# MTARS COMMITTEE MEETING NOTICE/AGENDA

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**DATE:** **August 20, 2014**

**TIME:** 9:00 AM – 12:00 PM.

**LOCATION:** **State Council Headquarters**
1507 21st Street, Suite #210
Sacramento, CA 95811
(916) 322-8481

**THE PUBLIC MAY CALL IN AT:**

**1-800-839-9416**

**Participant Code: 2982825**

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| 1. | **CALL TO ORDER** | **M. KENNEDY** |
| 2. | **ESTABLISHMENT OF QUORUM** | **M. KENNEDY** |
| 3. | **WELCOME/INTRODUCTIONS** | **M. KENNEDY** |

## 4. PUBLIC COMMENTS

***This item is for members of the public only to provide comments and/or present information to the Council 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 Council will provide a public comment period, not to exceed a total of seven minutes, for public comment prior to action on each agenda item.***

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| 5. | APPROVAL OF MINUTES (July 30, 2014) | M. KENNEDY | 3 |
| 6. | REVIEW OF AUGUST MTARS CORRECTIVE ACTION PLAN UPDATE | M. KENNEDY | 7 |
| 7. | UPDATE ON AIDD COMMUNICATIONS | M. KENNEDY | |
| 8. | UPDATE ON AB 1595 | M. POLIT | |
| 9. | ROADMAP | M. POLIT | |
| 11. | CONSULTANTS AND TECHNICAL ASSISTANCE | M.KENNEDY | |
| 12. | REVIEW OF MTARS UPCOMING DUE DATES | M. POLIT | |
| 13. | PLANNING FOR NEXT MEETINGS | M. KENNEDY | |
| 14. | ADJOURN | M. KENNEDY | |

For additional information regarding this agenda, please contact Thomas Johnson, 1507 21st Street, Suite 210, Sacramento, CA 95811, (916) 322-8481

DRAFT

# MTARS COMMITTEE MEETING MINUTES
## July 30, 2014

| Members Present | Members Absent | Others Attending |
|---|---|---|
| Molly Kennedy (Chair) | Michael Wilkening | Mike Clark |
| Catherine Blakemore | | Aaron Carruthers |
| Kristopher Kent | | Mark Polit |
| Janelle Lewis | | David Forderer |
| Olivia Raynor | | Natalie Bocanegra |
| Sarah Greenseid | | Wayne Glusker |
| Nancy Clyde | | Mary Ellen Stives |
| Sandra Smith | | Kecia Weller |
| | | Dena Hernandez |
| | | Dawn Morley |

1. **CALL TO ORDER/ESTABLISHMENT OF QUORUM**

Molly Kennedy, Chairperson, called the meeting to order at 1:08 p.m. A quorum was established.

2. **WELCOME AND INTRODUCTIONS**

Everyone present introduced themselves.

3. **PUBLIC COMMENT**

There was no public comment

4. **APPROVAL OF MAY 28, 2014 MINUTES**

It was moved/seconded (Smith/Lewis) and carried, with two abstentions, to approve the May 28, 2014 MTARS Committee minutes as presented.

## 5. APPROVAL OF JUNE 25, 2014 MINUTES

It was moved/seconded (Smith/Kent) and carried, with two abstentions, to approve the June 25, 2014 MTARS Committee minutes as presented.

## 6. UPDATE ON AIDD COMMUNICATIONS

Molly Kennedy provided the committee a status update on communications with AIDD. Commissioner Aaron Bishop met with Mike, Mark and herself and then later during the meeting other AIDD staff joined.

In short, their meeting highlighted the fact that the Council is on the right track in addressing the MTARS corrective actions. However, Commissioner Bishop suggested that a consultant should be brought in to provide advice to the MTARS committee. It was also suggested that MTARS members and staff communicate with other council directors from other states.

Mike Clark also mentioned that Assembly Bill (AB) 1595 will likely solve a lot of issues. Moreover, AIDD appears to be quite comfortable with the contents of the legislation. In short, AB 1595 provides the MTARS Committee with a roadmap towards the future. As a result, the MTARS Committee still has work to do to demonstrate that it is on the right path towards addressing planning, practices, and procedures.

There was also a brief discussion regarding the Council's budget, funding, and reimbursements.

## 7. UPDATE ON AB 1595

Mark Polit reviewed several amendments to AB 1595, which are now being reviewed by the Legislative Counsel.

There was also a brief discussion regarding exempt positions being moved into civil service designation. Specifically, additional clarification regarding AB 1595 language on the exempt issue was requested by a few members. Direction was provided to Kris Kent to attempt to obtain any available additional information using his contacts regarding the exempt issue and transitioning positions to civil service.

## 8. REGIONAL ADVISORY COMMITTEES

There was discussion regarding the transitioning of Area Boards into Regional Advisory Committees. There was also discussion about the State Plan and what roles the new Regional Advisory Committees will play in its future development.

It was also determined that Council Staff will develop a roadmap for making decisions on the structure and functions of regional offices and advisory committees in time for the implementation of AB 1595 on January 1, 2015. The draft roadmap will be presented to the August MTARS Committee meeting

## 9. ADDRESSING OUTSTANDING CORRECTIVE ACTIONS THROUGH BYLAWS AND/OR PROCEDURES

Ed Holden, the council director of Washington State, met with Mark Polit, Mike Clark, and Molly Kennedy in Washington D.C. He offered his assistance and advice to the MTARS Committee. Mr. Holden was part of the MTARS review team that visited the Council in January 2013.

Mike Clark mentioned that Ed Holden may be able to provide guidance and training regarding governance structures, procedures, communication, and planning.

## 10. MTARS TIMELINE MATRIX AND UPCOMING DATES

Mark Polit distributed a short summary of the MTARS Corrective Actions that included the status of each corrective action and the work that remains to be done on those actions. He reviewed that information with the Committee and mentioned the upcoming due dates for corrective actions.

## 11. PLANNING FOR NEXT MEETINGS

The next MTARS Committee meeting is scheduled for August 20, 2014, from 9:00am to 12pm, at the State Council headquarters in Sacramento.

## 12. ADJOURN

Molly Kennedy adjourned the meeting at 4:03pm.

DRAFT

CALIFORNIA SCDD
State Council on Developmental Disabilities

STATE OF CALIFORNIA
Edmund G. Brown Jr.
Governor

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# MTARS
# Corrective Action Plan

# PROGRESS REPORT
# August 1, 2014

*"The Council advocates, promotes & implements policies and practices that achieve self-determination, independence, productivity & inclusion in all aspects of community life for Californians with developmental disabilities and their families."*

| II. ORGANIZATIONAL ADMINISTRATION | |
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| ***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:<br>• Council Director submits hiring recommendations to the Governor and the Governor has the final authority to hire two deputy level staff.<br>• 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. Assembly Bill 1595 (AB 1595) was introduced on February 3, 2014. The Council anticipates that the bill will pass out of the Legislature by August 30th, be signed by the Governor in September 2014 and take effect January 1, 2015.

**August 1st Status Update (1):** On August 4th, Ab 1595 is scheduled to be referred by the Senate Appropriations Committee to the Senate Floor through Senate Rule 28.8. Senate Rule 28.8 allows the chair of the committee to refer a bill to the floor without a hearing if it has been deemed to not have a significant cost to the state general fund. The final amendments, including one responding to AIDD concerns, will be made on the Senate Floor: Incorporating language on transition of exempt staff to civil service positions, clarifying language on the authority of the Council to establish regional offices, and any technical changes to conform the bill to changes in law made through the budget process. A copy of the amendments is attached.

| 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.

**August 1st Status Update (2):** The Membership Committee held its second meeting on July 31st (agenda attached). The committee is staffed by the incoming Interim Executive Director, Dr. Mike Clark and chaired by Council Vice Chair, April Lopez.

| ***III.1 Membership policies (continued)*** | ***2013 MTARS Finding (3)*** |
|---|---|
| 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.

**August 1st Status Update (3):** As discussed under corrective action #2, the membership committee met for the second time on July 31st. As discussed under corrective action #1, AB 1595 will be referred to the Senate Floor on August 4, and there receive its final amendments. There are no planned amendments relevant to this corrective action.

| ***III.1 Membership policies (continued)*** | ***2013 MTARS Finding(4)*** |
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| 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 |

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| | 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.

**August 1st Status Update (4):** As discussed in correct action (1), AB 1595 is moving to the Senate Floor on August 4, and there receive its final amendments. There are no planned amendments to AB 1595 relevant to this corrective action.

| ***III.1 Membership policies*** | ***2013 MTARS Finding(5)*** |
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| The Council has provisions that allow continuation of membership until a new member is appointed. Sec.125(b)(2) | The Council did not provide evidence of a policy for allowing the continuation of Council membership until a replacement member could be appointed. |

**California State Council on Developmental Disabilities Response**

**COUNCIL RESPONSE (5):** The Council agrees with this finding, as there are conflicting provisions of state law.

In compliance with the DD Act, the Lanterman Act currently states:
*4521(g) A member may continue to serve following the expiration of his or her term until the Governor appoints that member's successor.*

However, the Lanterman Act also contains a provision which contradicts both the DD Act and Section 4521(g), quoted above:

*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.*

**CORRECTIVE ACTION (5):** 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.

**STAFF ASSIGNED**: Mark Polit, Deputy Director for Policy and Planning with oversight by MTARS Committee

**TIMELINES**: 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.

**August 1st Status Update (5):** As discussed in correct action (1), AB 1595 is moving to the Senate Floor on August 4, and there receive its final amendments. There are no planned amendments to AB 1595 relevant to this corrective action. The bylaws have already been revised.

| ***III.1 Membership policies (continued)*** | ***2013 MTARS Finding(6)*** |
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| The Council has a process to notify Governor re: membership and vacancies. Sec. 125(b)(2) | The Council did not provide evidence of a transparent and effective process to notify Governor regarding membership vacancies. |

**California State Council on Developmental Disabilities Response**

**COUNCIL RESPONSE (6):** Although a process exists in state law to address vacancies, in practice there have indeed been long-standing vacancies. The Lanterman Act states:

*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 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.

**August 1st Status Update (6):** As discussed in correct action (1), AB 1595 is moving to the Senate Floor on August 4, and there receive its final amendments. There are no planned amendments to AB 1595 relevant to this corrective action.

The Membership Committee held its first meeting on June 19th. The committee is staffed by the incoming Interim Executive Director, Dr. Mike Clark and chaired by Council Vice Chair, April Lopez. A copy of the meeting agenda is attached. The first meeting identified the roles and responsibilities of the committee and the documents that they must function by (bylaws and relevant portions of the MTARS CAP). They decided

to focus on Council vacancies, as opposed to reviewing vacancies on area boards). Their next meeting will take place the last week of July or the first week of August. Prior to that meeting, the Interim Executive Director will distribute the member recruitment flyer once again and compile from the regional offices any recommendations for membership received from the communities across the state for presentation to the Membership Committee.

The bylaws have been revised establishing the Membership Committee, and they will be revised again in November to reflect changes in statute from AB 1595 and these corrective actions.

| ***III.2 Membership requirements*** | ***2013 MTARS Finding(7)*** |
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| 60% of membership represent individuals with DD in the following categories: Sec.125(b)(3); Sec.125(b)(5)<br>• 1/3 individuals with DD<br>• 1/3 parents and guardians of children with developmental disabilities or immediate relatives of guardians of adults with developmental disabilities<br>• 1/3 combination<br>• 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.

**August 1st Status Update (7):** As discussed in corrective action number (2), the Membership Committee held its second meeting on July 31st. The committee is staffed by the incoming Interim Executive Director, Dr. Mike Clark and chaired by Council Vice Chair, April Lopez.

| IV. PROGRAM ADMINISTRATION | |
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| ***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:<br>• Council engages in data-driven strategic planning to develop the State Plan and takes the primary role in the planning process.<br>• 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.<br>• 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** | |
| ***IV.1. Five Year State Plan*** | ***2013 MTARS Finding(9)*** |
| Plan must include assurances related to:<br>➢ (B) USE OF FUNDS - *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* | 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).<br><br>Regarding (B) *Use of Funds*, the review team could not draw any conclusions about the Council based on the |

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| *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*<br>➢ (C) STATE FINANCIAL PARTICIPATION.—*The plan shall provide assurances that there will be reasonable State financial participation in the cost of carrying out the plan.*<br>➢ (D) CONFLICT OF INTEREST.—*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.*<br>➢ (K) STAFF ASSIGNMENTS.—*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.*<br>➢ (L) NONINTERFERENCE.—*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 the Council, except that the designated State agency shall have the authority necessary to carry out the responsibilities described in section 125(d)(3).*<br><br>Sec.124(c)(5) | information provided about the expenditures for the DSA. It was stated during interviews that:<br>• The DSA charges the Council an indirect rate for the services it provides.<br>• The rate stated by Council staff was in excess of the 5% or $50,000 limit.<br>• Staff did not know the DSA's indirect policy and no written policy was provided.<br>• 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.<br><br>In regards to (C) *State Financial Participation*, 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.<br><br>In regards to (D) *Conflict of Interest*, 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.<br><br>In regards to (K) *Staff Assignments*, 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 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.<br><br>In regards to (L) *Noninterference*, it is very difficult to |

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| | conclude whether the Council is free of interference:<br><br>• To avoid duplication, issues related to interference with the budget process are described under *VI.1 Fiscal Requirements*<br>• To avoid duplication, issues related to interference with personnel are described under *II.1 Staff*<br>• To avoid duplication, issues related to interference with State Plan development are described in the Section above *IV.1. Five Year State Plan.* |

**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

**August 1st 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; MTARS Committee to oversee.

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

**August 1st Status Update (9D):** The revisions in law through AB 1595, discussed above in Status Update (1), will move on August 4 from Senate Appropriations to the Senate Floor. There are no planned amendments to AB 1595 relevant to this corrective action.

**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)*** |
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| 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.<br><br>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 polices 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, Janet Fernandez; State Plan Committee.

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

**August 1st Status Update (10):** The State Plan Committee met on July 8 to review grant applications, as had been scheduled. The next meeting of the Committee is scheduled for August 25, when they will review data on State Plan Implementation from a geographical perspective. This is the next step in the Council exercising greater control over the implementation of the current plan.

The Council's ability to oversee implementation of the State Plan has been hampered by the lack of a planning specialist, a position appointed by the Governor. The Council has now hired a Planning Analyst through civil service to perform the major functions of the Planning Specialist. The new planning analyst, Janet Fernandez, started work on July 31st. Janet is a parent of a young man with developmental disabilities, who has been active in the autism parent movement for many years. She has a BS in Career Technical Services and has worked professionally with people with developmental disabilities and their families for years, both as a trainer and working with law enforcement. She has consulted with law enforcement agencies throughout the state, training first responders on working with people with developmental disabilities. She has also consulted with law enforcement to work with people with developmental disabilities (and their families) who have been victims of crime. Her support of people during some of the worst moments of their lives, helping them to re-build their self-esteem and sense of personal empowerment, gives her a unique perspective on the broad set of issues facing DD services and the struggles of people with disabilities to be safe, belong, be in control, and be a part of their communities. Her ability to communicate with people with developmental disabilities, their families, and other stakeholders, combines with her broad knowledge of disability issues prepare her well for this new assignment. She will be the primary staff to the State Plan Committee under the direction of the Deputy Director of Policy and Planning.

The June 25th MTARS Committee meeting decided to seek technical assistance from AIDD and NACDD on the CRA/VAS issue. Specifically, since CRA/VAS is a state authorized activity funded 100% with state funds, it may be appropriate to remove these contracted activities from the State Plan. Under that option, the CRA/VAS contract would continue, but not as a state plan activity.

## V. EVALUATION AND REPORTS

| ***Program Performance Report*** | ***2013 MTARS Finding(11)*** |
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| The Council annually prepares and transmits to the Secretary a report containing information about the progress made in achieving the goals. The report includes: | 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 |

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| • Extent to which each goal of Council was achieved. Sec.125(c)(7)(A)<br>• Description of strategies that contributed to achieving goals. Sec.125(c)(7)(B)<br>• Extent to which each goal was not achieved, describes factors that impeded goal achievement. Sec.125(c)(7)(C)<br>• Separate information on self-advocacy goal. Sec.125(c)(7)(D) | Council State Plan, it is difficult to determine how State Plan achievement is being measured and evaluated.<br><br>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. |

**California State Council on Developmental Disabilities Response**

**COUNCIL RESPONSE (11)**: 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.

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.

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.

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 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; 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.

**August 1st Status Update (11):** See status update (1), above.

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| 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.<br><br>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:<br><br>• The Lanterman Act requires the Council to provide funding to Area Boards.<br>• 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**: Aaron Carruthers, Chief Deputy Director; Mark Polit, Deputy Director of Policy and Planning; Administrative Committee to oversee administrative activities. MTARS Committee to oversee legislation.

**TIMELINES**: Ongoing, monthly

**August 1st Status Update (12):** 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.

Council staff has begun work on the MOU with the DSA, after Staff Counsel review of MOUs from other states.

As discussed in corrective action (1), AB 1595 will be referred to the Senate Floor on August 4th. It will be amended on the Senate Floor.

| ***VI.2 Fiscal Policies*** | ***2013 MTARS Finding(13)*** |
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| Council has policies to carry out appropriate subcontracting activities. Sec.125(c)(8)(A) | The Council did not provide adequate evidence of that is has accurate financial accounting and record keeping: |

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| Council directs expenditures of funds for grants, contracts, interagency agreements that are binding contracts and other activities authorized by State Plan approval.<br>Sec.125(c)(8)(C)<br>Grantee shall keep records that disclose:<br>• Amount and disposition of assistance by recipient<br>• Total cost of project or undertaking in connection with assistance given<br>• Amount of project costs supplied by other sources<br>• Such other records that will facilitate an effective audit<br>Sec.103 | • 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.<br>• 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.<br>• The Council experienced fiscal impropriety under the previous Executive Director (Board Resource contract)<br>• The state auditor's findings substantiate the immediate need for financial management systems. (Reference: *California Department of Finance Management Letter dated August 17, 2012*) |

**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 20014 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**: Aaron Carruthers, Chief Deputy Director, and Administrative Committee

**TIMELINES:** Refer to Corrective Action above

**August 1st Status Update (13):** The new executive management team is comprised of the new Interim Executive Director, Mike Clark, the new Chief Deputy, Aaron Carruthers, and the Deputy Director of Policy and Planning, Mark Polit. Each member of this team has tremendous depth of experience in their areas. The team has been working well together and with Council leadership. Of special note, the Chief Deputy is supporting budget, personnel, contracting, and other staff to grow professionally, and he is continuing the process of strengthening internal procedures and controls. Morale among administrative staff at Council headquarters has improved significantly.

## VII. DESIGNATED STATE AGENCY

| ***VII.2 Responsibilities of DSA*** | ***2013 MTARS Finding(14)*** |
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| • Receives, accounts for, and disburses funds under subtitle based on State Plan. Sec125(d)(3)(C)(i)<br>• 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)<br>• 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. Sec125(d)(3)(D)<br>• Provides required non-Federal share. | 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:<br>• Accurate receipt, accounting, and disbursement of funds<br>• Provision of appropriate fiscal control and fund accounting procedures necessary to assure proper disbursement of, and accounting for, funds paid<br>• Access to records as the Secretary and Council may determine necessary<br>• Timely development and dissemination of financial reports regarding status of expenditures, obligations, and liquidation by agency or Council, and use of Federal and non-Federal shares |

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| Sec125(d)(3)(E)<br>• Assists in obtaining appropriate State Plan assurances and consistency with state law. Sec125(d)(3)(F)<br>• Enters into MOU at request of Council. Sec125(d)(3)(G) | The Council does not have a Memorandum of Understanding with the DSA.<br><br>There was no evidence that the Council has conducted a formal evaluation of the DSA at any point and time.<br><br>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. |

**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**: Aaron Carruthers, Chief Deputy 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

**August 1st Status Update (14):** Council staff has begun work on the MOU with the DSA, after Staff Counsel review of MOUs from other states.

# Amendments
# AB 1595 (Chesbro)
## July 29, 2014

## Page 15, Section 10

4535 (b) The state council shall, by majority vote of the voting members, elect its own chairperson and vice chairperson who shall have full voting rights on all state council actions, from among the appointed members, described in paragraph (1) of~~, and subparagraph (E) of paragraph (2) of,~~ subdivision (b) of Section 4521. The council shall establish any committees it deems necessary or desirable. The chairperson shall appoint all members of committees of the state council. The chairs and vice chairs of the state council and its standing committees shall be individuals with a developmental disability, or the parent, sibling, guardian, or conservator of an individual with a developmental disability.

## Page 24, Section 15

4544. (a) The state council may establish regional offices that are accessible to and responsive to the diverse geographic, ethnic, and language needs of consumers and families throughout the state. As of January 1, 2015, regional offices of the state council, in existence as of December 31, 2014, shall continue to exist, within the same geographic regions of the state. *Effective January 1, 2015, the state council shall have full authority in establishing, maintaining, and operating any regional offices, including the number and location of those offices.*

## Page 30, Section 26

**4551.**
(a) Within the limit of funds allotted for these purposes, the state council shall appoint an executive director. All state council employees that the state council may require shall be appointed by the executive director.

(b) The executive director of the state council shall be exempt from civil service. All state council staff positions exempt from civil service on December 31, 2014, shall remain exempt on January 1, 2015 and thereafter, unless any such position becomes vacant or is transitioned by the state council to civil service pursuant to this section.

(c) Each person who is a member of state council staff ~~appointed by the Governor~~, exempt from civil service, and employed by the state council on December 31, 2014, shall continue to be employed in a job classification at the same or higher salary by the state council on January 1, 2015, and thereafter, unless he or she resigns or is terminated from employment.

(d) Notwithstanding subdivision (c) above, the state council shall determine the structure of its organization, as required by the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000 (Public Law 106-402 (42 U.S.C. 15001 et seq.)). Should the state council decide to transition to civil service any state council positions that are exempt from civil service on December 31, 2014, the resulting civil service positions shall be established.

(e) Notwithstanding any other provision of law or rule, all persons who are state council staff exempt from civil service on December 31, 2014, shall be eligible to apply for any civil service examination, including promotional civil service examinations described in Government Code Section 18992. Such persons receiving passing scores shall have their names placed on lists resulting from these examinations, or otherwise gain eligibility for appointment. In evaluating minimum qualifications, experience in council exempt positions shall be considered state civil service experience in a class deemed comparable, based on the duties and responsibilities assigned.

# MEMBERSHIP COMMITTEE
## MEETING NOTICE/AGENDA

Posted at www.scdd.ca.gov

**DATE:** July 31, 2014

**TIME:** 1:00pm to 3:00pm

**MEETING LOCATION:**

**State Council on Developmental Disabilities**
1507 21st Street, Suite 210
Sacramento, CA 95811
(916) 322-8481

**TELECONFERENCE LOCATIONS:**

**East Los Angeles Family Resource Library**
1000 S. Fremont Ave.
Suite 6050, #35
Alhambra, CA 91803
(626) 300-9171 x100

**Area Board 7**
2580 North First Street, Suite #240
San Jose, CA 95131
(408) 324 – 2106

**Stadium Chiropractic & Sports**
2029 W. Orangewood Ave.
Orange, CA 92886

**THE PUBLIC MAY CALL IN AND LISTEN AT:**

**1-800-839-9416**

**Participant Code: 2982825**

*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 the meeting, should contact Thomas Johnson at (916) 322-8481 or thomas.johnson@scdd.ca.gov by 5:00 pm, July 23, 2014*

| | | Page |
|---|---|---|
| 1. **CALL TO ORDER** | A. Lopez | |
| 2. **ESTABLISHMENT OF QUORUM** | A. Lopez | |
| 3. **INTRODUCTIONS AND ANNOUNCEMENTS** | A. Lopez | |
| 4. **PUBLIC COMMENTS** | | |

*This item is for members of the public only to provide 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.*

| | | |
|---|---|---|
| 5. **APPROVAL OF JUNE 19 MEETING MINUTES** | All | |
| 6. **SCDD BYLAWS & DESCRIPTION OF MEMBERSHIP COMMITTEE DUTIES** | A. Lopez | |
| 7. **DISCUSSION OF EXPECTATIONS FOR THE MEMBERSHIP COMMITTEE, FROM THE JULY 1, 2014 CORRECTIVE ACTION PROGRESS REPORT** | A. Lopez | |
| 8. **UPDATE ON CURRENT STATE COUNCIL APPOINTMENTS, MEMBERS, AND VACANIES** | A. Lopez | |
| 9. **COUNCIL RECRUITING FLYER** | A. Lopez | |

| | | |
|---|---|---|
| **10.** | **NEXT MEETING DATES** | A. Lopez |
| **11.** | **ADJOURNMENT** | A. Lopez |

*For additional information regarding this agenda, please contact Thomas Johnson, 1507 21st Street, Suite 210, Sacramento, CA 95811, (916) 322-8481*