS

REVISED ON: April 9, 2013  
CERTIFIED BY SCDD ON: May 15, 2013

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**CALIFORNIA STATE COUNCIL ON DEVELOPMENTAL DISABILITIES**  
**BY-LAWS**

**ARTICLE I. NAME & DEFINITIONS**

The name of this organization shall be the State Council on Developmental Disabilities.

**ARTICLE II. RESPONSIBILITIES**

The responsibilities of the State Council on Developmental Disabilities are set forth in 42 United States Code Section 515001 et. seq. and Sections 4433.5, ~~and~~ 4520 et. seq., and 4868 of the California Welfare and Institutions Code.

**ARTICLE III. PRINCIPAL OFFICE**

The principal office of the Council shall be located in the County of Sacramento, California. The Council may change the principal office from one location to another within the county.

**ARTICLE IV. AREA OF SERVICE**

The area of service shall be the State of California.

**ARTICLE V. MEMBERSHIP**

Appointment to the Council requires each member to fully discharge his/her duties consistent with the responsibilities of representing persons with developmental disabilities. The membership of the Council shall consist of the categories of people in accordance with state and federal law.

**SECTION 1. Appointments:**

Pursuant to Division 4.5, Chapter 2, Article 1, Section 4521 (b)(1), (2), and (3) of the Welfare and Institutions Code, there shall be thirty-one (31) voting members on the Council appointed by the Governor, as follows:

- (a) Twenty (20) members of the Council shall be persons with a developmental disability (self-advocates) or parents, siblings, guardians or conservators (family-advocate) of these persons. In these By-laws these persons are referred to as self-advocates and family-advocates. Of the 20 members, thirteen (13) shall each be current members of the 13 Area Boards, one member from each board and representing consumers and families in their local catchment area; and, seven (7) shall be members at large that are comprised as follow: three (3) persons with developmental disabilities; one (1) person who is a parent, immediate relative, guardian, or conservator of a resident in a developmental center; one (1) person who is a parent, immediate relative, guardian, or conservator of a person with a

developmental disability living in the community; one (1) person who is a parent, immediate relative, guardian, or conservator of a person with a developmental disability living in the community nominated by the Speaker of the Assembly; and, one (1) person with a developmental disabilities nominated by the Senate Committee on Rules.

- (b) Eleven (11) members of the Council shall include: directors or members, as appropriate, of State departments or agencies or of local agencies as prescribed in state and federal laws. These persons are referred to as agency representatives in these By-laws and shall include a representative of a non-governmental agency or group concerned with the provision of services to persons with developmental disabilities, the Executive Director of Disability Rights California, and three (3) members appointed to represent the three California University Centers for Excellence (UCE) programs funded by the Administration on Developmental Disabilities. ~~as the three California UCEs.~~
- (c) Prior to appointing the thirty-one (31) members, the Governor shall request and consider recommendations from organizations representing or providing services, or both, to persons with developmental disabilities and shall take into account socioeconomic, ethnic, and geographic considerations of the state. The Council may, at the request of the Governor, coordinate Council and public input to the extent feasible to the Governor regarding recommendations for membership.

#### **SECTION 2. Term of Office:**

The term of office on the State Council shall be in accordance with state law. The term of each self or family advocate member shall be for three years. In no event shall any self or family advocate member serve for more than a total of six years.

#### **SECTION 3. Conflict of Interest:**

Pursuant to California Welfare and Institution Code Section 4525 the Council's approved Conflict of Interest Policy, is incorporated by reference into these By-laws.

#### **SECTION 4. Vacancies:**

A vacancy on the Council exists if any of the following events occur before the expiration of the term:

- (a) The death of the member.
- (b) An adjudication pursuant to a legal proceeding declaring that the member is physically or mentally incapacitated due to disease, illness, accident, or other condition and there is reasonable cause to believe that the member will not be able to perform the duties of office for the remainder of his/her term.
- (c) The member's resignation.
- (d) The member's removal from office.
- (e) The member's ceasing to be a legal resident of the state or the area the member was appointed to represent.

- (f) The member's absence from the state without the permission required by law beyond the period allowed by law.
- (g) The member's ceasing to discharge the duties of his/her office for the period of three consecutive meetings, except when prevented by sickness, or when absent from the state with the permission required by law. After three (3) consecutive unexcused absences, a member shall be considered as having ceased to discharge the duties of Council membership. An unexcused absence is an absence of a member when previous notice of absence has not been given to the Council Chair or Committee Chair and to the Executive Director by telephone, email, or mail.
- (h) The member's conviction of a felony or any offense involving a violation of his/her official duties. A member shall be deemed to have been convicted under this section when trial court judgment is entered.
- (i) The member's refusal or neglect to file his/her required oath, or declaration of conflict of interests within the time prescribed after being provided notice of non-compliance and a reasonable time to comply.
- (j) The decision of a competent tribunal declaring void the member's election or appointment.
- (k) The making of a vacating order or declaration of vacancy.
- (l) The member assumes a position or responsibility that violates the Council's conflict of interest policy.

~~The Governor shall be notified when a vacancy occurs and shall appoint a person to serve the unexpired term of the member being replaced. The council shall notify the Governor regarding membership requirements of the council and shall notify the Governor in writing immediately when a vacancy occurs prior to the expiration of a member's term, at least six months before a member's term expires, and when a vacancy on the council remains unfilled for more than 60 days.~~

#### **SECTION 5. Resignations:**

Members shall serve a designated term unless they resign, or are otherwise disqualified to serve, or until successors have been appointed, up to the maximum years allowed by State law. Any member may resign at any time by giving written notice to the Chairperson and to the Executive Director. Such resignation shall take effect on the date of receipt of such notice or any later time specified therein; and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

#### **SECTION 6. Compensation and Expenses:**

Self-advocate and family advocate members of the State Council shall receive honoraria pursuant to Government Code 11564.5, and Welfare and Institution Code Section 4550 not to exceed fifty (50) days in any fiscal year. All members shall be reimbursed for authorized actual and necessary expenses incurred in connection with the performance of their duties as Council members, in accordance with state regulations in the State Administrative Manual.

## ARTICLE VI. MEETINGS

### **SECTION 1. Parliamentary Authority:**

- (a) All meetings of the Council and its committees are public meetings governed by the Bagley-Keene Open Meeting Act (Government Code Section 11120, et. seq.).
- (b) Robert's Rules of Order shall be utilized as the rules for all Council and committee meetings except in instances of conflict with these By-laws, or provisions of State or federal law or regulations. The Vice-Chairperson shall serve as Parliamentarian.
- (c) The Council may adopt, from time-to-time, such policies and rules for the conduct of its meetings and affairs as may be required.

### **SECTION 2. Meetings:**

- (a) There shall be no less than six (6) and no more than twelve (12) meetings of the Council per year.
- (b) Special meetings of the Council may be called by the Chairperson or, in case of absence or inability to act by the Chairperson, by the Vice-Chairperson. In case of a refusal to act by the Chairperson, a special meeting may be called by written request of nine (9) members of the Council. Only matters specified in the written notice of the meeting shall be considered at such a meeting.
- (c) Regular or special meetings of the Council shall be held at a place, date, and time designated by the Council or selected by the Chairperson.

### **SECTION 3. Quorum:**

- (a) A quorum for the Council shall be a simple majority of the statutory required membership.
- (b) A quorum for each Council committee and sub-committee shall be a simple majority of the appointed members of that committee.

### **SECTION 4. Voting Rights of Members:**

- (a) Each member shall be entitled to one vote, to be exercised in person. Proxy voting shall not be permitted.
- (b) Except as otherwise specifically provided in State law or these By-laws, all matters submitted for determination shall be decided by a majority vote.

### **SECTION 5. Chairperson Pro Tem:**

If neither the Chairperson nor Vice-Chairperson is present to preside at a Council meeting, a

chairperson pro tem shall be elected by the majority vote of the Council members present.

## **ARTICLE VII. OFFICERS**

### **SECTION 1. Officers:**

The officers of the Council shall be a Chairperson and a Vice - Chairperson elected from among the self and family advocate members. These officers shall perform the duties described in these By-laws.

### **SECTION 2. Election of Member Officers:**

Election of officers shall occur once every two years. The election shall be held during the last meeting of the appropriate calendar year. Only self and family advocate members shall be eligible to hold office.

### **SECTION 3. Voting Procedure:**

Council officers shall be elected by a majority vote. Recommendations for officers shall be in the form of nominations from the Nominating Committee. Nominations may also be received from the floor prior to the election, but subsequent to the report of the Nominating Committee.

### **SECTION 4. Term of Office:**

The Chairperson and Vice-Chairperson shall be elected for a term of two years. Individuals may be elected to these positions for no more than two consecutive terms. Their term of office shall begin the first day of the new calendar year.

### **SECTION 5. Vacancies:**

If the Chairperson resigns or is permanently unable to serve during the term of office pursuant to Article V Section 4, the Vice-Chairperson shall become the Chairperson for the remainder of such term. Upon the vacancy of the Vice-Chairperson's term of office or if the Vice-Chairperson resigns or is permanently unable to serve during the term of office, the Chairperson shall appoint an interim Vice-Chairperson to serve until an election is conducted. The Chairperson shall also appoint a nominating committee of at least three (3) but not more than five (5) Council members that will provide a slate of nominations for the election of Vice-Chairperson during the next appropriate Council meeting.

The voting procedure established in Article VII, Section 3 shall be used for the election process of the permanent Vice-Chairperson.

### **SECTION 6. Duties of the Officers:**

- (a) Chairperson - The responsibilities of the Chairperson are: to preside at all meetings of the Council; to appoint chairpersons and members to all Council committees, except the Nominating Committees, to appoint Council representatives in relation to other agencies and consumer groups; and to represent the Council as needed. The Chairperson shall have full voting rights on all Council actions.

- (b) Vice-Chairperson - The responsibilities of the Vice-Chairperson are to perform all the duties of the Chairperson if the Chairperson is absent or if the Chairperson requests the Vice-Chairperson to do so. When acting in the capacity of the Chairperson, the Vice-Chairperson has the same authority as the Chairperson. The Vice-Chairperson also serves as Chair of the Executive Committee and as Parliamentarian.

**SECTION 7. Removal from Office:**

Action to remove an officer shall be in accordance with the following procedure:

- (a) Written notification must be submitted by registered mail to the Executive Director from Council member(s) describing the specific cause for which removal is sought.
- (b) The Executive Director shall notify the officer charged by registered mail within two (2) working days of receiving the charges. Any member so notified shall have ten (10) days to respond to the group or individual responsible for notification. Following this ten (10) day period, the responsible parties shall notify the Executive Director within ten (10) days as to whether or not they wish to request removal of the officer. If the responsible parties are satisfied by the officer's response that no sufficient cause exists, the matter will be closed with written notice to the Executive Director and to the officer.
- (c) If the group or individual requesting removal is not satisfied by the response of the officer or if the officer fails to respond in ten (10) days, the Executive Director shall put the issue on the agenda at the beginning of the next Council meeting and inform the Council members as to the purpose of the agenda item.
- (d) Written charges shall be distributed and reviewed at the specified meeting of the Council.
- (e) A majority vote shall be required to remove a chairperson or vice-chairperson from office. If removal of the Chairperson is under consideration, the vice-chairperson shall preside.

**ARTICLE VIII. EXECUTIVE DIRECTOR**

**SECTION 1. Appointment:**

- (a) The Executive Director of the Council shall be appointed by and serve at the will of the Council in a position exempt from all civil service requirements pursuant to the California Constitution, Article 7, section 4(b) and Welfare and Institutions Code Section 4551(a)(2). The appointment of the Executive Director shall occur during a regular or special meeting of the Council.
- (b) A performance review of the Council Executive Director shall be coordinated by

the Executive Committee and conducted annually by the full Council.

**SECTION 2. Responsibilities and Duties:**

- (a) The Executive Director shall be the chief administrative officer of the Council and shall have all the authority and responsibility assigned to the director of a state agency including budget, personnel, and contractual transactions. These include authority for entering into and execution of agreements on behalf of the Council in order to implement the policies of the Council.
- (b) The Executive Director shall be under the direction and control of the Council and shall do and perform such other duties as may be assigned by the Council.
- (c) The Executive Director shall serve as clerk to the Council.

**SECTION 3. Removal:**

- (a) Action to remove the Executive Director of the Council shall be conducted in accordance with Government Code Section 11120, et. seq.
- (b) The Executive Committee of the Council may recommend removal of the Executive Director during a regular or special meeting. This recommendation shall be taken to the Council during a regular or special meeting for discussion and action.
- (c) A majority vote, during a regular or special Council meeting, shall be required to remove the Executive Director from his or her exempt appointment.

**ARTICLE IX. COMMITTEES**

**SECTION 1. Authority:**

- (a) Subject to the provision of these By-laws, all committees, with the exception of the Executive Committee, shall be advisory and shall not have the power to bind the Council except when specifically authorized by the Council to do so. Recommendations made by advisory committees shall be presented to the Council for adoption in the form of a motion.
- (b) Subject to provision of these By-laws, a vacancy in the membership of a committee, except the Nominating Committee, may be filled by the Council Chairperson.
- (c) A committee may meet upon call of the chairperson of the committee or the Council Chairperson.
- (d) Unless otherwise specified in these By-laws, the Chairperson and the Executive Director of the Council shall serve ex officio, without vote, on all committees, except the Nominating Committee.

- (e) A committee member may be removed from the committee by the Council Chair after three (3) consecutive unexcused absences. An unexcused absence is an absence of a member when previous notice of absence has not been given to the Committee Chair or Executive Director or appropriate Deputy Director by telephone, e-mail or mail.

**SECTION 2. Standing Committees:**

- (a) There shall be ~~six (6)~~ seve~~en~~eight (78) standing committees of the State Council:
  - (1) Executive
  - (2) Administrative
  - (3) Legislative and Public Policy
  - ~~(4) Program Development~~
  - (45) Self-Advocates Advisory
  - (56) Employment First
  - (67) Membership
  - (78) State Plan Committee
- (b) The Chairperson and members of each of the standing committees shall be appointed by the Council Chairperson. In the event of a vacancy for any reason in membership or the Chairperson, a successor may be appointed by the Council Chairperson. The Chairpersons and Vice-Chairpersons of the State Council and of its standing committees shall be individuals with a developmental disability, or the parent, sibling, guardian, or conservator of an individual with a developmental disability (WIC 4535(b)). The All committee chairperson appointments shall be announced to the Council at the next available Council meeting.
- (c) The membership of all standing committees, except the Executive Committee, shall be open to non-members of the Council. The expenses of non-Council members may be reimbursed on the same basis as a Council member with the exception of the honorarium.
- (d) All members of the Council shall be expected to serve on at least one standing committee of the Council.
- (e) The charge of each of these committees shall be as follows:
  - (1) Executive Committee  
The Executive Committee shall serve as the coordinating body to the Council. The Committee shall:
    - [a] ~~Consist of the Council Chairperson, Vice-Chairperson, chairperson of the Legislative and Public Policy Committee, chairperson of the~~

~~Program Development Committee, chairperson of the Strategic Planning Subcommittee, chairperson of the Self-Advocates Advisory Committee, chairperson of the Employment First Committee, the chair of each standing committee, and up to two (2) other Council members.~~

- [b] Be chaired by the Council Vice-Chairperson.
- [c] Have delegated authority to Act act on behalf of the Council between meetings, but shall not modify any action taken by the Council unless authorized by the Council to do so. The full Council at the next regular or special meeting shall receive a report of all Executive Committee actions taken between Council meetings.
- [d] Administrative matters shall be a standing agenda item at every meeting and shall include but not be limited to, budget reports, expenditure reports and other major administrative issues.
- [e] Make recommendations to the Council regarding approval of Community Program Development Grants (CPDG) projects to be funded, and allocations.
- ~~[f] — Appoint members of CPDG Grant Review team as needed.~~
- [fg] Provide direction to the Executive Director regarding all matters pertaining to Council responsibilities.
- [gh] Make recommendations to the Council regarding amendments to the By-laws, changes in committee structure or responsibilities.
- [hi] Make recommendations to the Council regarding Council member training.
- [ij] Make recommendations to the Council regarding the presentation of awards on behalf of the Council.
- [kj] Make recommendations to the Council regarding matters assigned by the Council or the Council Chairperson.
- [kl] Make recommendations to the Council regarding the appointment, evaluation, or removal of the Executive Director.
- [ml] Monitor and evaluate California State Strategic Plan on Developmental Disabilities implementation and submit findings to the Council.

[mn] Review and make recommendations to the Council regarding area boards' requests to initiate litigation per Welfare and Institution Code Section 4548(g)(4) and (6).

[ne] Coordinate the Council's litigation activities, as needed, and make recommendations to the full Council.

~~[p] Make appointments to and receive recommendations from the Strategic Planning Sub-Committee.~~

[oq] Present a slate of nominees to be elected to the Nominating Committee. Election to the Nominating Committee shall occur at the September Council meeting during election years.

~~[r] Form and provide oversight for a State Plan Sub-Committee. This Sub-Committee will be formed periodically to review the existing State Plan and make progress toward an update.~~

~~\_\_\_\_\_ This Sub-Committee shall:~~

~~(1) Advise the Executive Committee on the collection and reporting of information on needs, including unmet needs, priorities and emerging issues~~

~~\_\_\_\_\_ (2) Make recommendations to the Executive Committee regarding policy priorities, goals and objectives for the California State Plan on Developmental Disabilities~~

~~\_\_\_\_\_ (3) Advise the Executive Committee and full Council in the planning of the implementation and reporting of the goals and objectives of the Council's California State Plan on Developmental Disabilities.~~

(2) Administrative Committee

The Administrative Committee shall assist with monitoring the administrative and budgetary activities of the Council. The Committee shall:

[a] Be composed of at least three (3) Council Members

[b] Make recommendations to the Council regarding allocation of discretionary fiscal resources and other budgetary issues.

- [c] Make recommendations to the Council regarding budgeting for anticipated fiscal resources among Council operations and specific service priorities for inclusion in the California State Strategic Plan and the Governor's budget.
- [d] Make recommendations to the Council regarding monitoring and evaluating administrative contracts and agreements.
- [e] Make recommendations to Council regarding all contracts and agreements.
- [f] Monitor and evaluate administrative contracts and agreements; and take actions authorized in all Council contracts and agreements.
- [g] Make recommendations to the Council regarding administrative matters and policies including organizational charts and structure.

(3) Legislative and Public Policy Committee

The Legislative and Public Policy Committee shall implement the California State Strategic Plan on Developmental Disabilities objectives as assigned by the Council. The Committee shall:

- [a] Be composed of at least seven (7) members.
- [b] Review, comment and recommend positions on significant proposed legislation and/or proposed regulations.
- [c] Recommend legislation consistent with Council's responsibilities and objectives.
- [d] Recommend initiatives and policies consistent with Council responsibilities and objectives.
- [e] Provide testimony and recommendations to the Legislature with regard to matters pertaining to people with developmental disabilities.
- [f] Respond to other responsibilities as assigned by the Council or Council Chairperson.

~~(4) Program Development Committee~~

~~The Program Development Committee shall advise the Council in the development of services and projects designed to improve the quality of life for individuals with developmental disabilities and their families~~

~~The Committee shall:~~

~~[a] Be composed of at least seven (7) members.~~

~~[b] Make recommendations to the Council regarding the Community Program Development Grant (CPDG) application process and suggested priorities/criteria for proposals.~~

~~[c] Develop methods to market and implement successful CPDG projects throughout the State.~~

~~[d] Carry out other responsibilities as assigned by the Council or the Council Chairperson.~~

**(45) Self-Advocates Advisory Committee**

The Self-Advocates Advisory Committee shall advise the Council as a voice for all Californians with developmental disabilities, by promoting State Council participation and peer advocacy that advances independence and inclusion. The Committee shall:

[a] Be composed of self-advocate members of the Council who wish to participate on the committee.

[b] Advise the Council regarding self-advocate needs related to serving the Council including manners in which to ensure participation and inclusion in all meetings.

[c] Advise the Council regarding policies, programs and any other area affecting self-advocates in California.

[d] Review materials and other Council produced information to evaluate and make recommendations regarding plain language approaches.

[e] To ~~have-nominate~~ a standing representative to the Statewide Self-Advocacy Network (SSAN).

**(56) Employment First Committee**

The Employment First Committee is responsible for ensuring the development of an Employment First Policy which has the intended outcome of significantly increasing the number of individuals with developmental disabilities who engage in integrated, competitive employment. The Committee shall:

[a] Be composed of a representative from each of the following:

- (1) The Department of Developmental Services
- (2) The Department of Rehabilitation
- (3) The California Department of Education
- (4) One from each of the three University Centers of Excellence in California
- (5) Disability Rights California
- (6) Employment Development Department
- (7) Family Resource Center Network
- (8) Association of Regional Center Agencies
- (9) Service Employees International Union
- (10) The ARC
- (11) Four self-advocates
- (12) Four family advocates
- (13) Such others as deemed needed to implement the responsibilities of the Council.

- [b] Identify the respective roles and responsibilities of state and local agencies in enhancing integrated, competitive employment for people with developmental disabilities.
- [c] Identify strategies, best practices, and incentives for increasing integrated, competitive employment opportunities for people with developmental disabilities, including, but not limited to, ways to improve the transitional planning process for students 14 years of age or older, and to develop partnerships with, and increase participation by, public and private employers and job developers.
- [d] Identify existing sources of employment data and recommend goals for, and approaches to measuring progress in, increasing integrated, competitive employment for persons with developmental disabilities.
- [e] Recommend legislative, regulatory, and policy changes for increasing the number of individuals with developmental disabilities in integrated, competitive employment, self-employment, and microenterprises and who earn wages at or above minimum wage.
- [f] Provide an annual report to the Governor and Legislature by July 1 of each year that describes the work and recommendations of the Committee.

(67) Membership Committee

The Membership Committee shall recruit, solicit and advise the Governor on appointments to and vacancies on the Council. The Chairperson of the Committee is charged with submitting the Council's recommendations to

the Governor. The Committee shall:

- [a] Be comprised of at least three (3) members, two (2) of which shall be Council members.
- [b] Be comprised of self-advocates and family advocates
- [c] Meet at least quarterly
- [d] Coordinate Council and public input regarding appointments to the Governor.
- [e] At least quarterly solicit recommendation for candidates via social media, email/web alerts, from among self-advocacy groups, family support groups, Federal Partners and service providers.
- [f] Submit all recommendations for appointments to the Governor's Officer for consideration.
- [g] Make a report of submissions to the Governor's Office to the Council during the next regular meeting.
- [h] Make recommendations to the Council on membership of any advisory committees that the Council may establish.

(78) State Plan Committee

The State Plan Committee shall be responsible for reviewing the current State Plan, monitoring its implementation and completion of goals and objectives, recommending areas of focus for grants and other activities for achieving its goals and objectives, and developing subsequent plans. The Committee shall:

- [a] Be comprised of at least three (3) members
- [b] Meet at least quarterly.
- [c] Advise the Council on the collection and reporting of information on needs, including unmet needs, priorities and emerging issues
- [d] Make recommendations to the Council regarding policy priorities, goals and objectives for the California State Plan on Developmental Disabilities
- [e] Advise the Council in the planning of the implementation and

reporting on progress towards meeting the goals and objectives of the Council's California State Plan on Developmental Disabilities

[f] Make recommendations to the Council regarding the grant application process and suggested priorities/criteria for proposals.

[g] Develop methods to market and implement successful programs funded by these grants throughout the State.

[h] Carry out other responsibilities as assigned by the Council or the Council Chairperson.

**SECTION 3. Nominating Committee:**

The Nominating Committee shall provide advice to the Council relative to the bi-annual election of Council officers. The Committee shall:

- (a) Be composed of at least three (3) and not more than five (5) Council members.
- (b) Be elected by the Council at the September Council meeting from a slate of nominations presented by the Executive Committee.
- (c) Serve for one year. Be elected at least forty-five (45) days prior to the annual election.

**SECTION 4. Committees, Sub-Committees and Ad-Hoc Committees and Task Forces:**

- (a) Committees, Sub-committees, Ad-Hoc committees and Task Forces may be established by the Council to carry out specified California State Strategic Plan on Developmental Disabilities objectives and purposes of the Council.
- (b) The term of office and, qualifications of these groups' chairpersons and members shall be established by the Council. The membership of Sub-Committees and Ad-Hoc committees shall be open to non-members of the Council and shall be appointed by the Chairperson of the Council. The expenses of non-Council members may be reimbursed on the same basis as a Council member with the exception of the honorarium.

**ARTICLE X. COUNCIL GENERAL PROVISIONS**

**SECTION 1. Certification and Inspection:**

The original or a copy of the By-laws, as amended or otherwise altered to date, certified by the Council shall be recorded and kept in a book that shall be kept in a location in the principal office of the Council, and such book shall be open to public inspection at all times during office hours.

**SECTION 2. Records, Reports and Inspection:**

- (a) The Council shall maintain adequate and correct accounts, books and records of all its business and properties.
- (b) Such records shall be kept at its principal place of business. All books and records shall be open to inspection by the Council and the general public, except those records or data regarding an employee, if such disclosure would constitute an unwarranted invasion of personal privacy, or records of the Council relating to its participation in a judicial proceeding.
- (c) An annual financial report and budgets shall be available for inspection at the Council's principal place of business.

**ARTICLE XI. AMENDMENTS OF BY-LAWS**

Subject to the limitations of federal and state law, these By-laws shall be reviewed at least annually. The Executive Committee shall be responsible for the annual review of the By-laws, submitting recommendations for adoption of new By-laws and amendments or repeal of existing By-laws to the Council. These By-laws may be amended, repealed or adopted by a two – thirds majority during any regular or special meeting of the Council so long as a draft of the proposed action was submitted in writing to the Council at least ten (10) days prior to the meeting.

**ARTICLE XII. INDEMNIFICATION**

**SECTION 1. Definitions:**

For the purposes of this Article XII, “agent” means any person who is or was a director or member as appropriate, officer, employee, or other agent of the Council. Proceeding means any threatened, pending, or completed action or proceeding, whether civil, criminal, administrative, or investigative; and expenses include without limitation attorney’s fees and any expenses of establishing a right to indemnification under Section 4 or 5(b) of this Article XII.

**SECTION 2. Indemnification in Actions by Third Parties:**

The Council shall have power to indemnify any person who was or is a party or is threatened to be made a party to any proceeding (other than an action by or in the right of the Council to procure a judgment in its favor, by reason of the fact that such person is or was an agent of the Council, against expenses, judgments, fines, settlements, and other amounts actually and reasonably incurred in connection with such proceeding if such person acted in good faith and in a manner such person reasonably believed to be in the best interests of the Council and, in the case of a criminal proceeding, has no reasonable cause to believe the conduct of such person was unlawful. The termination of any proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which the person reasonably believed to be in the best interests of the Council or that the person had reasonable cause to believe that the

person's conduct was unlawful.

**SECTION 3. Indemnification in Actions by or in the Right of the Council:**

The Council shall have the power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action by or in the right of the Council, to procure a judgment in its favor by reason of the fact that such person is or was an agent of the Council, against expenses actually and reasonably incurred by such person in connection with the defense or settlement of such action if such person acted in good faith, in a manner such person believed to be in the best interests of the Council, and with such care, including reasonable inquiry as an ordinarily prudent person in a like position would use under similar circumstances. No indemnification shall be made under this Section 3:

- (a) In respect of any claim, issue, or matter as to which such person shall have been adjudged to be liable to the Council in the performance of such person's duty to the Council, unless and only to the extent that the court in which such proceeding is or was pending shall determine upon application that, in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for the expenses which such court shall determine;
- (b) Of amounts paid in settling or otherwise disposing of a threatened or pending action, with or without court approval; or
- (c) Of expenses incurred in defending a threatened or pending action, which is settled or otherwise disposed of without court approval, unless it is settled with the approval of the Attorney General.

**SECTION 4. Indemnification Against Expenses:**

To the extent that an agent of the Council has been successful on the merits in defense of any proceeding referred to in Section 2 or 3 of this Article XII or in defense of any claim, issue, or matter therein, the agent shall be indemnified against expenses actually and reasonably incurred by the agent in connection therewith.

**SECTION 5. Required Determinations:**

Except as provided in Section 4 of this Article XII any indemnification under this Article XII shall be made by the Council only if authorized in the specific case, upon a determination that indemnification of the agent is proper in the circumstances because the agent has met the applicable standard of conduct set forth in Section 2 or 3 of this Article XII, by:

- (a) A majority vote of a quorum consisting of directors or members as appropriate, who are not parties to such proceeding; or
- (b) The court in which such proceeding is or was pending upon application made by the Council or the agent or the attorney or other person rendering services in connection with the defense, whether or not such application by the agent, attorney, or other person is opposed by the Council.

**SECTION 6. Advance of Expenses:**

Expenses incurred in defending any proceeding may be advanced by the Council prior to the final disposition of such proceeding upon receipt of an undertaking by or on behalf of the agent to repay such amount unless it shall be determined ultimately that the agent is entitled to be indemnified as authorized in this Article XII.

**SECTION 7. Other Indemnification:**

No provision made by the Council to indemnify its or its subsidiary's directors or members as appropriate, or officers for the defense of any proceeding, whether contained in the Articles, Bylaws, a resolution directors or members as appropriate, or an agreement, or otherwise, shall be valid unless consistent with this Article XII. Nothing contained in this Article XII shall affect any right to indemnification to which persons other than such directors or members as appropriate, and officers may be entitled by contract or otherwise.

**SECTION 8. Forms of Indemnification Not Permitted:**

No indemnification or advance shall be made under this Article XII, except as provided in Section 4 or 5(b), in any circumstances where it appears:

- (a) That it would be inconsistent with a provision of the Articles, these By-laws, or an agreement in effect at the time of the accrual of the alleged cause of action asserted in the proceeding in which the expenses were incurred or other amounts were paid, which prohibits or otherwise limits indemnification; or
- (b) That it would be inconsistent with any condition expressly imposed by a court in approving a settlement.



Position	Council Member	Member-ship	State Plan
Region 03	Smith, Sandra	1	1
Region 06	Williams, Kerstin		1
Region 07	Forderer, David	1	
Region 08	Donabed, Rebecca		1
Region 12	Garnica, Carmela		1
At Large Parent (Community Rsdnt.)	Lopez, April	1 (Chair)	
At Large Person w/ a DD	Clyde, Nancy		1 (Chair)
Dept. of Aging	Smith, Nicole*		1
Dept. of Health Care Svcs.	Clarkson, Jonathan*		1
Non-Govt. Agency, Cncrnd. DD Svcs.	Lewis, Janelle		1
UCEDD Davis	Hansen, Robin		1
UCEDD USC	Jacobs, Robert	1	





## **ADMINISTRATIVE COMMITTEE MEETING NOTICE/AGENDA**

Posted at [www.scdd.ca.gov](http://www.scdd.ca.gov)

**DATE:** May 27, 2014  
**TIME:** 1:00 - 3:00 p.m.  
**LOCATION:** State Council on Developmental Disabilities  
1507 21<sup>st</sup> Street, Suite 210  
Sacramento, CA 95811  
(916) 322-8481

### **TELECONFERENCE SITE:**

**Area Board 4**  
236 Georgia Street, Suite 201  
Vallejo, CA 94590

**Area Board 11**  
2000 E. Fourth Street, Ste. 115  
Santa Ana, CA 92705

*Pursuant to Government code Sections 11123.1 and 11125(f), individuals with disabilities who require accessible alternative formats of the agenda and related meeting materials and/or auxiliary aids/services to participate in this meeting should contact Robin Maitino at (916) 322-8481 or email [robin.maitino@scdd.ca.gov](mailto:robin.maitino@scdd.ca.gov). Requests must be received by 5:00 pm April 18, 2014.*

### **Page**

- |  |            |   |
|--|------------|---|
| 1. <b>CALL TO ORDER</b>                      | M. KENNEDY |   |
| 2. <b>ESTABLISHMENT OF QUORUM</b>            | M. KENNEDY |   |
| 3. <b>WELCOME/INTRODUCTIONS</b>              | M. KENNEDY |   |
| 4. <b>APPROVAL OF APRIL 23, 2014 MINUTES</b> | M. KENNEDY | 3 |

**5. PUBLIC COMMENTS**

This item is for members of the public only to provide an opportunity to comments and/or present information to the Committee on matters **not** on the agenda. Each person will be afforded up to three minutes to speak. Written requests, if any, will be considered first. The Committee will provide a public comment period, not to exceed a total of seven minutes, for public comment prior to action on each agenda item.

<b>6. FY 2014-15 PROPOSED BUDGET PRESENTATION TO COUNCIL</b>	ALL	6
<b>7. MTARS UPDATE</b>	M. POLIT	9
<b>8. FUTURE FISCAL ISSUES</b>	M. KENNEDY	
<b>9. TRANSITION ISSUES</b>	POLIT/KENNEDY	
<b>10. REVIEW OF SAMPLE DSA MOU'S</b>	ALL	12
<b>11. DEVELOPMENT OF FACILITATION POLICY</b>	ALL	29
<b>12. OTHER POLICIES AND PROCEDURES</b>	ALL	
<b>13. FUTURE AGENDA ITEMS</b>	ALL	
<b>14. ADJOURNMENT</b>	M. KENNEDY	

For additional information regarding this agenda, please contact Robin Maitino, 1507 21<sup>st</sup> Street, Suite 210, Sacramento, CA 95811, (916) 322-8481

DRAFT

**Administrative Committee Meeting Minutes  
April 23, 2014**

**Attending Members**

Kris Kent  
Molly Kennedy  
Ning Yang  
Ray Ceragioli

**Members Absent**

Eric Gelber  
Max Duley

**Others Attending**

Lynn Cach  
Mark Polit  
Mary Agnes Nolan  
Nancy Dow  
Natalie Bocanegra  
Roberta Newton

1. **Call to Order**

Molly Kennedy called the meeting to order at 1:14 p.m.

2. **Establishment of Quorum**

A quorum was established.

3. **Welcome and Introductions**

Members and others introduced themselves.

4. **Approval of the March 26, 2014 Minutes**

It was moved/seconded (Ceragioli/Yang) and carried to approve the March 26, 2014 minutes as amended.

*Amendment*

Correct date on page one (1), item three (3) to February 27, 2014 not March 26, 2014.

5. **Public Comments**

There were no public comments.

6. **Review of the MTARS Work Plan**

Roberta went over the work plan, emphasizing milestones that had been accomplished and items that have been delayed. She offered to make the first AIDD progress report which is due May 1, 2014 available in the May Admin packet

7. **DSA Review**

Roberta went over the DSA review.

It was moved and passed (Kent/Ceragioli) to bring the review to the May Council meeting for formal approval

8. **Office Leases**

Roberta related that this issue is in follow-up to the previous two months' discussion about the Council's structural deficit. Area Board 3's lease will go soft in August. Their staff of four occupies an office in Sacramento costing \$60,000 per year while the headquarters office has sufficient empty space to accommodate them. Discussion ensued. There were comments that the suggestion seemed practical and reasonable. At the same time, Area Board 3 staff have not been involved in this discussion and should be. It was agreed that this should not be a hasty decision in that there is no rush to act. Molly suggested that it was premature to recommend drastic actions; that there should be a thoughtful process including area board staff. She suggested the formation of a financial committee, composed of area board and headquarters staff.

9. **Transition Plan**

Molly gave a brief report of the status of management at present. She reported that Mark Polit will become Acting E.D. as of May 1; that there are negotiations pending around a possible candidate for Chief Deputy Director for Administration; and that there are other negotiations around bringing on a strong management consultant to assist with high level issues, possibly as soon as May 1. She reported that she and Jorge have established a bi-weekly call with AIDD which will also include Mark. We have been instructed that correspondence will be forthcoming from AIDD and that AIDD is considering the possibility of advancing payroll for us. They are still reviewing our January billing. Roberta then briefly reviewed the written Transition Plan and noted that she has spent significant time going over each item with Mark. Molly objected to two items in the Transition Plan and requested they be deleted, relating to possible merger of area boards and reduction in area board staff.

10. **Review of Sample DSA MOU's**

Held for next month.

11. **Development of Facilitation Policy**

Held for next month.

12. **Other Policies and Procedures**

Held for next month. Molly asked if Natalie was prepared to take the lead on these three items next month and Natalie agreed.

13. **Future Agenda Items**

Molly asked for the following items to be included in the May Admin agenda:

- MTARS Update
- Future Fiscal Issues
- Transition Issues
- Review of Sample DSA MOU's
- Development of Facilitation Policy
- Other Policies and Procedures

14. **Adjournment**

Yang motioned to adjourn the meeting at 2:05 p.m.

**2014-2015 FUNDING ALLOCATION REPORT  
Federal (BSG) Funds**

**4100 State Council on Development Disabilities  
2014-15 Funding Allocation Report  
Projected as of March 26, 2014**

<b>Council Operations and Administration</b>	<b>Personal Services Allocation</b>	<b>Operating Expenses &amp; Equipment Allocation</b>	<b>Total 2013-2014 Allocation</b>
	\$1,473,000	\$695,000	\$2,168,000
<b>Community Program Development Grants</b>	\$0	\$350,000	\$350,000
<b>Area Boards</b>	\$3,480,864	\$1,001,634	\$4,482,498
<b>Area Board Operations</b>	\$0	\$353,000	\$353,000
<b>TOTAL PROJECTED EXPENDITURES</b>	<b>\$4,953,864</b>	<b>\$2,399,634</b>	<b>\$7,353,498</b>

**State Council On Developmental Disabilities  
 Projected Headquarters Budget Need  
 Fiscal Year 2014/15**

	<u>PROJECTED BUDGET NEED *</u>
<b><u>1. Personal Services:</u></b>	
Net Salaries & Wages	\$ 982,000
Temporary Help / Honorarium	\$ 67,000
Staff Benefits (43.13%)	<u>\$ 424,000</u>
<b>Total Personnel Services</b>	<b><u><u>\$ 1,473,000</u></u></b>
<b><u>2. Operating Expense:</u></b>	
General Expense	\$ 19,000
Printing	\$ 28,000
Communications	\$ 94,000
Postage	\$ 11,000
Travel-in-State :	\$ 266,000
Per Diem	\$ (40,000)
Commercial Air	\$ (195,000)
Private Car	\$ (13,000)
Taxi & Shuttle	\$ (9,000)
Other	\$ (9,000)
Out-of-State Travel	\$ 2,000
Training ( Tuition and Registration)	\$ 3,000
Facilities Operations (Rent)	\$ 91,000
Interdepartmental Services:	\$ 101,000
External Contract Services	\$ 40,000
Data Processing ( Software, Supplies & Misc.)	\$ 15,000
Central Admin. Services :	
SWCAP	<u>\$ 25,000</u>
<b>Total Operating Expense</b>	<b><u><u>\$ 695,000</u></u></b>
<b>3. Total Projected Headquarters Budget Need (1 +2)*</b>	<b><u><u>\$ 2,168,000</u></u></b>

\*Includes Council Member Honorarium and Travel Costs.

## **2014 -15 FEDERAL (BSG) BUDGET**

### **Budget Assumptions**

#### **Assumptions**

Information from AIDD and NACDD strongly suggests that the FFY 2015 allocation will be the same amount as the FFY 2014 post-sequestration allocation of \$6,508,782. We have therefore opted to use that 2014 allocation figure as the assumed Council budget.

We have further assumed that staffing for 2014-15 will include:

All current area board office positions will be fully filled, with exception of one currently vacant Community Program Specialist II position that is targeted for abolishment effective July 1, 2014. The Chief Deputy Director, Planning and Program Specialist, and Legislative and Public Information Manager positions will be filled for the entire 12 months. The currently vacant Deputy Director of Communications and Legislation, Office Technician – Typing, and Deputy Director for Area Board Operations positions will not be filled during 2014-15.

All other HQ positions will be fully staffed as currently constituted.

All staff will be receiving a 2% salary increase which totals an increase of \$99,000 over current year Personnel costs.

We assume that lease/facility operations costs will increase modestly and can be absorbed by other Operations savings.

Assuming all of the above, and absent any additional savings being identified, the Council would have a \$927,165 discrepancy between our current Federal funding level of \$6,508,782 and projected expenses of \$7,435,947 (see attachments for detail).

We assume that the full FFY 2014 award from ACL/AIDD will be released by the end of the current fiscal year and encumbered by the Council for use in the 2014-15 and 2015-16 years.

Based on current and historical expenditures, we assume “carryover” funds from 2013-14 of at least \$1,000,000. This figure is arrived at based on having carryover funds of prior year unexpended Federal grant awards that helped offset the Council’s expenses for the five month period of October 2013 – February 2014. This \$1,000,000 “carryover” could be used to offset the \$927,165 funding shortfall identified above.

MAJOR TASKS, GOALS & ACTIVITIES		TARGET DATE/ FREQUENCY	Responsibility	Completed	Committee Approved	Council Approved
<b>1. Legislation Revision</b>						
<b>1.1 Governor's Authority to Hire Council Staff, Area Board Representatives and continuation of service</b>						
1.1.	Select legislator (Chesbro) to carry legislative changes	1/17/14	Polit	Yes		
1.2.	Review of Lanterman Act for applicable sections for revisions	Feb 1 – Mar 31	Polit MTARS Comm	Yes		
1.3.	Write new language for sections identified to be revised or deleted to comply with DD Act	Feb 1 – Mar 31	Polit MTARS Comm	Yes		
1.4.	Council to approve new legislative concepts	3/20/2014	Council	Yes		
1.5.	Chesbro to introduce language to legislature	3/26/2014		Yes		
1.6.	Governor signs bill	9/2014				
1.7.	Legislation to take effect	1/1/2015				

## II. By-Law Amendments

10

II.1 Membership Committee		TARGET DATE	RESPONSIBLE	COMPLETED			
II.1.	Write language to change by-laws to create membership committee	2/7/14	Corral/Newton	Yes	Yes		
II.2.	Start E-mail campaign by local area offices to recruit new members to State Council.	2/28/2014	Newton/local area offices	Yes			
II.3.	Council to approve changes to by-laws to create membership committee	3/20/2014	Council	No			
II.4.	Chair to make appointments to membership committee	5/9/2014	Chair	Yes			
II.5.	First committee meeting to be held	6/2014	Chair				
II.6.	Membership committee to meet quarterly	Quarterly	Chair				
II.7.	Provide status update to Governor's Office quarterly.	Jul 1 and then quarterly	Chair				
<b>II.2 State Plan Committee</b>							
II.8.	Write language to change by-laws to re-constitute a combined State Plan and Grant Committee	March Council/April Exec Committee	Newton	Yes			
II.9.	Council to approve changes to by-laws to re-constitute State Plan Committee	3/20/2014	Council	No			
II.10.	Chair to make appointments to State Plan Committee	4/1/2014	Chair	Yes			

3/7/2014

	II.11.	First meeting held	6/30/2014					
	II.12.	Meetings held quarterly	Ongoing					
	II.13.	Quarterly Progress Reports	10/1/2014 and then quarterly	Chair				
<b>III. Administrative Committee and Designated State Agency Review</b>								
	III.1.	Evaluate current Memorandum of Understanding (MOU) & review other states MOUs	4/2014	Admin Comm				
	III.2.	Draft MOU and meet with DSA to discuss review by July 2014 Administrative Committee	7/2014	Admin Comm				
	III.3.	Meet with DSA and discuss/revise as needed draft MOU	9/2014	Admin Comm				
	III.4.	Execute and sign MOU	11/2014	Admin Comm				
	III.5.	Evaluate the DSA	6/2014	Admin Comm				
	III.6.	Revise Contract Manual Submit to Exec Committee for review	2/27/2014 4/2014	Admin Chair	Yes			
	III.7.	Approve Contract Manual	5/29/2014	Council				
	III.8.	Complete comprehensive Policy and Procedure Manual	12/31/2014	Admin Comm				

# **Memorandum of Understanding**

**Between**

**Arkansas Health Services Permit Agency**

**And**

**Arkansas Governor's Developmental Disabilities Council**

## **I. PURPOSE AND BACKGROUND**

The purpose of this Memorandum of Understanding is to formalize the working relationship between the Arkansas Health Services Permit Agency (the "DSA") and the Arkansas Governor's Developmental Disabilities Council (hereafter referred to as the "DDC") and to outline their respective roles and responsibilities in implementing the Developmental Disabilities Act as amended (PL 106-402, hereafter referred to as the DD Act) and the Governor's Executive Order.

The DDC is established with the federal Developmental Disabilities Assistance and Bill of Rights Act, as amended, and by the Governor's Executive Order, both such documents incorporated herein by reference. Consistent with the DD Act, the Governor of Arkansas has designated the DSA as the state agency to provide fiscal and administrative support services to the DDC as authorized by the DD Act [Sec.125 (d)(1)]. The purpose of this memorandum is to clarify the responsibilities of the designated state agency and the responsibilities of the DDC as authorized by the DD Act. [Sec. 125 (d) (3)(G)]

The Developmental Disabilities Council is established through federal law to engage in advocacy, capacity building and systemic change activities that contribute to a coordinated, consumer and family-centered, consumer and family-directed, comprehensive system of community services, individualized supports and other forms of assistance to individuals with disabilities. [Sec. 125 (a)]

The Designated State Agency is appointed by the Governor to provide administrative support services to the DDC. The Health Services Permit Agency is the Designated State Agency and adheres to the criteria in the DD Act that such agency shall not interfere with the advocacy, capacity building, and systemic change activities, budget, personnel, State plan development or plan implementation of the Council. [Sec.124(c)(5)(L)]

## II. ROLES AND RESPONSIBILITIES

### A. General

Section 15021 of Title 42 of the U.S. Code specifies: “The purpose of this part is to provide for allotments to support State Councils on Developmental Disabilities in each State to —

(1) engage in advocacy, capacity building, and systemic change activities that are consistent with the purpose described in section 15001(b) of this title and the policy described in section 15001(c) of this title; and

(2) contribute to a coordinated, consumer- and family-centered, consumer- and family-directed, comprehensive system of community services, individualized supports, and other forms of assistance that enable individuals with developmental disabilities to exercise self-determination, be independent, be productive, and be integrated and included in all facets of community life.”

### B. State Plan

#### 1. DDC Responsibilities with respect to State Plan

The DDC shall submit to the Secretary of Health and Human Services the State plan required under the DD Act. The DDC is responsible for development, implementation, and monitoring of the State plan. [Sec.125(c)(3) and (4)]

The State Plan is an advocacy blueprint, indicating the priority areas of the DDC and the kinds of activities it will conduct to help move the state forward in its capacity to facilitate the independence, productivity and full community integration of all Arkansans with developmental disabilities.

The DDC shall have the authority and responsibility to implement the the DDC’s State Plan within legislatively approved guidelines. Resource utilization for implementation may include hiring staff, contracting for specific services and issuing grants. The DSA shall make a written copy of policies with respect to hiring staff, contracting for specific services and issuing grants available to the DDC on an annual basis. The DDC and the DSA will jointly develop written procedures for the development, execution, and fiscal management of contracts and grants.

The DDC will comply with state law with respect to that public notices and contract language.

Authority and responsibility to approve contracts, monitor and evaluate contractor performance, and authorize payments and a payment schedule to contractors is given to the DDC Director and must be in compliance with state rules and regulations governing contracts and payments. Transmittal of the DDC's State Plan and Plan Amendments shall be signed by the DDC Chairperson, DSA Director, and the DDC Executive Director unless otherwise specified by the Administration on Developmental Disabilities.

A copy of the plan must be made available to the DSA at least 10 business days prior to a request for signature and subsequent revised copies made available within ten (10) days after federal approval.

The DDC shall also:

Serve as a forum through which issues regarding current and potential programs and policies concerning persons with developmental disabilities may be discussed by consumer, public, professional and lay interests. Utilize such input in development of the State Plan.

Advise the private sector, the executive and, as requested, the legislative branches of state government on programs and policies which affect persons with developmental disabilities and their families, and the Administration on Developmental Disabilities, concerning the activities of the DDC and the progress being made within the state to enhance the quality of living experienced by people with developmental disabilities.

Review and comment, to the extent feasible on other state agency plans, roles and policies which affect people with developmental disabilities.

Issue RFPs, grants and contracts related to innovations and best practices in Priority Areas within approved State guidelines and rules.

Collaborate with state agencies, private sector businesses, providers and local communities in system change activities leading to a more flexible, cost effective system of community based services.

Submit annual report to the Governor.

## 2. DSA Responsibilities with respect to State Plan

DSA shall comply with the DD Act, including without limitation:

Assist the DDC by processing budget, fiscal and contract transactions. The DSA, through the Arkansas Dept. of Finance and Administration ("DFA") will process DDC contracts.

Receive, deposit, and disburse DDC approved expenditures in accordance with the DDC's approved State Plan and with applicable state and federal laws and generally accepted accounting procedures. Review in a timely fashion all DDC contracts, notices and grants after DDC approval & signature by DSA Director to insure that any payables, grants, contracts and invoices are in compliance with the State and Federal policies and procedures.

Provide to the DDC on an annual basis all forms used by the DSA for fiscal, contracting and personnel matters.

Once compliance is assured, DSA will complete the paperwork for disbursement of federal funds.

### **III. HUMAN RESOURCES/ PERSONNEL ADMINISTRATION**

#### **A. Employees**

##### **1. General**

DDC staff members are employees of the State, and therefore are covered by all applicable State and DSA personnel rules and affirmative action requirements, inasmuch as these roles comply with the DD Act, Section 124.

##### **2. Hiring**

To select the DDC's Executive Director, the DDC shall, consistent with State law, recruit and hire a DDC Director. The DSA Director will review the recruitment and hiring process adopted by the DDC to ensure it is consistent with State law. The DDC Director is the hiring authority for all other DDC staff. State and Agency Personnel policies and the DDC's approved staffing pattern shall govern the exercise of this hiring authority. On an annual basis, the DSA will provide to the DDC a copy of the DSA's hiring policies.

#### **B. DDC**

The DDC, through the Chair and Executive Committee, is responsible, consistent with State regulations, for recruiting and hiring the Executive Director of

the DDC, and supervising and annually evaluating the Executive Director on forms used by the DSA.

The DDC Executive Director is responsible for developing personnel requests for DDC staff positions, hiring, supervising, and annually evaluating the staff of the DDC in accordance with State and Agency regulations on forms used by the DSA.

#### C. Supervision

The DDC's Executive Committee shall hire and evaluate, on an annual basis, the activities of the DDC Director. The DDC Executive Committee shall conduct the annual performance review of the DDC Director on forms used by the DSA.

All other DDC staff will be supervised by the DDC Director. Staff work assignments will be made by the DDC Director based on the policy directions set by the DDC.

The DDC Chair shall be the signature authority for the DDC on forms and documents related to the supervision of the DDC Executive Director. The DDC staff, while working for the DDC, is responsible solely for assisting the DDC in carrying out its duties under the DD Act and shall not be assigned other duties by DSA or any other agency or office of the State [Sec.125(c)(10)].

#### D. Job Training

DDC Staff is responsible for training of all DD staff. The DSA will provide all new DDC staff with an orientation of DSA policies and procedures.

#### E. The DSA

The DSA shall assist the DDC by processing personnel actions in accordance with the State Office of Personnel Management procedures.

### **IV. ADMINISTRATIVE AND FISCAL SERVICES**

#### A. Budget Development

It shall be the responsibility of the DDC to develop a federal fiscal year budget for DDC operations, planning, and priority area activities consistent with its federally approved State Plan. This budget shall be in compliance with State rules and regulations.

Biennially, the DDC, the DSA Director and Fiscal Manager shall jointly prepare a state biennial budget on behalf of the DDC, in a format necessary for submission to DFA and inclusion in the Governor's proposed budget to the Legislature. The DDC Director and DDC Chairman shall be informed of the schedule of legislative budget hearings during which the DDC budget may be addressed.

#### B. Accounting Services

The DDC is responsible for implementing its state and federally approved budget. The DDC Director will have final approval authority for expenditures and payments that follow applicable state and federal guidelines.

The DDC agrees to charge against the Developmental Disabilities formula grant only those expenses approved for payment by the DDC or the DDC Director.

The DSA shall provide such fiscal monitoring and fund accounting procedures as may be necessary to assure the proper disbursement of, and accounting for, funds paid to the State under the DD Act [Sec.125(c)(3)(C)(i)]

The DSA shall provide cost centers, accounts, encumbrances and reports on costs and other support documentation for DDC budget preparation and for other DDC fiscal management needs.

The DSA will provide accounting services that include payroll, payments against contracts, operating expenses, and other DDC approved bills.

#### C. Fiscal Services

The DSA will be responsible for coding all items for input and assuring that billings are in compliance and are timely submitted.

The DSA will prepare and transmit to the DDC Director and DDC Chair expenditure and funds obligation reports by the tenth (10<sup>th</sup>) day of each month in a mutually agreed upon format. Such reports shall reflect each award year, and shall include without limitation current month expenditures, award year to date expenditures and remaining balances.

The DSA will prepare and timely submit the quarterly fiscal reports required by the Administration on Developmental Disabilities (ADD).

D. Administrative Match

Administration includes: the cost of the fiscal management, and accounting for the receipt and disbursement of funds, 2) the costs of preparing fiscal reports for the DDC, the federal government, and the State, 3) the costs of processing and fiscal management of contracted services, and 4) other costs of administering DDC operations such as payroll.

Funds from the DDC to the DSA shall be available to pay up to fifty percent (50%) of the expenditures found to be necessary for the proper and efficient exercise of the functions of the DSA. .

Priority Area activities is 25% state funds and 75% federal funds. The 25% funds can come from any non-federal source, including in-kind.

The DDC shall document and maintain records on the type and amount of matching funds required by federal regulation. Documentation of matching funds derived through performance contracts shall be the responsibility of the DDC. Documentation format shall be negotiated between DDC and the DSA.

Other sources for cash match and in-kind match shall be jointly documented by DDC and DSA.

E. Shared Services

The DDC will be responsible for the cost of rent for provision of office space, IT and telephone support on a pro-rata basis.

The DDC and the DSA shall each be responsible, on a pro-rata basis for the certain administrative costs, including without limitation lease and maintainance of a copy machine, costs for a postage meter machine and the purchase of expendable office supplies.

**IV. GENERAL ADMINISTRATIVE SUPPORT**

A. The DDC

The DDC shall follow State policies and procedures for purchase of supplies and equipment, contracts and other services.

The DDC shall annually review its equipment inventory against the DSA inventory listing to assure the updating of additions and deletions. Such review will take place no later than fifteen (15) days from the date such inventory is received from DSA.

**B. Other Support Services**

The DSA agrees to provide or arrange for other support services to the DDC to the same extent as provided to the DSA. Such other services shall include access to legal advice and consultation for which the DDC shall pay the usual charges for such services.

**V. TERM OF AGREEMENT**

This agreement is effective upon signature and remains in effect until rescinded or amended as agreed upon by both parties below or by their successors.

DDC Chair: \_\_\_\_\_

Date \_\_\_\_\_

DDC Executive Director:

Date: \_\_\_\_\_

Agency Director (DSA) \_\_\_\_\_

Date: \_\_\_\_\_

**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE MISSOURI PLANNING COUNCIL FOR DEVELOPMENTAL DISABILITIES  
AND  
THE MISSOURI DIVISION OF DEVELOPMENTAL DISABILITIES  
DEPARTMENT OF MENTAL HEALTH**

**1. BACKGROUND AND PURPOSE**

The Missouri Planning Council for Developmental Disabilities (hereafter referred to as the Council) is established consistent with the federal Developmental Disabilities Assistance and Bill of Rights Act as amended (PL 106-402, hereafter referred to as the DD Act), and by Executive Order. Consistent with the DD Act, the Governor of Missouri has designated the Division of Developmental Disabilities within the Department of Mental Health (hereafter referred to as DDD DMH) as the designated state agency to provide fiscal and administrative support services to the Council as authorized by the DD Act [Sec.125 (d)(1)]. The purpose of this memorandum is to clarify the responsibilities of the designated state agency and the responsibilities of the Council as authorized by the DD Act. [Sec. 125(d)(3)(G)]

1.1 The Council for Developmental Disabilities

The Council is established through federal law to engage in advocacy, capacity building and systemic change activities that contribute to a coordinated, consumer and family-centered, consumer and family-directed, comprehensive system of community services, individualized supports and other forms of assistance to individuals with disabilities. [Sec. 125(a)]

1.2 The Designated State Agency: DDD, DMH

The designated State agency is appointed by the Governor to provide administrative support services to the Council. The Division of Developmental Disabilities within the Department of Mental Health is the designated State agency and adheres to the criteria in the DD Act that such agency shall not interfere with the advocacy, capacity building, and systemic change activities, budget, personnel, State plan development or plan implementation of the Council. [Sec.124(c)(5)(L)]

**2. STATEMENT OF AGREEMENT**

2.1 GENERAL RESPONSIBILITIES

2.11 The Council for Developmental Disabilities

A. Advocacy, Capacity Building and Systemic Change Activities

The Council is the state entity responsible for carrying out all activities specified in PL 106-402, and shall conduct or support programs, projects, and activities

will not develop and submit information and reports requested by the State or General Assembly without the Council's knowledge and approval.

E. Assurances

DDD DMH shall assist the Council in obtaining the required assurances and in ensuring that the Council's fiscal and administrative processes are conducted in a manner consistent with State law [Sec.125 (d)(3)(F)]. (Assurances are delineated in Appendix A.)

F. Memorandum of Understanding

DDD DMH, at the request of the Council, is responsible for entering into a memorandum of understanding with the Council delineating the roles and responsibilities of the designated State agency [Sec.125 (d)(3)(G)]

G. Timeliness

DDD DMH, will provide these services and respond to requests in a timely manner.

2.2 BUDGET, FISCAL, ACCOUNTING, AND CONTRACT ADMINISTRATION

2.21 The Council for Developmental Disabilities

- A. The Council shall prepare, approve, and implement a budget using amounts paid to the State under the DD Act to fund and implement all programs, projects, and activities. The Council will develop and forward budget information on State budget forms to DDD DMH for inclusion in the State budget process. [Sec.125(c)(8)]
- B. The Council shall direct the expenditure of funds for grants, contracts, interagency agreements that are binding contracts, and other activities consistent with federal and State administrative procedures. [Sec.125(c)(8)(C)]
- C. The Council shall develop the Council contract model, conduct all contract preparation, oversee processing of Council contracts and maintain a tracking system for all Council contract information, consistent with requirements of the State Finance and Administration contract office.
- D. The Council shall complete, track and approve all invoices and reimbursement requests, including corresponding match, for Council funds.
- E. The Council shall develop and submit all Council budgetary requests through DDD DMH in accordance with State Office of Administration procedures and DMH Administration Division procedures.
- F. The Council shall submit all necessary budget, fiscal, accounting and contract documents to DD DMH in a timely manner.

2.22 The Designated State Agency: DDD DMH

- A. DDD DMH shall route communications and information concerning State budget, fiscal and contract procedures to the Council.

- B. DDD DMH shall assist the Council by processing budget, fiscal and contract transactions.
- C. DDD DMH shall forward the State budget forms, along with instructions, to the Council when available. DDD DMH will incorporate or ensure that the Council budget information is incorporated in the submission of budget information to the State Office of Administration, Governor's Office, and/or General Assembly.
- D. DDD DMH shall process Council contracts.
- E. DDD DMH shall process or ensure processing of all Council-approved reimbursement requests.
- F. DDD DMH shall track or ensure tracking of matching funds on Council-approved reimbursement requests for federal reports.
- G. DDD DMH shall process or ensure processing of the federal draw, receive, account for, and disperse funds on behalf of the Council. [Sec. 124(d)(3)(B)(i)]. [Sec.125(c)(3)(C)(i)]
- H. DDD DMH shall prepare or ensure the preparation of the federal ADD-02B expenditure report for the Council's review and approval.
- F. DDD DMH shall provide or ensure the provision of such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of, and accounting for, funds paid to the State under the DD Act [Sec.125(c)(3)(C)(i)].
- G. DDD DMH shall provide or ensure provision of cost centers, accounts, encumbrances and reports on costs and other support documentation for Council budget preparation and for other Council fiscal management needs.
- H. DDD DMH shall provide budget, contract, reimbursement and accounting services in a timely manner.

## 2.3 PERSONNEL ADMINISTRATION

### 2.31 The Council for Developmental Disabilities

- A. The Council shall develop its personnel requests consistent with State Office of Administration, Division of Personnel and Merit System regulations and procedures. Council recruitment and hiring of staff shall be consistent with Federal and State nondiscrimination laws. Dismissal of personnel shall be consistent with State law and personnel policies.
- B. The Council, through the Chair and Executive Committee, is responsible, consistent with State regulations, for recruiting and hiring an Executive Director of the Council, and supervising and annually evaluating the Executive Director.
- C. The Council Executive Director is responsible for developing personnel requests for Council staff positions, hiring, supervising, and annually evaluating the staff of the Council in accordance with State Office of Administration, Division of Personnel requirements [Sec.125(c)(9)].
- D. The Council staff, while working for the Council, are responsible solely for assisting the Council in carrying out its duties under the DD Act and shall not be

assigned other duties by DDD DMH or any other agency or office of the State [Sec.125(c)(10)].

- E. The Council shall complete all personnel functions in a timely manner.

2.32 The Designated State Agency: DDD DMH

- A. DDD DMH shall route communications and information concerning State personnel procedures to the Council.
- B. DDD DMH shall assist the Council by processing personnel actions in accordance with State Merit System regulations and State Office of Administration, Division of Personnel procedures.
- C. DDD DMH shall ensure that records regarding Council personnel, insurance information, benefits tracking, and longevity are maintained.
- D. DDD DMH shall perform payroll functions for the Council, processing payroll deductions and transactions.
- E. The DDD DMH shall complete all personnel functions in a timely manner.

2.4 GENERAL ADMINISTRATIVE SUPPORT

2.41 The Council for Developmental Disabilities

- A. The Council shall follow State policies and procedures for purchase of supplies and equipment.
- B. The Council shall approve and submit Council travel reimbursement requests.
- C. The Council shall develop the Council equipment plan according to its needs.
- D. The Council shall purchase independent information technology services and support according to its needs.
- E. The Council shall design and maintain the Council website separate from the DDD and state.
- F. The Council shall request data and/or other information as needed to complete the state plan and state and federal reports or carry out its work.
- G. The Council shall complete all general administrative functions in a timely manner.

2.42 The Designated State Agency: DDD DMH

- A. DDD DMH shall route communications and information concerning State purchasing procedures to the Council.
- B. DDD DMH shall process requests for purchase of equipment and supplies deemed necessary by the Council for the operation of its office.
- C. DDD DMH shall process travel authorizations and reimbursement requests for the Council.
- D. DDD DMH shall provide or ensure the provision of VPN access to the state information technology system for purposes of completing staff performance

reviews in accordance with Office of Administration, Division of Personnel regulations.

- E. DDD DMH shall provide or ensure the provision of data requests and information requests necessary for the Council to complete its state plan, state and federal reports, or other reports necessary to carry out its work.
- F. DDD DMH shall provide or ensure the provision of general services including mail routing and delivery, courier services, etc. for the Council.
- G. DDD DMH shall complete all general administrative functions in a timely manner.

2.5 LEGAL ASSISTANCE

2.51 The Council on Developmental Disabilities

The Council shall request consultation with legal staff through the DMH General Counsel or Missouri Attorney General's Office, or purchase private legal counsel as needed.

2.52 The Designated State Agency: DDD DMH

- A. DDD DMH shall allow the Council to seek legal assistance when appropriate from the DMH General Counsel, State Attorney General's Office or purchase private legal counsel as determined necessary by the Council's Executive Committee.

**3. TERMINATION OR AMENDMENT OF THE MEMORANDUM OF UNDERSTANDING**

This memorandum shall become effective upon the signature of all parties and may be modified or terminated with a thirty-day notice and with written agreement by all parties.

\_\_\_\_\_  
Bernard Simons  
Director  
Division of Developmental Disabilities

\_\_\_\_\_  
Date

\_\_\_\_\_  
Stephanie Briscoe  
Chairperson  
Missouri Planning Council for Developmental Disabilities

\_\_\_\_\_  
Date

\_\_\_\_\_  
Susan Pritchard-Green  
Executive Director  
Missouri Planning Council for Developmental Disabilities

\_\_\_\_\_  
Date

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## Memorandum of Understanding

Texas Council for Developmental Disabilities  
and  
The Texas Education Agency

### I. PURPOSE

This Memorandum of Understanding ("MOU") is entered into between the Texas Council for Developmental Disabilities, 6201 East Oltorf, Suite 600., Austin, Texas, hereafter referred to as the "TCDD," and the Texas Education Agency, 1701 North Congress Ave., Austin, Texas, hereafter referred to as the "TEA". The TCDD is established pursuant to the federal Developmental Disabilities Assistance and Bill of Rights Act as amended (42 USC 15001), hereafter referred to as the "DD Act", and by state statute at Chapter 112, Title 7, Texas Human Resources Code, hereafter referred to as the "State Act." Consistent with the DD Act, the Governor of Texas has designated TEA as the "designated state agency" to receive, account for and disburse funds available to TCDD and to provide administrative support to TCDD as appropriate. The purpose of this MOU is to identify the responsibilities of TEA as the designated state agency and the responsibilities of TCDD consistent with the DD Act and the State Act.

### II. GENERAL AGREEMENTS

The State Act establishes the TCDD as a separate entity under state law, and delegates authority to the TCDD for all programmatic activities conducted with funds available to the TCDD. The State Act also establishes the Executive Director of the TCDD as the executive head of agency for the TCDD. TEA is responsible as the Designated State Agency to provide the services and support as indicated in this Memorandum of Understanding.

TCDD staff will be subject to the administrative rules and policies of the State of Texas and of its cognizant federal authorities. Pursuant to the State Act, the TCDD is responsible for selecting and hiring the Executive Director, when that position becomes vacant, and supervising the Executive Director consistent with state personnel policies and procedures of the TCDD. The TCDD Chair will prepare an annual performance evaluation of the TCDD Executive Director and serve as the "supervisor's supervisor" when required by state law or regulations.

The parties agree that TCDD staff will be responsible solely for TCDD activities and responsibilities and will not be assigned other duties nor guided in implementing activities by the TEA. It is TCDD's intent to be responsive to the limitations of TEA set forth in state law and regulation related to personnel decisions. In like manner, it is TEA's intent to be responsive to the intent of the DD Act that provides for the Council to determine the numbers and types of staff necessary to carryout TCDD responsibilities and activities. At any time that the Council determines the need to increase the number of TCDD staff positions above 18 currently authorized FTE's, TCDD and TEA shall jointly determine the procedure and timing for that increase to occur. Unless otherwise separately agreed by TCDD, those positions are available only to the TCDD and are not subject to staffing reductions of the TEA.

TCDD will work cooperatively with TEA to establish procedures for the processing of TCDD grants, contracts and personnel actions, recognizing that state and federal law vest fiscal, personnel, and rulemaking authority in the Council concerning activities carried out with funds available to TCDD. Federal law establishes that the TEA, and any other agency, office, or entity of the State, will not interfere with the advocacy, capacity building, and systemic change activities, budget, personnel, State plan development, or plan implementation of the Council.

TEA will provide administrative support services to the TCDD as detailed in this MOU. The provision of these services are subject to TEA's then-current operating procedures and systems. Nothing in this MOU obligates TEA to provide or purchase for TCDD any administrative service or support not regularly available or provided by TEA. Any requests by TCDD for modification to TEA services or support shall be subject to negotiation at the time of the request and to additional reimbursement as allowed by the DD Act. TCDD agrees to cooperate with TEA in providing any information needed by TEA to carry out its duties.

### **III. FINANCIAL, BUDGETING AND ACCOUNTING SERVICES**

TEA has the following responsibilities and duties in state and federal law:

- A. Receive, account for and disburse funds on behalf of TCDD in accordance with the state and federal law and as authorized by TCDD staff, provided that TEA shall not encumber any funds available to TCDD, transfer any funds between TCDD budget categories or from TCDD to any other entity, or otherwise initiate charges or expenses against funds available to TCDD without specific authorization in advance by TCDD.
- B. Provide the fiscal controls and fund accounting procedures necessary for proper disbursement of and accounting for TCDD funds.
- C. Prepare required state and federal financial reports regarding TCDD funds, including TCDD review prior to submittal.
- D. Provide payroll services consistent with state and federal requirements.
- E. Provide timely financial information to TCDD to allow for the preparation of required fiscal reports to state and federal authorities.
- F. Provide or assist TCDD in securing the non-federal share of the cost of projects as required by federal law.
- G. Support TCDD in developing required state budget, strategic plan, performance measures, and appropriations request materials and related items (and other state reporting).

### **IV. HUMAN RESOURCES**

TEA agrees to provide the following Human Resources services to TCDD:

- A. For state payroll and benefits purposes, administratively maintain TCDD employees as TEA employees.
- B. TEA agrees to provide recruitment, posting and processing of applications for TCDD positions.
- C. TEA will ensure compliance with EEO and ADA related matters and will act as the TCDD Executive Director's designee to implement a program of equal opportunity employment for the TCDD as required by the Texas Commission on Human Rights and state law.
- D. Other HR services as appropriate.

### **V. OTHER ADMINISTRATIVE SERVICES**

TEA agrees to provide the following administrative services to the TCDD unless TEA and TCDD jointly agree for TCDD to contract for such services separately:

- A. Provide appropriate assurances for the TCDD State Plan and consult with TCDD to maintain consistency of the State Plan with state law.

- B. Information technology support for TCDD shall be provided through TEA interagency agreements with the Department of Information Resources and the state Data Center Service including desktop and laptop computers, printers, networking, server and infrastructure, E-mail accounts, network connection (including LAN equipment and data circuits), and related hardware and software. TEA support shall be provided in a manner that assures separate identity for TCDD computer functions including website ([www.txdcc.state.tx.us](http://www.txdcc.state.tx.us)) and email (e.g. [Roger.Webb@tcdd.state.tx.us](mailto:Roger.Webb@tcdd.state.tx.us)).
- C. Purchasing and procurement services that will enable TCDD to procure and receive goods and services consistent with state requirements and upon its own authority, including support and assistance concerning lease space for TCDD offices.
- D. Training and consultation to designated TCDD personnel for contract processing and development as appropriate.
- E. Bulk mail services directly or through contract with another state agency.

#### **VI. OTHER UNDERSTANDINGS**

- A. TEA understands that TCDD shall develop and authorize funding activities to implement goals and objectives in the approved TCDD State Plan within the limitations of available funds and applicable state and federal regulations. TCDD shall manage all aspects of the application, review, and approval processes for grants and contracts and shall provide ongoing project development and grants management oversight to funded projects. DD funded grant projects shall abide by all terms of the grant award and with all applicable federal and state requirements including the Uniform Grant Management Standards (UGMS) developed by the Governor's Office of Budget, Planning and Policy, and federal rules promulgated by the Office of Management and Budget (OMB) where applicable. Except as otherwise stated in this agreement, TCDD is solely responsible for the grant selection, award, and management activities of the Council. The TCDD Executive Director or his designee is the authorized signatory for all TCDD grants and contracts.
- B. TCDD, as a separate state entity under law, will comply with State of Texas administrative rules and policies applicable to State agencies of similar size regarding the provision of internal audit services. It is understood by the parties that TCDD currently contracts separately for Internal Audit Services to ensure compliance with State requirements. Should TCDD determine not to continue to separately acquire such services, it promptly will notify TEA and the parties will mutually agree on the provision of such services by or through TEA, as may be necessary.
- C. TCDD will provide updated designations of TCDD personnel with approval authority for various TCDD financial and personnel actions, which personnel shall correspond, as closely as possible, with the equivalent positions and authority of TEA employees.

#### **VII. COMPENSATION FOR ADMINISTRATIVE SERVICES**

TCDD agrees to reimburse TEA for the administrative services provided under this MOU consistent with provisions of the DD Act. TCDD will reimburse TEA not more than \$50,000 each fiscal year for basic services of accounting, budget, purchasing and HR services provided that TEA provides at least an equal share from non-federal resources as state match through the application of the indirect cost rate. Information technology support (as noted in Section V.B.) and all other services provided to TCDD by TEA will be reimbursed by TCDD to the extent allowed by state and federal law. TEA will provide TCDD documentation of the cost and allocation method for those services.

**VIII. GENERAL PROVISIONS**

Dispute Resolution: Disputes concerning implementation of this MOU between TCDD and TEA must first be resolved at the staff level if possible. If either party determines that the dispute cannot be resolved at the executive staff level, TCDD and TEA agree to pursue resolution through the use of mediation pursuant to the Government Dispute Resolution Act, Chapter 2009 of the Texas Government Code as applicable.

**X. TERM OF AGREEMENT**

This MOU shall commence on September 1, 2009 and shall terminate on August 31, 2010. This MOU will be reviewed annually by the parties and will be renewed for additional (1) year periods to commence at the beginning of each fiscal year. This MOU may be expanded, modified, or amended at any time upon the mutual written agreement of TCDD and TEA.

This agreement may be terminated by mutual agreement of both parties. Either party may terminate the agreement by giving the other party written notice of its intent to terminate. Written notice may be sent by any written method which provides verification of receipt, and the 30 days will be calculated from the date of receipt. Such actions, however, do not alone affect the status of the Governor's designation of TEA as the TCDD designated state agency pursuant to provisions of the DD Act. In the event any provision of this agreement becomes unenforceable or void, such will not invalidate any other provision of this agreement.

**THE UNDERSIGNED PARTICIPATING PARTIES do hereby certify that (1) the services specified above are necessary and essential for activities that are properly within the statutory functions and programs of the effected agencies of State Government, (2) the proposed arrangements serve the interest of efficient and economical administration of the State Government, and (3) the services, supplies, or materials in this MOU are not required by Section 21 of Article 16 of the Constitution of Texas to be supplied under Contract given to the lowest responsible bidder.**

**TCDD further certifies that it has the authority to receive the above services by authority granted in: Executive Order RP-37.**

**TEA further certifies that it has authority to perform the above services by authority granted in: Executive Order RP-37.**

Texas Council for Developmental Disabilities

Texas Education Agency

By: \_\_\_\_\_  
Brenda Coleman-Beattie  
TCDD Chair

By: \_\_\_\_\_  
Shirley Beaulieu,  
Associate Commissioner for Finance and  
Operations/CFO (Acting)

Date: \_\_\_\_\_

Date: \_\_\_\_\_

# **DRAFT**

## **STATE COUNCIL ON DEVELOPMENTAL DISABILITIES FACILITATION AND ATTENDANT SERVICES GUIDELINES FOR NON-AGENCY MEMBERS**

### **INTRODUCTION**

The Council recognizes that some members may require reasonable accommodations in order to remove barriers which would prevent their full participation. To address this issue, the Council has established guidelines for the provision of support services to non-agency members who require facilitation and/or attendant services.

When it has been determined that a need exists for facilitator and/or attendant services and the member is providing services for the Council, reimbursement is available for these services. Payments that are eligible for reimbursement include those for services provided by individuals working in the support classifications of facilitator, attendant, or the dual role of facilitator/attendant.

Reimbursement for facilitation or attendant services must be reasonable and comply with the State of California reimbursement rules. For guidance, Attachment A identifies costs for Facilitators, Attendants, and Facilitator-Attendants that have been considered reasonable based on factors such as the Council's pay rate of the Support Services Assistant, Hospital Worker, and Psychiatric Technician Assistant classifications, respectively.

### **DEFINITIONS**

The following are definitions for facilitation and attendant services:

1. Facilitation refers to a service wherein the facilitator aids a member to perform the essential functions of his/her position. Assistance is provided based on the needs of the member, and may include some or all of the following:
  - a. Interpretation of policy related information, either written or verbal, into a form that is more easily understood by the member.
  - b. Providing, as necessary, an impartial analysis of the relevant issues. The analysis may include, but not necessarily be limited to, alternative positions and the implications and potential consequences for supporting or proposing any particular position.

The intent is to provide the member with the knowledge necessary to make informed decisions.

- c. Assisting the member to effectively communicate both positions and questions on relevant issues.
  - d. Support to accomplish other related tasks, such as making travel arrangements and scheduling committee activities on behalf of the member.
2. Attendant service refers to assistance from others which compensate for a person's inability to independently perform activities of daily living. Services may include assistance with maintenance and hygiene, mobility and escort responsibilities, and to a lesser degree, assistance with related cognitive tasks.
  3. Both facilitation and attendant services are defined as assisting the member to perform the essential functions of his/her official position. For example, while an individual may require nearly identical assistance from an attendant both in his/her home and while away on Council related travel, these guidelines address only those services directly related to fulfilling the responsibilities of a member.

## RESPONSIBILITIES OF FACILITATORS AND ATTENDANTS

The need for, and level of, facilitation or attendant service should be determined largely by the member. During the new member's orientation to the Council, it is critical that the availability and significance of assistance be clearly explained. The new member must be able to make an informed decision as to whether an accommodation is necessary.

It is important to stress that accommodations may include those other than facilitation or attendant services. While these guidelines address only these two forms of accommodation, other forms may be more relevant, such as enlarged print, modified seating arrangements, and travel modalities.

### A. FACILITATORS - RESPONSIBILITIES

Facilitators are responsible for providing services that enable the person to function as an integral member of the Council. The following list, though not exhaustive, includes examples of activities with which the facilitator may assist:

1. Developing and maintaining a calendar of Council related meetings and activities that the member must attend. This may include assistance with reconciling subsequent commitments.
2. Making transportation/travel arrangements for Council related meetings.
3. Obtaining and/or managing funds required for taking part in Council related meetings. This may also include follow-up in reconciling any necessary documentation. Examples, if applicable, may include cash advances and travel claims.
4. Preparation prior to Council related meetings through review and interpretation of agenda items. Should the facilitator not understand an issue, he/she is responsible for obtaining any information necessary for clarification.
5. Support during meetings through interpretation of actions or discussions on agenda items. As with preparing for the meeting, if the facilitator does not understand an issue, he/she is responsible for making sure that it is clarified. Assistance may also be provided in following relevant group process rules, such as Parliamentary Procedure.
6. Reviewing after the meeting any actions taken or discussions held.

In addition to the preceding examples of responsibilities, there are two fundamental guiding principles that a facilitator should follow when providing services.

The first principle is that while interpreting, the facilitator must accurately convey both the content and spirit of any spoken or written communication, while at the same time assuring that the information is in a format that is more easily understood. This may be especially difficult when the facilitator disagrees with what has been said or written. The facilitator is not responsible for the content of the communication, only for presenting it accurately.

The second principle is a natural extension of the first. While the person being served is an appointed member of the Council, the facilitator, is not. For this reason, the

facilitator should not counsel, advise, or interject personal opinions while assisting the member in carrying out his or her official duties. Doing so may result in inappropriate participation and a likely impermissible exercise of authority by the facilitator.

## B. ATTENDANTS - RESPONSIBILITIES

Responsibilities of attendants may include, but are not limited to, the following examples:

1. Assistance with personal maintenance and hygiene, which may include some or all of the following: dressing, grooming, eating, bathing, respiration equipment maintenance, and toilet functions such as bowel, bladder, catheter and menstrual tasks. Assistance assumes knowledge of the member's needs related to these tasks, and of other needs that may require only periodic assistance, such as what to do if the member experiences a seizure.
2. Assisting the Council member with traveling to and from Council related activities.
3. Assistance with mobility tasks, which may include helping the Council member to move from place to place within confined settings. Examples could include movement from a meeting room to a local restaurant or from one chair to another.
4. Assistance with some cognitive tasks, such as reading, money handling, making travel arrangements, simple clerical tasks, and some interpretation of difficult to understand information.

NOTE: Although attendants and facilitators may occasionally provide similar assistance with regard to cognitive tasks, the attendant does so to a much lesser degree, and typically would not interpret issues related to policy development.

## C. FACILITATOR/ATTENDANT - RESPONSIBILITIES

The Council recognizes that a person may be capable of performing a dual role as facilitator and attendant. Obviously, the responsibilities and

duties for these individuals would include those outlined above for the facilitator and attendant.

## PERFORMANCE

Job performance of a facilitator or attendant is primarily determined by the unique needs of the Council member being served. Based on a self-assessment, the member specifies the type(s) of assistance that will be expected of the facilitator and/or attendant. Expectations are to be in precise terms and must be documented in writing. Each expectation, or task, once clearly defined, must be included in a checklist of tasks. The task checklist will aid in identifying and documenting specific areas the Council member needs help with. For example, if the Council member indicates the need for a facilitator, the specific task(s) are also to be identified. Examples are assistance with making transportation/travel arrangements, interpretation of agenda items, and/or handling/managing funds. Similarly, a member may determine that he/she requires the aid of an attendant with three tasks: eating, bathing, and toileting. Further specificity may indicate that this member, for bathing, may require help with undressing and dressing, but not with washing, drying, or other remaining steps.

The task checklist will be used in determining the reasonableness of costs for facilitator and/or attendant services used by the member.

For helpful guidance, worksheets, and recommended checklists, please refer to the Council's publication, "Facilitation: Purpose, Planning, and Practice." This publication may be accessed at: <http://www.sccd.ca.gov/res/docs/pdf/SSAN/Facilitation.pdf>

**STATE COUNCIL ON DEVELOPMENTAL DISABILITIES  
FACILITATOR AND ATTENDANT SERVICES AND TRAVEL  
REASONABLE AND REIMBURSABLE PAYMENTS**

SERVICES

When a non-agency member of the Council has determined that facilitator or attendant services are needed to assist them in performing his/her essential Council functions, the Council will authorize payment for facilitator or attendant services if those payments are reasonable under the State's reimbursement rules. For example, the following pay rates based on 2013 information compiled by the Department of Developmental Services have been determined to be reasonable and reimbursable:

<u>SERVICE</u>	<u>PAY RATE</u>
Facilitator	\$13.09 per hour
Attendant	\$13.46 per hour

The above pay rates are based on the mid-range monthly salaries of comparable state classifications. Each relevant salary was converted to an hourly rate and adjusted by 28.1 percent (the cost of state benefits) in order to recognize the self-employment cost to private vendors. Payment of these rates were limited to two hours before, during, and two hours after a Council related meeting.

Services Provided by Employees or Other Compensated Persons: If the facilitator or attendant is an employee of the Council, developmental center or regional center, or is already being compensated for the facilitation or attendant services, the Council will reimburse only for allowable travel related expenses.

Services Provided by Volunteers: If a member requires facilitation or attendant services and the facilitator or attendant is a volunteer, the council will authorize payment of travel related expenses for the volunteer.

TRAVEL

In accordance with PML 1986-001 entitled, "Travel Expenses of Non-State Employees," travel expenses of individuals providing facilitation or attendant services to a member may be reimbursed at rates equal to the rates allowed the member. Reimbursement for such travel expenses may be claimed on a travel expense claim which references the services provided and the name of the disabled member.

## STATE COUNCIL ON DEVELOPMENTAL DISABILITIES FACILITATOR SERVICES TASK CHECKLIST

This facilitator services task checklist is to aid in identifying and documenting specific areas the member needs assistance with to enable him/her to fully participate in Council related meetings.

Definition: Facilitation refers to a service wherein one person aids another to understand policy issues, to develop his/her own informed decisions regarding the issues, and to effectively express those decisions. A facilitator also assists with making transportation/travel arrangements, obtaining and/or managing funds required for attending Council related meetings, reviewing and interpreting agenda items, and providing support during meetings through interpretation of actions or discussions on agenda items.

In order to determine if the member requires the assistance of a facilitator, please indicate yes or no to the following list of Council related activities or functions:

1. Assistance is needed with the interpretation of policy related information, either written or verbal, into a form that is more easily understood.  
YES \_\_\_ NO \_\_\_
  
2. Assistance is needed in making travel and transportation arrangements to attend Council related meetings and related functions.  
YES \_\_\_ NO \_\_\_
  
3. Assistance is needed in obtaining and/or managing funds required for taking part in Council related meetings.  
YES \_\_\_ NO \_\_\_
  
4. Assistance is needed in the interpretation of agenda items prior to meetings.  
YES \_\_\_ NO \_\_\_
  
5. Assistance and support is needed during meetings with the interpretation of actions or discussions of agenda items.  
YES \_\_\_ NO \_\_\_

**STATE COUNCIL ON DEVELOPMENTAL DISABILITIES  
ATTENDANT SERVICES TASK CHECKLIST**

This attendant services task checklist is to aid in identifying and documenting specific areas the member needs assistance with to enable him/her to fully participate in Council related meetings.

Definition: Attendant services refers to assistance from others which compensates for a person's inability to independently perform activities of daily living. Services may include assistance with personal maintenance and hygiene, mobility, and escort services.

In order to determine if the member requires the assistance of an attendant, please indicate yes or no to the following list of activities:

1. Mobility and escort services to and from meetings.
2. Activities of daily living (specify)
  - a. Dressing YES \_\_\_ NO \_\_\_
  - b. Bathing YES \_\_\_ NO \_\_\_
  - c. Eating YES \_\_\_ NO \_\_\_
  - d. Tilting YES \_\_\_ NO \_\_\_
  - e. Grooming YES \_\_\_ NO \_\_\_
  - f. Respirator equipment maintenance YES \_\_\_ NO \_\_\_
  - g. Other

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3. Reading of materials YES \_\_\_ NO \_\_\_



## REVIEW OF THE DESIGNATED STATE AGENCY (DSA)

### a. DESIGNATED STATE AGENCY.—

#### 1. RESPONSIBILITIES.—

- A. IN GENERAL.—The designated State agency shall, on behalf of the State, have the responsibilities described in subparagraphs (B) through (G).
- B. SUPPORT SERVICES.—The designated State agency shall provide required assurances and support services as requested by and negotiated with the Council.

**Comments:** Through a delegated agreement with the Department of Social Services (DSS), the DSA provides accounting, business services, administrative support, personnel support, and information technology support

- C. FISCAL RESPONSIBILITIES.—The designated State agency shall—
- i. receive, account for, and disburse funds under this subtitle based on the State plan required in section 124; and
  - ii. provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of, and accounting for, funds paid to the State under this subtitle.

**Comments:** DSS Fiscal Systems and Accounting Branch carry out all of the above fiscal responsibilities

- D. RECORDS, ACCESS, AND FINANCIAL REPORTS.—The designated State agency shall keep and provide access to such records as the Secretary and the Council may determine to be necessary. The designated State agency, if other than the Council, shall provide timely financial reports at the request of the Council regarding the status of expenditures, obligations, and liquidation by the agency or the Council, and the use of the Federal and non-Federal shares described in section 126, by the agency or the Council.

**Comments:** DSS provides monthly reports of expenditures, Year-end state and federal financial statements including reports of obligations and liquidation. Additional reports are identified in the DSS/SCDD Interagency Agreement (IA). DSS staff have consistently provided timely reports upon request.



- E. NON-FEDERAL SHARE.—The designated State agency, if other than the Council, shall provide the required non-Federal share described in section 126(c).

**Comments: The support services provided by the DSA through DSS significantly exceed the cost paid by SCDD, thereby representing in-kind share of cost. Further, the requirement for a non-federal share in California is limited since 91% of the Council's activities are carried out by Council staff which does not require a non-federal share of cost.**

- F. ASSURANCES.—The designated State agency shall assist the Council in obtaining the appropriate State plan assurances and in ensuring that the plan is consistent with State law.

**Comments: The DSA has assisted the Council in obtaining state plan assurances. The DSA has not been involved in assessing whether the state plan is consistent with state law except insofar as one seat on the Council is assigned to a representative of the DSA and thus participated in the review of and approval of the state plan.**

- G. MEMORANDUM OF UNDERSTANDING.—On the request of the Council, the designated State agency shall enter into a memorandum of understanding with the Council delineating the roles and responsibilities of the designated State agency.

**Comments: The Council has not heretofore requested the DSA to enter into a memorandum of understanding but will do so during 2014.**

**It is recommended that the California Health and Human Services Agency remain as the DSA for the SCDD.**

Review conducted April, 2014

Roberta Newton, Interim Executive Director, SCDD

Kristopher Kent, Assistant Secretary, Health and Human Services Agency

