

ATTACHMENT B - PROPOSED LEGISLATIVE CONCEPTS

To Ensure State Law Regarding the California State Council on Developmental Disabilities is Consistent With the Requirements of the Federal Developmental Disability Act

INTRODUCTION & BACKGROUND

This document summarizes the major concepts for changes to state law that are needed to ensure that state law complies with federal law. The proposed legislation will not change people's rights and services under the Lanterman Act as it does not affect the Individual Program Planning (IPP) or the Regional Center system. The proposed legislation will focus only on those parts of state law that describe the structure and function of the State Council and the Area Boards. For a state as large and diverse as California the State Council is unwavering in its commitment to have regional offices to address the geographic, racial and ethnic diversity of the state. Consistent with federal law the proposed legislation is intended to clarify that there is one State Council unified in purpose, direction and responsibility to define and carry out the California State Plan for advocacy, capacity building and systemic change to improve service systems for individuals with developmental disabilities.

The Administration on Intellectual and Developmental Disabilities (AIDD) is a unit within the Administration for Community Living (ACL), which is part of the United States Department of Health and Human Services. AIDD is responsible for administering the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (DD Act). The DD Act provides the federal authority for and funds the DD Network and programs across the nation, including the State Councils on Developmental Disabilities (SCDDs), Protection & Advocacy Systems (P&As), University Centers for Excellence in Developmental Disabilities Education, Research and Service (UCEDDs) and Projects of National Significance (PNSs).

California has various legal "Codes" that together form statutory law for the state, one of these Codes is the Welfare and Institutions Code (WIC). The WIC contains Division 4.5 that is known as the "Lanterman Act". The Act includes various sections intended by the State Legislature to "secure full compliance with the requirements of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 ... which provides federal funds to assist the state ... in establishing a system to protect and advocate the legal and civil rights of persons with developmental disabilities." The Act includes the language that establishes the State Council in California with "... authority independent of any single state service agency is needed and is hereby created". This section of the Act further describes the structure and functions of the California State Council on Developmental Disabilities and the regional offices known as Area Boards.

In January 2013, representatives from AIDD conducted a site visit to assess California's operations and compliance with the federal DD Act requirements. AIDD issued a "Monitoring and Technical Assistance Review System" (MTARS) report in November of 2013 identifying various Findings including several provisions of state law that AIDD concluded conflicted with the federal DD Act. This document summarizes the major concepts for changes to state law that are needed to ensure the state law complies with the federal law.

AB 1595 (Chesbro), State Council on Developmental Disabilities. On February 3, 2014, Assemblymember Wesley Chesbro introduced AB 1595 with intent language to bring California

law governing the Council and Area Boards into compliance with the requirements of the DD Act. On March 20, 2014, it is intended that the Council will approve further detailed legislative concepts that will be introduced by March 26, in time for policy committee hearings and passage in the current legislative session. This legislation will focus only on those parts of the state law that describe the responsibilities and functioning of the State Council and the Area Boards. This will not affect people's rights and services under the Lanterman Act, nor the IPP or the Regional Center system. The bill as introduced is included as Attachment C and can be found on the Legislature's website at <http://www.leginfo.ca.gov/bilinfo.html>.

LEGISLATIVE TIMELINE

- January 17:** Assemblymember Wes Chesbro agrees to author legislation.
January 24: Intent language submitted to Legislative Counsel
January 31: MTARS Committee approves draft legislative concepts and establishes a community engagement plan.
February 3: AB 1595 (Chesbro) introduced.
February: Initiate community engagement plan and distribute fact sheet. Community engagement continues through passage of legislation and implementation of statutory changes.
March 7: MTARS or Exec Committee finalize summary of legislative proposal to submit to Council (Council packet deadline March10).
March 20: Council takes public input on legislative concepts and approves concepts for legislation.
March 26: Council staff submits bill language to Legislature.
May 2: Deadline to pass from policy committee to fiscal committee.
August 31: Last day for Legislature to pass bills.
September 30: Last day for Governor to sign bills.

PROPOSED STATUTORY CHANGES (PENDING STATE COUNCIL REVIEW / REVISION / APPROVAL)

Structure and Functions of the California State Council on Developmental Disabilities

The federal DD Act funds operations of the Council including those of its staff in regional offices (currently referred to as Area Boards in state law). The proposed legislation seeks to ensure, as required by federal law, that there is one State Council unified in purpose, direction and responsibility to define and carry out the California State Plan. The Council will carry out its work across this large and diverse state through its headquarters and regional offices. The regional offices are vital to the structure of the Council in order to address the geographic, ethnic and language diversity of the state. The change in statute will make clear that the Council and its State Council Regional Offices are part of the same state-wide entity. These changes will maintain the regional advisory committees that are currently known as the Boards of the Area Boards but clarify the role and structure of the committees to conform to the criteria for clarity of Council authority in federal law.

1. Clarify that the Council shall have the authority to establish the Council organizational structure and remove the provisions in current statute that mandate to the Council the establishment of deputy director positions within Council staff.
2. Clarify that the Area Boards are State Council Regional Offices
3. Add language that the Council shall establish State Council Regional Offices that are accessible to and responsive to the diverse geographic, ethnic and language needs of consumers and families throughout the state. As required by federal law, provide that the Council has the full authority on how it uses its funds in establishing, maintaining and operating the regional offices.
4. Add language to ensure that the State Plan is responsive to the needs of California's diverse geographic, racial, ethnic and language communities, the Council and its regional offices, as appropriate, shall obtain input from consumers, families and other stakeholders throughout the various regions of California.
5. Ensure involvement of consumers and families and others at the regional level by transforming the appointed Area Boards to State Council Regional Advisory Committees.
 - a. Add provisions that State Council Regional Offices shall have State Council Regional Advisory Committees which reflect the geographic, disability, and racial, ethnic and language diversity of the local region.
 - b. Add provisions which ensure that the responsibilities of the State Council Regional Advisory Committees advise the Council on local issues, providing input for the Council to consider in the formulation of the State Plan, and provide a source of data for the Council's Regional Office reporting on the State Plan implementation.
6. Adjust language throughout state statute to change current references to "the area boards" to refer to "the Council", "State Council Regional Offices", or "State Council Regional Advisory Committees," as appropriate.
7. The Council, including its regional offices, shall continue to perform its functions as delineated in the DD Act and state law.

California State Council on Developmental Disabilities Membership

The following changes to state law seek to ensure compliance with federal law by eliminating a perception of a conflict of interest of the Council and the Area Board members appointed to the Council, reducing the complexity of the appointments process, reducing vacancies in Council membership, and giving the Governor full appointment authority for Council members by eliminating the requirement that candidates be chosen only from a pre-selected nomination by the Area Board.

1. Provide that the Governor shall have the sole authority to appoint Council members.

2. Make the following changes to the membership requirements to reduce unnecessary vacancies and allow for a more efficient appointment process:
 - a. Specify that a member's term begins on the date of their appointment;
 - b. Ensure that while there are membership terms, a member may serve until a replacement is named as required by federal law.
 - c. Require that the Council notifies the Governor in writing six months in advance of the expiration of a Council member's term or immediately if a vacancy is experienced for other reasons.
 - d. Ensure better coordination between the Council and the Governor regarding appointments by ensuring that members of the Council, including non-agency members of the Council and State Council Regional Advisory Committees have the opportunity to provide the Governor with information about potential Council members. The Council is proceeding to establish a membership committee in bylaws that will coordinate with the Governor's Office and make recommendations on appointments to Council.
3. Current statute requires one "at large" member to be an immediate relative/conservator of a current DC resident. As required by the DD Act, change the language to read: "At least one is an immediate relative or conservator 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."
4. Ensure that the SCDD is free from potential conflicts of interest by changing the requirement that 13 Council members be appointed by the Governor from the Area Boards. Instead the Governor will appoint 20 "non-agency" members, as currently defined, who reflect the geographic, disability and racial, ethnic and language diversity of the state. Of these 20 non-agency members, at least one shall be from the geographic area of each of the Council's regional offices. Each non-agency member of the Council shall be a liaison of the State Council to the local region constituency and to a State Council Regional Advisory Committee.

Authority of the California State Council Executive Director to Hire Staff

This section brings state statute into compliance with the federal DD Act provision that the Council Executive Director shall have the authority to hire Council staff.

1. Provide that the Executive Director of the Council shall have the authority to hire all Council staff by removing conflicting provisions in state law:
 - a. Remove the requirement that the Governor appoints any Council staff positions.
 - b. Remove the requirement that the executive directors of the Council's regional offices are hired or removed after obtaining the approval of the Area Board.

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