



STATE COUNCIL ON DEVELOPMENTAL DISABILITIES LEGISLATIVE AND PUBLIC POLICY COMMITTEE MEETING POSTED AT: www.scdd.ca.gov

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DATE: August 20, 2020

TIME: 10:00 AM – 1:30 PM

COMMITTEE CHAIR:

Julie Austin

Item 1. CALL TO ORDER

Item 2. ESTABLISH QUORUM

Item 3. WELCOME AND INTRODUCTIONS

ltem 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.	
ltem 5.	APPROVAL OF JANUARY 2020 MINUTES	Page 3
ltem 6.	FEDERAL LEGISLATIVE & REGULATORY UPDATES	Page 7
ltem 7.	 STATE LEGISLATIVE AND REGULATORY UPDATES VIEW Julie Austin, Committee Chair and Cindy Smith, SCDD Bills for LPPC to discuss are listed below. Hyperlinks are provided so you can view the current bill and status. 1) INTRODUCED BILLS a. Sponsored Bills SB 1264 b. Bills Supported Using Delegated Authority AB 1914, AB 2213, AB 2387, AB 2512, AB 2730, AB 3052 SB 801, SB 1123, SB 1264 2) ADVOCACY RELATED TO COVID-19	Page 17
Item 8.	PRIORITY PLATFORM UPDATE	Page 47
ltem 9.		Page 53
ltem 10.	2021 MEETING DATES	

Item 11. ADJOURNMENT

Accessibility:

Pursuant to Government Code Sections 11123.1 and 11125(f) and Executive Order N-29-20, individuals with disabilities who require accessible alternative formats of the agenda and related meeting materials and/or auxiliary aids/services to participate in this meeting should contact (916) 263-7919. Requests must be received by 5 business days prior to the meeting.

All times indicated and the order of business are approximate and subject to change.

August 20, 2020

AGENDA ITEM 5. ACTION ITEM

STATE COUNCIL ON DEVELOPMENTAL DISABILITIES – LPPC

Approval of January 2020 Minutes

Members will review and approve the January meeting minutes.

Action Recommended Approve the January 16, 2020 minutes.

Attachment(s)

January 16, 2020 Meeting Minutes



DRAFT Legislative and Public Policy Committee Meeting Minutes January 16, 2020

Attending Members

<u>Members Absent</u> Julie Neward (FA)

Diane Ambrose (FA) Julie Austin (FA) Jeana Eriksen (SA) Connie Lapin (FA) Maria Marquez (SA) Kim Rothschild (FA) Wesley Witherspoon (SA) Others Attending

Aaron Carruthers Cindy Smith Chris Arroyo Karen Mulvany Robin Maitino-Erben Michelle Heid Janelle Lewis

- 1. **CALL TO ORDER** Committee Chair Julie Austin called the meeting to order at 10:45 AM.
- 2. ESTABLISH QUORUM

A quorum was established.

3. WELCOME/INTRODUCTIONS

Members and others in attendance introduced themselves.

4. PUBLIC COMMENTS

Karen Mulvany provided the public comment updates on the signed ADU legislation including SB 13, AB 68, AB 881. Ms. Mulvany also provided public comment on Final Joint Employment Status Rule, stating that there are important considerations the Council may want to consider, specifically those that could affect the Self-Determination Program.

Michelle Heid provided comment that requested future meetings offer two periods for public comment, one at the beginning of the meeting and one at the end of the meeting.

5. APPROVAL OF THE SEPTEMBER 2019 MEETING MINUTES

Members were presented with the draft meeting minutes.

It was moved/seconded (Witherspoon [SA]/Ambrose [FA]) and carried to adopt the September 6, 2019, meeting minutes as presented. Abstain: Marquez and Lapin (See page one for a record of members present.)

6. **PEOPLE WITH DISABILITIES IN THE NEWS**

Committee member Connie Lapin announced that the book In a Different Key, The Story of Autism, won a Pulitzer.

Members were also informed that the 2019 death of the special education student in El Dorado Hills has resulted in school staff being charged with felony manslaughter and the introduction of new restraint legislation.

7. PURPOSE OF LPPC AND OVERVIEW OF LEGISLATIVE PROCESS

Committee Chair Austin and Deputy Director Smith provided members with an overview of the Committee's purpose and went over the federal and state legislative processes.

8. FEDERAL LEGISLATIVE AND REGULATORY UPDATES

Committee Chair Austin and Deputy Director Smith provided a brief update on the latest federal legislative and regulatory issues which included the updates on the Public Charge Rule, HCBS and the potential change in definition to competitive integrated employment (CIE).

Deputy Director Smith also reported that the Council had signed onto a letter, along with dozens of other organizations nationwide, regarding the reopening of the WIOA regulations.

9. STATE LEGISLATIVE UPDATE

Deputy Director Smith provided an update stating that the deadline to introduce legislation is February 21st and that staff was in the process of looking for authors to introduce legislation in line with the identified Council priorities.

Deputy Director Smith further reported that the Council had submitted written public comments on the Career Technical Education workplan and signed onto the December 13th letter to Health and Human Services

Agency Secretary Mark Ghaly recommending a Senior and Disability Victimization component of the Master Plan for Aging.

Committee Chair Austin reported that she and Council Chair Maria Marquez had worked with staff over the holidays to streamline the Policy Priorities. Ms. Austin stated that the Council would be reviewing the document at the upcoming Council meeting.

10. UPDATES AND STANDING AGENDA ITEMS

A copy of the November Council summary was provided as an update for Council activities.

Committee members Diane Ambrose and Maria Marquez provided status updates on the DDS Taskforce, Fiscal Reform Workgroup and Transparency Workgroup activities and Public Member Karen Mulvany provided a status update on the Community Resource Workgroup's activities.

Committee Members Maria Marquez and Connie Lapin provided status updates on the Self-Determination Program. There were no updates on CalABLE.

11. MEMBER UPDATES

Members provided brief updates of local activities taking place in their areas.

12. FUTURE MEETING DATES

March 12th, April 9th, and August 20th.

13. ADJOURNMENT

Meeting adjourned at 3:04 PM.

August 20, 2020

AGENDA ITEM 6. POTENTIAL ACTION ITEM

STATE COUNCIL ON DEVELOPMENTAL DISABILITIES – LPPC

Federal Legislative and Regulatory Updates

The goal of this agenda item is to provide an update on the latest federal legislative and regulatory issues.

While providing updates on this item at the January meeting, members requested the following website addresses as policy resources on what is going on throughout the nation.

Team of Advocates for Special Kids (TASK): https://taskca.org/

The Disability Law and Policy Newsletter: http://disability.law.uiowa.edu/lhpdc/publications/dnl.html

Attachments

- April 8th SCDD Letter to Pelosi & McCarthy re: COVID-19 Relief
- July 14th Letter from CMS re: HCBS

Handout(s)

Could be additional handout(s) day of meeting.



April 8, 2020

The Honorable Nancy Pelosi Speaker U.S. House of Representatives Washington, DC 20515 The Honorable Kevin McCarthy Minority Leader U.S. House of Representatives Washington, DC 20515

Dear Speaker Pelosi and Leader McCarthy,

The State Council on Developmental Disabilities writes today in regards to the needs of people with disabilities, their families and the professionals who support them in California as the fourth COVID-19 emergency relief package is being negotiated. As you are aware, people with disabilities are, and will continue to be, at particular high risk of complications and death if exposed to the pandemic. The Council believes that the first three COVID-19 emergency relief packages took important steps to address the emergency but did not fully and adequately address the unique, serious and urgent needs of the disability community. This is one of the many stories from California that the Council has heard and it highlights the unique needs of the disability community:

On Monday March 23th, I get a phone from my day attendant right before her shift begins saying her family member was tested for the coronavirus and what she should do. Does she come to my apartment? I was still in bed. I did not know what to do because I knew I had to protect all my staff. If she were infected, that would be bad. So, I told her not to come up and to immediately get tested. In the meantime, I was still in bed. I called my live-in, but she didn't wake up. I finally woke her up at 11. My live-in's day job as a care provider canceled because all the parks were closed, so there wasn't anything to do outside. So, my live-in took the morning shift for the week. My day staff's family member's test came back negative on Wednesday. I told her she could come back to work if she wore a mask and gloves, but she didn't feel comfortable until she got her results. During the week, I kept asking the Regional Center for guidance, but they said it was up to me as the employer and was my sole decision how to act. (Jennifer, Bay Area Resident).

As the fourth emergency relief package moves forward, the State Council requests that the following elements are included in the package. The Council also supports the recommendations of the Consortium for Citizens with Disabilities in a letter dated April 2, 2020.

Increased Resources for Home and Community-Based Services (HCBS)

The COVID-19 pandemic has shown that people with disabilities and older adults are most at risk when in nursing homes and other types of congregate settings. The Council believes one of the most important steps Congress can take to safeguard the disability community is making meaningful investments in HCBS. The Council believes that without additional meaningful investments people with disabilities could be forced out into congregate settings, at grave risk to their health and in violation of their rights under the Americans with Disabilities Act (ADA) and the Supreme Court's decision in Olmstead v. L.C. The Council requests that the fourth package include an increase in the Federal Medical Assistance Percentage (FMAP) match beyond the



6.2 to ensure the state has the resources to respond. Also, the Council requests the HCBS grants, such as those included in HR 6305 are fully funded to support direct support professionals and the home healthcare workforce.

Access to Personal Protective Equipment (PPE) for Direct Support Professionals (DSP)

DSPs, personal care attendants (PCA), and other direct care employees are not currently included in the definitions of essential workers who are prioritized for access to PPE. These workers are on the frontlines of the COVID-19 response, assisting people with underlying conditions and disabilities with tasks such as toileting, eating, and bathing. Often these services cannot be provided from six feet away and require close personal contact. The Council believes that DSPs, PCAs and other direct care employees' work is essential, and they must have access to the tools and resources they need to do their job safely and stay healthy. The Council requests that the fourth package include these workers as essential workers.

Increased Production of PPE and Ventilators

Without the PPE needed, health care providers, DSPs, PCAs and other direct care employees are becoming infected, transmitting the virus to other patients, and then becoming ill themselves. The same is true of professionals working in nursing homes and other congregate facilities. Nursing home residents are, overwhelmingly, some of those most likely to die due to COVID-19. The Council believes a clear federal strategy is needed to massively ramp up production of PPE. The Council believes that the healthcare workforce must have access to PPE so they can continue to do their job safely and stay healthy. If our healthcare workforce is diminished due to exposure to COVID-19, the impacts to the rest of our population will be even more disastrous. After healthcare workers and DSPs, the Council believes that PPE should be provided to people at higher risk of COVID-19 including people with underlying conditions and disabilities. In addition to the production of PPE, the disability community is put profoundly at risk by the national shortage of ventilators. The Council requests that Congress do whatever is necessary in the fourth package, up to and including nationalizing production and distribution of PPE and ventilators, to ensure a rapid, whole-of-country response that mobilizes all of America's production and logistical capacity to meet these production challenges.

Inclusion of People with Disabilities in Paid Leave

The paid sick days and paid leave provisions in the prior emergency relief packages did not explicitly include all caregivers who cannot work because they are caring for an adult with a disability or aging family member whose program has closed or whose DSP or other usual source of care is sick. The paid leave provisions also did not cover individuals who must isolate themselves because of their disability. The U.S. Department of Labor has expanded some of the definitions to account for some of these circumstances, but not all of them. The Council requests that Congress amend the paid sick days and paid leave provisions of the Families First Coronavirus Response Act in the fourth package to explicitly include all caregivers for people with disabilities and older adults and to include paid leave for individuals who must isolate themselves because of their disability.

Remove Obstacle to Stimulus Payment for SSI Recipients

Thank you for including beneficiaries of Social Security as people eligible to receive stimulus payments in third relief package. The Treasury Department announced that the economic stimulus payments will automatically be made to Social Security recipients based on their SSA-



1099 forms and other data shared between the Social Security Administration and the Internal Revenue Service. The Council is grateful that this group of people with disabilities will be able to receive their stimulus payments automatically without having to file taxes, but the Council is still concerned about the millions of people who rely on SSI and will need to file taxes to receive their stimulus payments. This group of low-income people with disabilities are not otherwise required to file taxes and requiring them to do so will delay access to their checks at a time when many people with disabilities are already experiencing increased costs to stay safe and healthy. The Social Security Administration already has data for people who rely on SSI and sends them payments every month, so it should be easy to share this information with the Treasury Department and issue automatic payments. The Council requests Congress makes this request, and if any additional authority is required, that such authority should be included fourth relief package.

Thank you for your leadership to address this public health emergency. The Council stands ready to work with you. If you have any questions or concerns, please contact our Deputy Director of Policy and Public Affairs, Cindy Smith at 916-799-8805 or <u>cindy.smith@scdd.ca.gov</u>.

Sincerely,

Maria Marquez, Chair State Council on Developmental Disabilities



SMD # 20-003 Re: Home and Community-Based Settings Regulation – Implementation Timeline Extension and Revised Frequently Asked Questions

July 14, 2020

Dear State Medicaid Director:

The Centers for Medicare & Medicaid Services (CMS) is issuing guidance pertaining to the home and community-based services (HCBS) Settings Rule, which became effective on March 17, 2014.¹ As states are responding to the Coronavirus Disease 2019 public health emergency (COVID-19 PHE), CMS recognizes that its impact has necessitated changes to states' ongoing efforts to comply with the HCBS settings criteria. States' stay-at-home and/or safer-at-home orders and the process of social distancing have made it difficult, if not impossible, for states to accurately evaluate how an individual is experiencing community integration in current HCBS settings. These necessary directives have seriously impacted not only the measurement of community integration for individuals, but the intent of the Settings Rule to ensure that individuals with disabilities and older adults have the opportunity to be active participants in their communities. Lastly, older adults and individuals with disabilities who receive Medicaid HCBS often have underlying conditions that increase risks to health and welfare associated with COVID-19 that can further delay a return to integrated activities as they existed prior to the global pandemic.

States have requested flexibility from CMS with respect to demonstrating compliance with the requirements of the HCBS Settings Rule under section 1135, Appendix K to section 1915(c) HCBS waivers, section 1115 demonstrations, and disaster relief State Plan Amendments (SPAs).² States have highlighted, in particular, delays in their ability to effectively assess settings and determine needed remediation to ensure compliance with the Settings Rule. Economic factors including state workforce furloughs and redirection or refocusing of limited existing state human and monetary resources due to the COVID-19 PHE have also impacted some of these activities. States have also requested that CMS consider extending the HCBS settings implementation deadline again in the course of ongoing training and technical assistance activities.

¹ See 79 Fed. Reg. 2948 (Jan. 16, 2014), available at <u>https://www.gpo.gov/fdsys/pkg/FR-2014-01-16/pdf/2014-00487.pdf</u>; see also 42 CFR Parts 430, 431, et. al.

² See <u>https://www.medicaid.gov/resources-for-states/disaster-response-toolkit/coronavirus-disease-</u>2019-covid-19/index.html.

On May 9, 2017, in recognition of the reform efforts underway across the country, CMS issued guidance³ extending the timeframe for states to demonstrate compliance with the settings requirements to March 17, 2022. This extension permitted states and providers an additional three years to demonstrate true community integration of individuals receiving Medicaid HCBS. In light of impacts discussed above from COVID-19, and to ensure the continued delivery of quality Medicaid HCBS to beneficiaries, CMS will allow states an additional year, through March 17, 2023, to complete implementation of activities required to demonstrate compliance with the settings criteria.

CMS also issued a State Medicaid Director Letter on March 22, 2019 (SMD #19-001),⁴ that included Frequently Asked Questions (FAQ) to discuss settings identified by the regulation as being presumed to have the qualities of an institution that the state identifies for a heightened scrutiny review by CMS. States have been unable to complete settings assessments and implement remediation plans due to COVID-19 and have requested an extension to relevant deadlines to demonstrate compliance with these settings and/or submit heightened scrutiny evidence packages to CMS for review. Therefore, CMS is extending the timeframes identified in relevant FAQs an additional year through this letter. The revised FAQs are attached.

Under these revised FAQs, if a state determines that a setting that isolates individuals from the broader community has implemented remediation strategies that brought the setting into compliance with the settings criteria by July 1, 2021, then that setting will not need to be submitted to CMS for a heightened scrutiny review. Additionally, states may submit to CMS isolating settings that have not completed necessary remediation for a heightened scrutiny review no later than October 31, 2021, which is an additional year from the original timeline.

CMS requests that information on settings located in the same building as a public or private institution or on the grounds of or adjacent to a public institution be submitted for heightened scrutiny no later than March 31, 2021.

Given the impact of the COVID-19 PHE, states are strongly encouraged to use this extra year to evaluate how the provision of Medicaid-funded HCBS fulfills larger public health priorities and advances the tenets of beneficiary autonomy and community integration. HCBS are a key feature of state efforts to offer a meaningful choice to beneficiaries on where to live and how to receive services, and in state compliance with the Americans with Disabilities Act and the *Olmstead v. L.C.*⁵ Supreme Court decision. As states continue to examine their array of HCBS as part of strategies to recover from the COVID-19 PHE, the availability of personcentered, individualized supports will take on even greater importance. States are encouraged to use this additional year to develop short and long-term strategies for increasing the capacity of these supports. In light of the risks associated with congregate settings and COVID-19, states may wish to give particular priority to those provisions of the rule regarding making available non-disability specific settings among the range of options available to individuals with disabilities, including to individuals currently residing in disability-specific congregate settings (for whom transition supports may be necessary to make the option available).

⁴ Available at <u>https://www.medicaid.gov/sites/default/files/Federal-Policy-</u> <u>Guidance/Downloads/smd19001.pdf.</u>

³ Available at <u>https://www.medicaid.gov/sites/default/files/federal-policy-guidance/downloads/cib050917.pdf.</u>

⁵ 527 U.S. 581 (1999).

Several states have also expressed a desire to engage with CMS to further enhance rebalancing efforts, lessening reliance on institutional settings in the provision of long-term care, due to the disproportionate impact of COVID-19 in nursing facilities and other institutions. The additional year will also free-up state resources that may be used in furtherance of these pursuits.

Lastly, acknowledging that states are and will continue to be faced with a backlog of actions as a result of COVID-19, states are encouraged to work consistently on their HCBS settings compliance activities between now and March 17, 2023. CMS continues to expect that states will demonstrate progress toward compliance throughout the transition period. This will avoid a last-minute build-up of actions and decisions, and ensure adequate engagement of stakeholders throughout the transition period as states finalize and implement their vision for HCBS provision.

CMS remains steadfast in its commitment to continue to provide technical assistance to states and other stakeholders to identify implementation approaches that ensure provision of Medicaid services in a manner consistent with program requirements. If you have any questions regarding the information in this letter, please contact Michele Mackenzie, Technical Director, in the Disabled and Elderly Health Programs Group, by email at <u>Michele.MacKenzie@cms.hhs.gov</u>.

Sincerely,



Calder A. Lynch Deputy Administrator and Director

Frequently Asked Questions: HCBS Settings Regulation Implementation and Heightened Scrutiny Reviews of Presumptively Institutional Settings: July 2020 Update

1. **Question:** What is the new deadline for states to assure that all settings are in compliance with the home and community-based services (HCBS) settings criteria?

Answer: States have been granted an additional year to demonstrate compliance and should ensure all settings are in full compliance with the HCBS settings criteria by March 17, 2023. This date to demonstrate compliance replaces the March 17, 2022 timeline included in CMS guidance issued May 9, 2017.¹ Several states have requested an extension to demonstrate compliance with the HCBS settings criteria due to an inability to complete site-specific assessment and remediation activities due to the COVID-19 public health emergency (PHE). Social-distancing requirements in response to the PHE are resulting in the inability to complete activities outlined in approved statewide transition plans and/or activities required to obtain final approval of those plans.

During this extension, CMS urges states to continue to identify settings in need of remediation and work on the development, approval and implementation of their Statewide Transition Plans, including close consultation with relevant stakeholders. In light of the risks associated with congregate settings during the COVID-19 PHE, states may wish to give particular priority to those provisions of the rule regarding making available non-disability specific settings among the range of options available to individuals with disabilities, including to individuals currently residing in disability-specific congregate settings (for whom transition supports may be necessary to make the option available).

In addition, CMS reminds states that they continue to have independent obligations to comply with the Americans with Disabilities Act, Section 1557 of the Affordable Care Act, and Section 504 of the Rehabilitation Act, including their requirements under *Olmstead v. L.C.*², which remain in effect during this public health emergency. Technical assistance is available from the HHS Office for Civil Rights and the Department of Justice Civil Rights Division.

2. **Question**: What assistance is available to states to address the impact of the COVID-19 PHE on statewide transition plan activities?

¹ <u>https://www.medicaid.gov/sites/default/files/federal-policy-guidance/downloads/cib050917.pdf</u>

² Under title II of the ADA and *Olmstead* v. *L.C.*, the unjustified isolation of individuals with disabilities constitutes unlawful discrimination. States are required to provide community-based treatment where such treatment would be appropriate, the affected person does not oppose such treatment, and the treatment can be reasonably accommodated. Further information on state obligations under *Olmstead* can be found at <u>https://www.ada.gov/olmstead/q&a_olmstead.htm</u>.

Answer: States can review up-to-date guidance on flexibilities available for the delivery of HCBS on the CMS website.³ States can also avail themselves of individual and small group technical assistance from CMS, including alternative ways to gather site-specific assessment data and conduct validation activities. CMS also is available to offer assistance with approaches to gather information from beneficiaries and other stakeholders when face-to-face contact is impacted by state or local restrictions due to the COVID-19 PHE.

3. **Question:** Given the extension of the deadline to assure full implementation of the settings criteria to March 17, 2023, when will states be required to submit heightened scrutiny packages for settings that have the effect of isolating Medicaid HCBS beneficiaries from the broader community?

Answer: If the state determines, through their assessment and validation activities, that a setting that isolates individuals from the broader community has implemented remediation strategies to bring the setting into compliance with the settings criteria by the new timeline of July 1, 2021, the setting will not need to be submitted to CMS for heightened scrutiny review. This replaces the original date published in the March 2019 FAQs.⁴ However, states should continue to provide information to the public about how those settings have overcome the presumption and comply with the settings criteria, in accordance with the parameters of questions 4 and 7 of the March 2019 FAQs.

Any settings that meet the criteria in question 2 of the March 2019 FAQs of having the effect of isolating Medicaid beneficiaries from the broader community, and have not come into compliance with the regulatory criteria by July 1, 2021, should be posted for public comment with the remediation plan to comply with the settings criteria by March 17, 2023 in accordance with question 8 of the March 2019 FAQs. For these settings, CMS requests that states submit information for a heightened scrutiny review no later than October 31, 2021, which also represents an additional year beyond the original timeline.

The above dates replace prior guidance given in FAQ 4 of the March 2019 FAQs (SMD #19-001) issued on this subject. The deadlines by which states can work with settings that isolate Medicaid beneficiaries from the broader community to implement remediation and demonstrate compliance have been revised.

4. **Question:** What is the timeline to submit all other settings that are presumed to be institutional according to the HCBS settings rule⁵ (i.e., settings that are located in the

³ Available at <u>https://www.medicaid.gov/resources-for-states/disaster-response-toolkit/coronavirus-disease-2019-covid-19/index.html</u>.

⁴ Available at <u>https://www.medicaid.gov/sites/default/files/Federal-Policy-</u> Guidance/Downloads/smd19001.pdf.

⁵ See 42 CFR 441.301(c)(4), .530(a)(1), .710(a)(1).

same building as a public or private institution, or are on the grounds of or adjacent to a public institution providing inpatient treatment) to CMS for heightened scrutiny review?

Answer: In accordance with the parameters described in FAQ 8 of the March 2019 FAQs, the state should submit a numbered list of settings that the state has determined to be located in the same building as a public or private institution or on the grounds of or adjacent to a public institution that comply, or will comply, with the settings criteria by the end of the transition period to CMS for heightened scrutiny review. This information should be submitted to CMS by March 31, 2021. Public comments should be solicited upon completion of the assessment and validation activities outlined above.

The above dates replace prior guidance given in FAQ 9 in the March 2019 FAQs (SMD #19-001) issued on this subject. The deadline for states to submit evidence packages for settings that fall under the institutional presumption is revised.

5. **Question:** If settings have made significant and long-term changes to the services provided or the location in which services will be provided in response to the COVID-19 PHE, will states be required to reassess those settings?

Answer: If a setting has made significant and permanent changes to the services provided or the location in which those services are provided, the state may be required to reassess the setting, after the PHE, for compliance with the Settings Rule requirements.

August 20, 2020

AGENDA ITEM 7. ACTION ITEM

STATE COUNCIL ON DEVELOPMENTAL DISABILITIES – LPPC

State Legislative and Regulatory Updates

The goal of this agenda item is to provide members with updates on the bills the Council has taken a position in 2020. They are listed on the enclosed Bill Chart (Chart). The Chart contains bills that the Council is sponsoring and bills that the Committee and Council Chair used their delegated authority on to support.

Also, included in your packet is a chart of other policy letters the Council has set or signed-on to since March 15, 2020. A few examples of the COVID related letter the Council has sent are included in the packet.

Attachments

- August 6th Legislative Bill Chart
- March 23rd SCDD Letter to the Governor re: COVID-19 Response
- May 1st SCDD Letter to the Governor, HHSA & CDPH re: Personal Protective Equipment
- June 9th Letter re: EFCs' Business & Economic Recovery Recommendations
- June 25th Joint Letter from SCDD and DRC re: Education Services

Handout(s)

Could be additional handout(s) day of meeting.

Position	Support Using Delegated Authority	Support Using Delegated Authority	Support Using Delegated Authority
Current Status (as of 8/1/2020)	Failed Deadline	7/1/2020 Referred to Senate Committee on Governmental Organizations	8/10/2020 Senate Human Services 9 a.m John L. Burton Hearing Room (4203)
Summary	Would establish the Supporting Inclusive Practices project, to be administered by the State Department of Education through the provision of grant funds, upon appropriation, to department-designated lead local educational agencies, as defined. The bill would require the project to have certain goals, including increasing opportunities for pupils with disabilities to meaningfully participate in general education. The bill would require the department, in awarding grant funds, to prioritize local educational agencies that are identified as not meeting specified standards pursuant to federal and state law. The bill would require a local educational agencies that the provide the department with specified data. The bill would require, on or before June 30 of each year until any and all funds appropriated for these purposes have been expended, the project to submit a report to the Superintendent of Public Instruction, as provided.	Would require the Office of Emergency Services, in coordination with California Volunteers, to develop model guidelines for local governments, operational areas, and nonprofit, community-based, faith-based, and private sector organizations active in disasters to identify, type, and track community resources, as defined, that could assist in responding to or recovering from local, tribal, regional, national, or international disasters, as specified. The bill would require the OES to publish and distribute the initial model guidelines by May 1, 2022, and to update and distribute the guidelines annually thereafter.	Current law establishes the In-Home Supportive Services (IHSS) program, administered by the State Department of Social Services and counties, under which qualified aged, blind, and disabled persons are provided with services in order to permit them to remain in their own homes. Current law requires the county welfare department to assess each recipient's continuing monthly need for in-home supportive services at varying intervals as necessary, but at least once every 12 months, except as specified. This bill would authorize counties to perform the needs assessment by telephone if certain conditions are met, including that the recipient has had at least one in-person assessment since the initial program intake and the recipient has not changed their residence since the pervious assessment.
Bill Name	Special Education: Inclusive Education.	Office of Emergency Services: Model Guidelines	In-Home Supportive Services: Needs Assessment
Author	O'Donnell (D)	Limon (D)	Grayson (D)
Number	AB 1914	AB 2213 18	AB 2387

Bills that SCDD Took a Position and/or Testified

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Bill

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Position	Support Using Delegated Authority	Support Using Delegated Authority	Support Using Delegated Authority
Current Status (as of 8/1/2020)	8/5/2020 Third Reading	7/1/2020 Referred to Senate Committee on Governmental Organizations	Failed Deadline
Summary	Current law requires the court to order a hearing to determine whether the defendant has an intellectual disability upon the submission of a declaration by a qualified expert stating the expert's opinion that the defendant is a person with an intellectual disability. Current law defines "intellectual disability" for these purposes as a condition of significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested before 18 years of age. This bill would change the definition of "intellectual disability" to include conditions that manifest before the end of the developmental period, as defined by clinical standards.	Would require a regional transit district, county transportation commission, or other local transportation authority that provides paratransit services to enter into an agreement with adjacent regional transit districts, county transportation commissions, or local transportation authorities, upon request of the adjacent district, commission, or authority to borrow, for compensation, paratransit vehicles and drivers in the event of an emergency that requires the evacuation and relocation of the access and functional needs population in the jurisdiction or service area of the adjacent district, commission, or authority.	Would establish the Forced or Involuntary Sterilization Compensation Program, to be administered by the California Victim Compensation Board for the purpose of providing victim compensation to survivors of state- sponsored sterilization conducted pursuant to eugenics laws that existed in California between 1909 and 1979 and to survivors of coerced sterilizations of people in prisons after 1979. The bill would require the board, in consultation with community-based organizations, to conduct outreach to locate qualified recipients, as defined, disclose a coerced sterilization to that person if the person was sterilized while imprisoned, notify that person of the process to apply for victim compensation, as specified.
Bill Name	Death Penalty: Person with an Intellectual Disability	Access and Functional Needs: Local Government: Agreement for Emergency Management, Transportation, and Paratransit Services	Forced or Involuntary Sterilization Compensation Program
Author	Stone (D)	Cervantes (D)	Carrillo (D)
Number	AB 2512	AB 2730 19	AB 3052

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Bills

Number	Author	Bill Name	Summary	Current Status (as of 8/1/2020)	Position
SB 801	Glazer (D)	Electrical Corporations: Wildfire Mitigation Plans: De- energization: Public Safety Protocol	Would require an electrical corporation to deploy backup electrical resources or provide financial assistance for backup electrical resources to a customer receiving a medical baseline allowance if the customer meets those conditions and the additional condition that the customer is located in a high fire threat district. The bill would require an electrical corporation to develop its program to provide backup electrical resources or financial assistance in consultation with community disability rights groups or other local disability rights advocates.	6/29/2020 Referred to Assembly Committee on Utilities and Energy	Support Using Delegated Authority
SB 1123	Chang (R)	Elder and Dependent Adult Abuse	Current law requires local law enforcement agencies to revise or include in their policy manuals, if a policy manual exists, specified information regarding elder and dependent adult abuse, including, among other things, the definition of elder and dependent adult abuse provided by the Department of Justice in its March 2015 policy and procedures manual. This bill would define the term "elder and dependent adult abuse" for the purposes of those provisions and instead require that definition to be included in law	8/5/2020 Assembly Public Safety 2 p.m State Capitol, Room 4202	Support Using Delegated Authority
SB 1264	Senate Committee on Human Services	Human Services	Current law requires a residential care facility for the elderly to have an emergency and disaster plan that includes specified components, including evacuation procedures. Current law requires the facility to train employees on the plan, conduct emergency drills at least quarterly, review and update the plan, and make the plan available to certain individuals upon request. Current law also requires the facility to have specified information readily available to staff during an emergency and to have specified emergency precautions in place. Current law requires the State Department of Social Services Community Care Licensing Division to confirm during annual licensing visits that the plan is on file and includes required content. This bill would make the emergency and disaster preparedness provisions that are applicable to a residential facility for the elderly, as described above, applicable to an adult residential facility and certain types of a children's residential facility liness.	8/3/2020 Referred to Assembly Committee on Appropriations	Support Using Delegated Authority (The Council is the sponsor of two provisions in the bill related to authorized representation and internship program extension).

Systems Change	Unknown	New guidelines regarding medical discrimination were issued on 6/8/2020 at https://www.cdph.ca.gov/Programs/CID/DCDC/CDP H%20Document%20Library/COVID- 19/California%20SARS-CoV- 2%20Crisis%20Care%20Guidelines%20- June%208%202020.pdf Guidance was issued on 6/1/2020 for In-Home Supportive Service Providers at https://mcusercontent.com/73901133dd7ea1a55813 44daf/files/27dec181-5784-417e-9fdb- 5ac012d58018/20_61.pdf and on 6/8/2020 for Regional Centers at https://www.dds.ca.gov/wp- content/uploads/2020/06/DDSDirective AvailabilityP ersonalProtectiveEquipment_06082020.pdf Purchases can be made using Cal-Fresh benefits as of 4/28/2020. More information at https://www.cds.ca.gov/lebt-online Guidance on education released on multiple dates at https://www.cds.ca.gov/ls/he/hn/coronavirus.asp
Purpose and/or Request	To show solidary with other organizations for the principle that having developmental disabilities, including those with the most significant disabilities, should not be an indicator for withholding or limiting access to medical care.	Request for guidance or other action including: identifying one cross-disability point person who reports directly to you who is responsible for advising you on the complexity of needs of people with disabilities and the intersectionality of entities serving those needs; preventing discrimination in healthcare by prohibiting "quality of life" criterion in COVID-19 testing and treatment, or exempt people with IDD from this criterion; creating emergency registry of IHSS and other providers and temporarily systemically expedite and approvals of individuals to provide these direct services; prioritizing people with IDD, their families and their caregivers for testing; considering people among those receiving PPE; proactively increasing contact with medically fragile people among those receiving PPE; proactively increasing contact with people with IDD to reduce isolation and abuse; halting all Medi-Cal terminations for 90 days, allowing GalFresh purchases to be made online; issuing guidance on how California will ensure special education and related services.
Subject of Letter	Joint Position Statement on the Right to Equal Access to Medical Treatment (SCDD Sign-on)	SCDD Letter on COVID-19
Date	3/19/2020	3/23/2020
Primary Recipient(s)**	Open Letter	Governor Gavin Newsom

Policy Letters and Other Recommendations Led or Supported by SCDD since March 15, 2020^*

Primary Recipient(s)**	Date	Subject of Letter	Purpose and/or Request	Systems Change
Speaker Pelosi and Minority Leader McCarthy	4/8/2020	SCDD Letter on Priorities for COVID-19 Funding	Request to include in the COVID-4 package: increased resources for Home and Community- Based Services (HCBS), access to Personal Protective Equipment (PPE) for Direct Support Professionals, increased production of PPE and ventilators; inclusion of people with disabilities in paid leave, and removal of obstacles to stimulus payment for SSI recipients.	Unknown
Governor Gavin Newsom, Secretary of the Health and Human Services Agency Mark Ghaly and Director of the Department of Public Health Sonia Angell	4/23/2020	SCDD Letter to the Administration on Health Care Surge and Crisis Care Guidelines	Request to revise Health Care Surge and Crisis Care Guidelines published by the California Department of Public Health (CDPH) on April 19, 2020 to ensure they do not result in discrimination for people with disabilities.	SCDD was part of small workgroup that initially helped revised guidelines. New guidelines were issued on 6/8/2020 at https://www.cdph.ca.gov/Programs/CID/DCDC/CDP H%20Document%20Library/COVID- 19/California%20SARS-CoV- 2%20Crisis%20Care%20Guidelines%20- June%208%202020.pdf
Open Letter (Shared with the Office of Governor Gavin Newsom)	4/29/2020	Consortium for Citizens with Disabilities Letter on Hospital Visitor Policies regarding People with Disabilities during the COVID-19 Pandemic (SCDD Sign-on)	Request to Governors in other states to adopt hospital and other healthcare provider visitor policies include reasonable modifications for people with disabilities who need the physical presence of a support person in order to ensure equal access to health care, such as the policy adopted in New York. The letter is at <u>http://c-c-</u> <u>d.org/fitchiers/Sign-on-letter-supporters-in-</u> <u>hospitals-governor.pdf</u> .	Guidance was issued 6/16/2020 at https://www.cdph.ca.gov/Programs/CHCQ/LCP/Page s/AFL-20-38.aspx
Governor Gavin Newsom, Secretary of the Health and Human Services Agency Mark Ghaly and Director of the Department of Public Health Sonia Angell	5/1/2020	SCDD Letter on Personal Protective Equipment as Prevention (SCDD Drafted and Circulated for Over 300 Sign-ons)	Request to provide Personal Protective Equipment to and prioritized for workers who provide in-home services to persons with disabilities either through In-Home Supportive Services or through the Regional Centers to as prevention mechanism.	Guidance was issued on 6/1/2020 for In-Home Supportive Service Providers at https://mcusercontent.com/73901133dd7ea1a55813 44daf/files/27dec181-5784-417e-9fdb- 5ac012d58018/20_61.pdf and on 6/8/2020 for Regional Centers at <u>https://www.dds.ca.gov/wp-</u> content/uploads/2020/06/DDSDirective_AvailabilityP ersonalProtectiveEquipment_06082020.pdf

Systems Change	See PPE as Prevention Letter. SCDD received and distributed PPE to people with disabilities and their families through Regional Offices	Majority of cuts were rejected in final budget signed into law	Majority of cuts were rejected in final budget signed into law
Purpose and/or Request	Requested that a portion of funding from federal relief packages be used to fund: Personal Protective Equipment as prevention; to collect and analyze more robust data on the impact of COVID-19, specifically on people with disabilities; to provide services to and collect data on the mental health impacts of the crisis on persons with developmental disabilities; and to provide information dissemination, training and technical assistance to local education agencies to implement to teachers and provide information development to teachers and provide information on student's rights to parents.	Request regarding May revision of budget and that if cuts go into effect that the state should take this opportunity to move systems forward that provide services and supports to people with disabilities based on principles of maximizing federal funding, ensuring federal compliance, prioritizing safety, preserving in-person services, increasing consumer control, maintaining critical service coordination and not exacerbating racial and ethnic disparities.	Request regarding May revision of budget and that if cuts go into effect that the state should take this opportunity to move systems forward that provide services and supports to people with disabilities based on principles of maximizing federal funding, prioritizing funding for Home and Community-Based Services, prioritizing safety, preserving in-person services, promoting person empowered models, maintaining critical service coordination and reducing disparities in access.
Subject of Letter	SCDD Letter Regarding Priorities for Coronavirus Aid, Relief, and Economic Security Act Funding	Path Forward Collaborative Principles Surrounding May Revise Budget (SCDD Sign-on)	SCDD Letter to the Senate Committee on Budget Regarding the Governor's May Revision to the State Budget Proposal
Date	5/11/2020	5/17/2020	5/18/2020
Primary Recipient(s)**	Governor Gavin Newsom, Secretary of the Health and Human Services Agency Mark Ghaly	Open Letter	Senate Committee on Budget Sub- Committee #3 Chair Richard Pan and Vice Chair Joaquin Arambula

Primary	Date	Subject of Letter	Purpose and/or Request	Systems Change
Commission	5/18/2020	SCDD Comments on California Building Standards Commission – Proposed Amendments April 3 – May 18, 2020 Comment Period	Bring Chapters 11A and 11B of the California Building Code (CBC) into clear compliance with federal statutes and regulations on accessibility in housing that will assist individuals with disabilities to obtain accessible affordable housing and to live independently.	Unknown
Open Letter	6/2020	Civil Rights Civil Rights Principles for Safe, Healthy, and Inclusive School Climates (SCDD Sign-on)	To show solidary with other organizations for the principle that all children should be safe and welcome in schools by providing a series of recommendations for how to accomplish that principle. The principles are at http://civilrightsdocs.info/pdf/education/School- Climate-Principles.pdf.	Unknown
Governor's Taskforce on Business and Jobs Recovery	6/9/2020	EFC Recommendations to Business and Jobs Recovery Taskforce (SCDD Led Workgroup and Sign-on)	 Request to fully include and account for people with disabilities as part of Business and Jobs Recovery Taskforce by recommending that California: Become a national leader in employment by implementing policies and practices that guarantee equitable access, opportunity and inclusion for people with disabilities. 	In Process
			 Ensure that people with and without disabilities achieve equal participation in the labor force. Support California businesses in their efforts to employ people with disabilities. 	
			 Add additional Taskforce members from the business community with expertise in development, recruitment, hiring and retention of people with disabilities. 	

Systems Change	on of Unknown. Governor issued Proclamation for ADA dnniversary at https://www.gov.ca.gov/2020/07/24/governor- nd with-disabilities-act-awareness-day/	In Process eate s fs und
Purpose and/or Request	Request for the announcement of the creation of a workgroup charged with creating a strategic plan to improve employment outcomes for people with disabilities with specific goals and benchmarks over five years as part of the ADA Anniversary celebrations.	Request to discuss how local education agencies will be held accountable for meeting a students' needs; how school districts can create a more equitable learning environment by adopting policies and best practices, such as Universal Design for Learning principles; and how the California Department of Education's advisory panels can be expanded to include students, families and advocates for students with disabilities in ongoing collaboration around access to distance and in-person learning.
Subject of Letter	SCDD Letter on ADA Anniversary	SCDD and DRC Letter Regarding Education Services for Students with Disabilities During Recovery
Date	6/16/2020	6/25/2020
Primary Recipient(s)**	Governor Gavin Newsom	Governor Gavin Newsom and State Superintendent Thurmond

*The Policy and Public Affairs Team also reached out to almost every member of the California federal and state delegations in April and the federal delegation in May to educate them on our concerns and activities. **Many of the letters had secondary distribution to other allied organizations or other policymakers.



March 23, 2020

Governor Gavin Newsom 1303 10th Street, Suite 1173 Sacramento, CA 95814

Dear Governor Newsom:

Thank you for your significant leadership during this public health emergency. Your office and leadership team across agencies and departments have already issued extensive authority and resources to mitigate further impact of, respond to, and recover from the COVID-19 pandemic. This includes providing broad authority to the Director of the Department of Developmental Services (DDS) to help those they serve who are impacted by COVID-19, imposing a moratorium on evictions, ensuring essential safety net services by delaying eligibility re-determinations for 90 days, and directing the California Department of Education to ensure that students with disabilities continue to receive special education and related services during the school closures. The State Council on Developmental Disabilities (The Council) recognizes this public health emergency is evolving and unfolding.

The Council is comprised of 31 members you appoint, including individuals with intellectual and developmental disabilities, their families, other partners and state agencies. The Council has a headquarters and 12 Regional Offices in California that are creating information tailored to people with developmental disabilities and answering questions for people with developmental disabilities, their families and the professionals who work with them. The Council writes today with additional recommendations for you to consider to protect the health and safety of all Californians, including people with intellectual and developmental disabilities (including both individuals served by the Regional Center system and those served by the generic system) so children and adults can successfully self-isolate, prevent the spread of infection and ensure continuity of care across the service delivery systems. The Council is also working with our national association, the National Association of Councils on Developmental Disabilities, to address concerns within the purview of Congress or the Administration. For example, the Council is hearing concerns from SSI and SSDI recipients about the negative impact a possible stimulus package that provides cash payments could have without it including a hold harmless for both SGA (substantial gainful activity) and asset limits for the payments, as well as possible waivers of the requirements of the Individuals with **Disabilities Education Act.**

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People with developmental disabilities are likely to be disproportionately impacted by this public health emergency because many have underlying medical conditions, rely on others for care, or live in congregate settings such as nursing homes and group homes. The Council encourages you to continue recognizing people with developmental disabilities when providing public information during press conferences. The Council also encourages you to identify one cross-disability point person who reports directly to you who is responsible for advising you on the complexity of needs of people with disabilities and the intersectionality of entities serving those needs. Also, the Council believes that local and state government agencies should have people with disabilities and their families participating in all mitigation, response, and recovery efforts.

Non-Discrimination in Healthcare

Given that testing and treatment resources are scarce, it will be critical for Health and Human Services Agency to ensure that Medi-Cal and other healthcare providers do not discriminate against people with disabilities. Any policies must be based on objective medical criteria that do not intentionally or inadvertently lead to people with disabilities being disproportionately denied testing or treatment. The Council recommends that Health and Human Services Agency proactively inform providers that any policies they develop must be nondiscriminatory. In particular, Health and Human Services Agency must prohibit inclusion of any criterion that explicitly or implicitly makes "quality of life" a consideration in any "triage" policy. "Quality of life" has long been a pretext for denying treatment, including life-sustaining treatment, to people with developmental disabilities. If "quality of life" is adopted, people with developmental disabilities should be excluded.

Direct Workforce / In-Home Supportive Services (IHSS)/Regional Center Services Many people are dependent on daily in-home care (personal care, home health etc.) from professional caregivers who travel between homes. California already has a significant shortage of caregivers. Almost 600,000 people rely on IHSS and over 330,000 on Regional Center services. The Council is deeply concerned about the healthcare crisis' impact on this workforce. The Council believes that contingency plans must be created should caregivers become infected or exposed, need to adhere to quarantine requirements, or are hospitalized and the limited pool of caregivers shrinks to untenable levels. The Council believes the direct support workforce and people with chronic conditions should be among those prioritized for COVID-19 testing. As priorities are being set for personal protective equipment, please consider the needs of those caring for people who have medical conditions in home and other settings. Immigrants, whether documented or not, need to be reassured that they can access public services and testing without fear of impact on their immigration status.

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Some recipients may have a network of natural supports that can cover daily care needs. However, a significant number of people do not have unpaid supports. In addition, institutional facilities may be at greater risk for outbreaks, face the same workforce shortages, and have limited capacity. The Council recommends that the Health and Human Services Agency ensures that assistance is available when providers are sick or must self-quarantine including creating emergency registries of providers, expediting this registry through systemic approval of emergency IHSS providers, suspending overtime rules, immediately expanding online provider orientations and other training opportunities, and permitting online provider enrollment. The Council also believes that short-term respite options must be increased for family caregivers, particularly older adult caregivers. Also, CalFresh should be eligible for online purchases. The Council is deeply concerned about an increase in abuse and violence as the strain of the pandemic grows. The Council also suggests creating a process of remote check-in with individuals with developmental disabilities and their families who may be in self-isolation or guarantine, particularly older adult caregivers, to ensure caregivers have proper support and rest and that those they are caring for are safe. The Council recommends increased contact with people with developmental disabilities receiving independent living services as they are particularly vulnerable during isolation. Lastly, specific to DDS, the Council is encouraged by the ways DDS is addressing flexibility and increasing services such as respite services, personal assistance, supported living services, and day care. DDS has also been active in ensuring Regional Centers have ongoing proactive and affirmative contact with people with developmental disabilities and families to understand their ongoing wellbeing and needs and to provide information about additional Regional Center services and supports.

Medi-Cal

Many people with disabilities rely on Medi-Cal funded long-term care services to access basic healthcare and services that ensure their functioning, independent living, and wellbeing. Some of the most critical services that children and adults with disabilities and their families rely on are nursing and personal care services, specialized rehabilitation and other therapies, intensive mental and behavioral health services, prescription medications, employment services, residential services and transportation services. Providers rely on a face-to-face reimbursement model for Medi-Cal. The Council recommends that in addition to halting re-determinations for 90 days that all terminations of Medi-Cal eligibility are halted. Any requirements for in-person meetings should be waived. The Council also recommends that opportunities to apply for waivers are explored including applying for a disaster waiver under Section 1135 and/or appendix K of the section 1915(c) waiver for use by states during emergencies.

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Education and Transition Services

Guidance from the U.S Department of Education that the CDE issued includes information that schools moving to on-line learning must continue to meet their obligations to provide a free and appropriate public education (FAPE) for students with disabilities, including special education and related services. The Council believes it is critical that the California CDE offer additional guidance to schools and post-secondary programs regarding how to ensure their online programs are universally designed and accessible to all students using captioning, CART reporting, screen reader technology and options for recording lectures. Special education coordinators should be directed to create tele-education check-ins with students with disabilities to ensure they are continuing to receive FAPE. If schools are to remain closed for the summer, it is important that schools assess the need for extended school year services to maintain FAPE. Lastly, opportunities to provide pre-employment transitions services to students and youth with disabilities should be explored.

Thank you for your leadership. The Council stands ready to work with you during this public health emergency.

Sincerely,

Maria Marquez, Chair

Cc: Mark Ghaly, Secretary California Health and Human Services Richard Figueroa, Deputy Cabinet Secretary, Office of the Governor Tam Ma, Deputy Legislative Secretary, Office of the Governor Marko Mijic, Deputy Secretary, California Health and Human Services Samar Muzaffar, Assistant Secretary, California Health and Human Services Nancy Bargmann, Director, Department of Developmental Services Brian Winfield, Chief Deputy Director, Department of Developmental Services John Doyle, Chief Deputy Director, Department of Developmental Services

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May 1, 2020

The Honorable Gavin Newsom California State Capitol 1303 10th Street, Suite 1173 Sacramento, California 95814

Mark Ghaly, M.D. Secretary, Health and Human Services Agency 1600 Ninth Street, Room 460 Sacramento, CA 95814

Sonia Angell, M.D. Director, Department of Public Health P.O. Box 997377, M.S. 0500 Sacramento, CA 95899

Dear Governor Newsom, Secretary Ghaly and Director Angell:

In order to keep both providers and their clients safe and healthy, Personal Protective Equipment (PPE) should be provided to and prioritized for workers who provide in-home services to persons with disabilities either through In-Home Supportive Services (IHSS) or through the Regional Centers (RC). The current guidelines published 4/14/20 at https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/UseofPersonalProtectiveEquipmentduringCOVID19.aspx are focused on how to protect "healthcare workers or social services workers who are performing direct patient care." All workers who are providing direct care regardless of whether the client is showing symptoms of COVID-19 should as a preventative measure be provided necessary PPE to keep both themselves and their clients safe.

People with disabilities and older adults are at greater risk for acquiring COVID-19. Research shows that deaths related to COVID-19 will be likely more prevalent among people with disabilities. For example, Syracuse University published a report stating "Death rates from pneumonia are between 2.2 times and 5.8 times higher among individuals with an IDD than among those without IDD, giving us a clear warning of the severity of COVID-19 among people with IDD. In 2017, 10.2% of deaths among people with Down Syndrome were attributed to pneumonia, 9.1% for people with cerebral palsy, and 7.8% for people with an intellectual disability. Given the existing propensity for acute respiratory disease, COVID-19 care for people with disabilities must be intentionally considered and preventatively factored into the DPH's guidance. Because the risk is so high, people are turning away service providers at the door.

The undersigned organizations request that the California Department of Public Health update its guidance documents to specifically recognize the unique needs of persons with disabilities, older adults and their caregivers regardless of whether the person receiving services is showing possible signs of infection. The appropriate use of PPE as a preventative measure as well as social distancing and other precautionary measures will have the greatest impact of slowing the spread of COVID-19 among those already at higher risk for it and death from it.

Sincerely,

California State Council on Developmental Disabilities

A Diversified Family

Abad Group Home, Inc

ABC Mendocino County

AbilityFirst

Abrajano Group Homes Inc.

Access Community Services

Access in Home Care Referral Agency, LLC.

Accredited Respite Services

Adaptive Learning Center

Adult Community Independence, Inc.

Aging Services Collaborative of Santa Clara County

AIM

Ala Costa Centers

Alameda County Voluntary Organizations Active in Disasters

Alchemia

Alliant Insurance Services

Alpha Resource Center or Santa Barbara

Amani Day Services

Amato Home

AMJaMB Supported Living Services

Arm in Arm Supported Living Services, LLC

Association of Regional Center Agencies (ARCA)

Astrid Rieber Bilingual SLP

Autism Aspergers Spectrum Coalition for Education Networking and Development

Autism Society California

Autism Society of Los Angeles

Autism Spectrum Therapies

Autistic Women's Alliance

Autistry Studios

Aveanna Healthcare

Aven Care Providers

Avenues Supported Living Services

B and B Learn and Play

Barton Orthodontics

Bay Area Regional Advisory Committee, State Council on Developmental Disabilities

Beacons, Inc.

Becky Coffey, ILS

Big Moves Inc.

Birth and Family Services

Bixby Knolls Place

Blue Eagle Villas

Blue Eagle Villas 2

Brilliant Corners

Building Bridges for Special Needs - Coachella Valley

California Association of Public Authorities for In-Home Support Services

California Disability Services Association

California In-Home Supportive Services Consumer Alliance

California People First

California Respite Association

California Supported Living Network

Californians for Disability Rights

Cal-TASH

CalWes Homes, Inc.

Camptonville Union Elementary School District

CAPC, Inc.

Care Parent Network/VistAbility

Careco Inc.

CareMax Castana Home Care CCCIL Cedars Central Coast Regional Advisory Committee, State Council on Developmental Disabilities **Cerritos Home Care Channel Islands Social Services** Children's Therapy Works **CHOICESS-Community Housing Options** Club ASPIRE/CMWIA College Nannies, Sitters + Tutors Comforcare **Community Access Center Community and Partnership Services** Community Catalysts of California **Community Connections Community Employment Services Community Living Options** Compass, LLC **Congress of California Seniors Connections For Life** Contra Costa Labor Council, AFL-CIO County Welfare Directors Association of California CPAD **Creative Living Options** Creative Minds ADP, Inc. **Creative Minds ILS/SLS** Creative Support **Creative Support Alternatives** Cusrow Bhada

Dae Cordial Manor Dale Law Firm, PC Del Sol Homes, Inc. **Disability Action Center** Disability Community Resource Center, Inc. Disability Resource Agency for Independent Living **Disability Rights California** Disability Rights Education and Defense Fund **Disability Voices United Doorways Supported Living** Early Childhood Special Education Infant-Toddler Program, San Diego East Bay Innovations, ILS East Bay Legislative Coalition Easterseals Southern California **ELM Services** Empower Encourage Active Learning, Inc. **Engle Small Home** Enjoy Life More, Inc. Escuela De La Raza Unida Inc. ETTA **Exceptional Childrens Foundation Exceptional Family Center** Executive Compass Explorer Development Center **Expressive Connections** Family Resource Navigators Family Resource Network Family Voices of California Fenix Home Flagship Group LLC

Frank D. Lanterman Regional Center Francisquito Homes Full Circle of Choices, Inc. G&C Adult Residential Facility Inc. Gabriella Motherly Care Get Psyched! LLC GMS ARF Golden Gate Regional Center Golden Gate Regional Center Service Provider Advisory Committee Gratia Home Gratus Services Group, Inc. **GSG** Support Services Hand in Hand: The Domestic Employers Network Harbor Regional Center Harbor Supported Living Services Harmony Home, Associated Harvest Moon ICF/DDN Hayward Area Recreation and Park District - Sorensdale Recreation Center Heather's House HM Systems, Inc. Home of Guiding Hands Home Sweet Home Hope House for the Multiple-Handicapped, Inc. Hope Services Horizon Day Program Housing Choices Howard Chudler & Associates Hyperion Behavioral Health Center I.L.R.- Solano Ian Leonard, BCBA ICR

Ideal Care Supported Living Services **IGNITE** Collective, Inc. In2vision Programs, LLC Inalliance Inclusive Education and Community Partnership Independence For Life Choices, Inc Independent Endeavor, inc Independent Living Resource Center San Francisco Individualized Educational Services Infant Development Association of California Institute For Applied Behavior Analysis Integrated Community Collaborative Integrated Community Services Integrated Resources Institute J & S Board and Care Japanese Speaking Parents Association of Children with Challenges Jay Homes, Inc. Jay Nolan Community Services Jayden's Home Care, Inc. JJ Adult Care Home JJ Qual Care Home JLA Special Needs Trust & Services Jombert Corp Journey of Choice, Inc. Justice in Aging Kids First Pediatric Therapy, Inc. La Familia Language to Learning, Inc. Las Trampas School, Inc. Leading Personal Care Agency Life Steps Foundation Inc.

Life Steps Foundation, SoCal Adult Services Life Works Lifehouse Lighthouse Living Services Red Bluff Lincoln Training Center Little Red Wagon Supported Living Services Living Inside The Puzzle Support Group Loop Home Foundation Los Angeles Asperger Syndrome Parent Support Group Los Angeles Coalition of Service Providers Los Angeles Regional Advisory Committee, State Council on Developmental Disabilities Lucky Homes 2 and New Life Homes B & C Lynn & Darla Supported Living Services M3 Day Program Making Headway Center for Brain Injury Recovery Manos Marin Ventures McGarvey Home Meadow Creek Home Millmont Homes Inc. Mi Sue Speech Therapy Inc Monterey County Aging and Adult Services Mother Lode Rehabilitation Enterprises Inc Multiplicity Therapeutic Services Napa Solano Central Labor Council National Domestic Workers Alliance National Support Services Inc Networx Supported Living Services New Horizons: Serving Individuals with Special Needs New Leaf Solutions

Nimbus

NJA Therapy Services Inc.

No Ordinary Moments

Noah Homes, Inc

Normadie Place ICF-DDN

North Peninsula Day Services

NorthStar Services

Novelles Developmental Services

Oaks of Hebron, Inc.

One Step Beyond Disability Services

One Step Closer

Open House Center

Opportunity for Independence

Options For All

Our Houses

OVs Guest Home

Pacific Behavior Assessment and Intervention Services

Pacific Homecare Services

Pacific Medical Resources

PALACIOS Adult Residential Facility

Paragon Home

PARCA

Parenthood Partners and Family Services, LLC

Parents Empowering Parents Special Needs Support Group

ParentsCAN

Parkwood Home

Partner of Change

Partnerships With Industry

Passport To Learning

Pathpoint Inc.

Pathway to Choices Inc

People Creating Success

People's Care

Personal Assistance Services Council

Pioneer Homes of California, Inc

Pivot Neurodiversity

Placer Independent Resource Services

Plumas Rural Services

Pomeroy Recreation and Rehabilitation Center

Powell House, Inc.

Premier Healthcare Services, an Aveanna Company

Priors Board and Care

Pristine Rehab Care

Progressive Employment Concepts

Quality Connections Living Services Inc.

Quiroz Residential

Recess Therapy

Redwood Coast Regional Center

Regional Center of the East Bay

Regional Center of the East Bay Provider Vendor Advisory Committee

Reimagine Network

Reyes Ranch, LLC

Ridge Gate Haven

Rolling Start, Inc.

Rosil Inc.

Sacramento Regional Advisory Committee, State Council on Developmental

Disabilities

San Bernardino Regional Advisory Committee, State Council on Developmental Disabilities

San Diego Unified School District

San Diego Unified School District Community Advisory Committee for Special Education

San Felipe Supported Living, Inc. San Francisco Labor Council, AFL-CIO San Gabriel/Pomona Regional Center San Mateo Labor Council Santa Clara County Supervisor Dave Cortese Sapphire GEM Home Care SEIU Local 2015 Sherwood Forest Manor Homes Silicon Valley Independent Living Center Silo's Community Service Smile Pediatric Therapy & Diagnostics, Inc. Social Vocational Services, Inc. SOCO **Special Care Services** Special Kids Connect Speech Guy, LLC Spread Your Wings, LLC St. Madeleine Sophie's Center State Independent Living Council STEP Inc. Sunbright Homecare Sunpoint Home LLC Support for Families Supported Life Institute Tailored Living Choices, Crisis & Transitional Home TASH TERI Inc. The Adult Skills Center The Arc - Solano The Arc & UCP California Collaborative The Arc Fresno/Madera Counties

The Arc Imperial Valley

The Arc Los Angeles & Orange Counties

The Arc of Amador and Calaveras

The Arc of Placer County

The Arc of Riverside County

The Arc of San Diego

The Arc of San Diego / Parent Infant Program

The Arc of San Francisco

The Arc of the East Bay

The Arc of Ventura County

The Arc of Ventura County

The Arc San Francisco

The Arc San Joaquin

The Arc South Bay

The Arc-Solano

The Bakersfield Arc

The California Foundation for Independent Living Centers

The Center for Independent Living

The Dayle McIntosh Center

Three Oaks, Inc.

Tierra del Sol Foundation

TOTAL Programs

Toward Maximum Independence

Transition to Independence, Inc.

Tri Counties Regional Center

Tri-County Caregiver Relief

Tri-County Independent Living

Trinity County IHSS Public Authority

UCP of the Inland Empire

UCP of Los Angeles

UCP of Orange County

UCP of Sacramento/N.California

UCP of San Diego County

UCP of San Joaquin, Calaveras and Amador Counties

UCP of Stanislaus

UCP of the North Bay

UCPCC

UDW/AFSCME Local 3930

Ukiah Valley Association for Habilitation

Unidos con Mision y Poder

Valley Mountain Regional Center

Valley Village

Villa Esperanza Services

Villa Maria Care Home

Visbal Strategic Consulting

WarmLine Family Resource Center

Wayfinder Family Services

Westside Family Resource and Empowerment Center

Woodbridge Clayton

Woodbridge Home

Woodbridge Trifari

Woodsmall Family Home

Yearling ARF Inc

YMCA of San Diego County

While the letter is focused on organizational signatures from state, regional and local organizations, an additional 89 individuals who have disabilities, are family members or services providers also submitted sign-ons.

Young Interventions, Inc.

June 9, 2020

The Honorable Gavin Newsom California State Capitol 1303 10th Street, Suite 1173 Sacramento, California 95814

RE: Recommendations for the Task Force on Business and Jobs Recovery on the Topic of the Employment of People with Disabilities

Dear Governor Newsom:

<u>The Employment First Committee</u> (EFC)¹ is a statutorily created Committee responsible for ensuring that Californians with intellectual and/or developmental disabilities can obtain and retain employment in the community. The EFC writes today with four recommendations for the Task Force on Business and Jobs Recovery to consider as it shapes its agenda to address the economic recovery from COVID-19.

The State of California should:

- Become a national leader in employment by implementing policies and practices that guarantee equitable access, opportunity and inclusion for people with disabilities.
- Ensure that people with and without disabilities achieve equal participation in the labor force.
- Support California businesses in their efforts to employ people with disabilities.
- Add additional Taskforce members from the business community with expertise in development, recruitment, hiring and retention of people with disabilities.

People with disabilities bring valuable skills to the workforce and are a part of all diverse economic and social sectors. Nevertheless in 2019, the labor force participation rate of working-aged people with disabilities was 19.3 percent compared to 66.3 percent of working-aged people without disabilities.² This statistic collected prior to the COVID-19 pandemic demonstrates the need to ensure that people with disabilities are fully accounted for and included in all conversations focused on creating a fair and equitable recovery. Therefore, we encourage the Taskforce to seize this opportunity to lead the way to equitable access and inclusion of people with disabilities in the labor force.

Thank you for considering our initial recommendations to the Task Force. The EFC is committed to supporting your work and is happy to provide additional expertise or resources that would be helpful to the Task Force. If you have any questions or concerns, please contact our Deputy Director of Policy and Public Affairs, Cindy Smith at 916-799-8805 or <u>cindy.smith@scdd.ca.gov</u>.

Sincerely,

Wesley Witherspoon

Wesley Witherspoon, Chair, Employment First Committee

¹ In 2013, California adopted its Employment First Policy (AB 1041 (Chesbro) Chapter 677, Statutes of 2013), which states "it is the policy of the state that opportunities for integrated, competitive employment, including, self-employment, and microenterprises, shall be given the highest priority for working age individuals with developmental disabilities, regardless of the severity of their disabilities."

² <u>https://www.bls.gov/news.release/disabl.nr0.htm</u>



June 25, 2020

The Honorable Gavin Newsom California State Capitol 1303 10th Street, Suite 1173 Sacramento, California 95814 The Honorable Tony Thurmond California Department of Education 1430 N Street, Suite 5602 Sacramento, CA 95818

Dear Governor Newsom and Superintendent Thurmond:

The State Council on Developmental Disabilities (SCDD) and Disability Rights California (DRC) write to you regarding the needs of students with disabilities during the recovery from the statewide emergency caused by the COVID-19 pandemic. DRC and SCDD appreciate all the work that the Administration has undertaken to facilitate an immediate response to the pandemic to ensure students can continue to learn. Now that school districts are planning for the 2020-2021 school year, we would like to discuss how the Administration will hold local education agencies (LEAs) accountable for meeting a students' needs in these challenging times. We also would like to discuss how school districts can meet the moment and create a more equitable learning environment by adopting policies and best practices, such as Universal Design for Learning (UDL) principles. Lastly, we would like to explore how the California Department of Education (CDE)'s advisory panels can be expanded to include students, families and advocates for students with disabilities in ongoing collaboration around access to distance and in-person learning during the pandemic.

Distance Learning Accountability Tracking

SCDD and DRC appreciate the CDE's efforts to provide meaningful guidance to LEAs. We were especially pleased with the work of the Distance Learning Innovations for Special Education Workgroup (https://www.sipinclusion.org/distance-learning-resources/), and found the information provided was not only comprehensive but addressed many of our concerns. However, the guidance is only helpful if LEAs embrace the strategies and resources therein. The CDE and LEAs throughout the state have acknowledged that this moment presents an opportunity to change education, so it is equitable and inclusive for all students. There must be specific accountability measures including goals and benchmarks to ensure that LEAs have developed plans to accomplish that goal. SCDD and DRC request the CDE require LEAs to track comprehensive data and report on their processes for:

- Developing reentry plans for each student based on data about each student's current level of performance;
- Identifying students who require more teacher support;
- Assessing of each family's support needs, capacity and preparedness to support the student, including language access needs for ELL students;

- Creating alternative plans for students who cannot rely on family support because of unavailability or inability to support;
- Developing reentry plans and support for foster and juvenile court-involved youth;
- Conducting assistive technology needs assessments and plans for meeting students' needs;
- Assessing the need for additional staff support through para-professionals, other and/or non-public agencies for students with more extensive needs;
- Coordinating with school-based specialized support personnel and related services providers; and
- Training parents on online learning platforms to support the student's needs.

Universal Design for Learning (UDL) for All Students

Given that California schools serve students of vastly differing abilities, motivations, and resources, California must seize this opportunity to ensure that education is inclusive and accessible for all students, including for students with disabilities. UDL is a framework for all teachers, not only special education teachers, to reach all students and develop inclusive best practices. As such, UDL should not be considered a special education initiative, but rather a practice of the district. The tenets of UDL can be applied to both academic and social emotional standards and instruction.

UDL calls for a curriculum designed to meet the needs of a diverse group of learners. Practices developed using the principles of UDL, which are based on research of how people learn, place accessibility at the forefront, rather than retrofitted at the end, after students experience predictable barriers. UDL helps general and special educators by addressing student variability while maintaining high-achievement standards through multiple means of engaging students with the work, multiple means of representing concept students need to learn, and multiple means for student action and expression.

We would like to see the CDE hold LEAs accountable for:

- Implementing a UDL framework to remedy learning loss consistently across all student populations while addressing social emotional needs related to school closures; and
- Providing training support on UDL to school districts with a history of low performance and high need or disadvantaged populations.

Compensatory Education

Early on during the pandemic, the Office of Special Education Programs (OSEP) and the CDE acknowledged that students have a right to compensatory education services for lost educational opportunity during school closures. The CDE has not offered guidance regarding how schools should determine compensatory education in an equitable manner, including how to assess students for learning loss of this magnitude. Compensatory education may be insufficient to remediate learning loss of students with disabilities. Many districts may not offer compensatory education and services to all students who need it.

We would like for the CDE to hold schools accountable for:

- Publishing district-wide criteria for calculating compensatory education services and when and how it will be provided; and
- Promulgating and making available procedures for requesting compensatory education services, with all procedural rights afforded to parents/families.

Collaboration with Students, Parents and Advocacy Organizations for Persons with Disabilities

SCDD and DRC are committed to working in partnership with the Administration to help in preparing for a return to school in the fall. For example, SCDD and DRC could assist in collecting additional data from students with disabilities, parents and the professionals that work with them on experiences with SELPAs and County Boards of Education. SCDD and DRC could also assist in disseminating information and resources and ensuring they are in plain language. Furthermore, SCDD and DRC would be more than happy to share our expertise on working with students with disabilities by serving on any task forces or workgroups. DRC and SCDD also believe that any advisory task forces or workgroups must include representation from those directly impacted – including students with disabilities and parents of students with disabilities. Lastly, as statewide organizations with national associations located in Washington, DC, both SCDD and DRC are uniquely situated to access a range of technical assistance and training from national experts working across the states.

Please contact Cindy Smith, Deputy Director for Policy and Public Affairs, SCDD, at <u>cindy.smith@scdd.ca.gov</u> or 916-799-8805 or Suge Lee, Managing Attorney of the Youth Practice Group, DRC, at <u>suge.lee@disablityrightsca.org</u> or 510-267-1211 with any questions or concerns. We look forward to continuing to partner together to ensure students with disabilities receive an appropriate education during the recovery from COVID-19. We would appreciate the opportunity to meet to discuss these concerns and ways that we can partner going forward.

Sincerely,

Maria Marquez, Chair State Council on Developmental Disabilities

Indra J. Imporato

Andrew J. Imparato, Executive Director Disability Rights California

cc: Dr. Stephanie Gregson, Chief Deputy Superintendent of Public Instruction Sarah Neville-Morgan, Deputy Superintendent of the Opportunities for All Branch Mary Nicely, Senior Policy Advisor to the Superintendent of Public Instruction

August 20, 2020

AGENDA ITEM 8. ACTION ITEM

STATE COUNCIL ON DEVELOPMENTAL DISABILITIES – LPPC

Priority Platform Update

The goal of this agenda item is to review the Committee's requested changes to the Platform language, if needed.

The Platform provides the foundation for the Council's policy activities. It is used when the Council establishes its legislative priorities and decides its positions. The Council reviews the language periodically to see if there are changes/revisions needed.

Recommended Action

Recommend Council approve the revised Policy Platform with any suggested revisions.

Attachment(s)

• 2019-2020 Priority Platform

Handout(s)

There will be additional handout(s) the day of meeting.



State Council on Developmental Disabilities

• website • www.scdd.ca.gov

• email • council@scdd.ca.gov



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LEGISLATIVE PLATFORM 2019-2020

ABOUT THE STATE COUNCIL ON DEVELOPMENTAL DISABILITIES

Close to fifty years ago, the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (DD Act) established in federal statute, State Councils on Developmental Disabilities in each of the 56 states and territories to "promote self-determination, independence, productivity, integration, and inclusion in all aspects of community life" for people with intellectual and developmental disabilities (I/DD) and their families. The Lanterman Act established the California State Council on Developmental Disabilities (Council) to fulfill those rights through advocacy, capacity building, and systems change.

The Council is comprised of 31 members appointed by the Governor, including individuals with disabilities and their families, and representatives from the DD Act partners (Disability Rights California, the 3 University Centers for Excellence in Developmental Disabilities), and mandated state agencies that provide services and supports to people with I/DD.

To implement the rights in the DD Act, the Council develops and implements a five-year state plan that contains goals, objectives, and strategies designed to improve and enhance the availability and quality of services and supports. In addition to the Council's Sacramento headquarters, regional offices support individuals with I/DD and their families through activities such as advocacy, training, monitoring, and disseminating and collecting public information. The Council works with policymakers and other stakeholders to ensure policies pertaining to the rights of individuals are protected and enhanced by ensuring people with I/DD can experience equality of opportunity, full participation, independent living, and economic self-sufficiency. These four pillars are enshrined in the Americans with Disabilities Act of 1990 (ADA). The Council supports the full and robust implementation and enhancement of recent federal policies that enshrine the values of the ADA, such as the Workforce Innovation and Opportunities Act (WIOA), Home and Community-Based Services Setting Rule (HCBS), Every Student Succeeds Act (ESSA) and Achieving Better Life Experience (ABLE) Act.

The Council believes that individuals with I/DD and their families must be included and consulted in all aspects of the policy making process to ensure their needs are adequately and appropriately addressed. The Council works to address disparities in access, outcomes, and quality for all services and supports. The Council believes in ensuring transparency and accountability for state and federal programs providing services and supports to people with I/DD. Furthermore, the Council believes that complexities in the service delivery system must be reduced, and that assistance in navigating services and supports should be provided to people





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with I/DD and their families. The State of California must ensure that funding is used to achieve positive outcomes for individuals with I/DD and their families.

Disparities in services and supports can result in severe health, economic, and quality of life consequences. Accordingly, services and supports must be distributed equitably so that individual needs are met in a culturally appropriate and linguistically competent manner, regardless of race, ethnicity, income, intellectual ability, age, and geographic location. Materials shall be provided in plain language.

PROMISE OF THE LANTERMAN ACT

The Lanterman Act promises to honor the needs and choices of individuals with I/DD by establishing an array of quality services throughout the state. Services shall support people to live integrated, productive lives in their communities. Access to needed services and supports must not be undermined through categorical service elimination, service caps, means testing, or family cost participation fees and other financial barriers. California must not impose artificial limitations, delays or reductions in community-based services and supports that would compromise the health and safety of persons with I/DD.

SELF-DETERMINATION

Individuals with I/DD and their families must be given the option to control their service dollars and their services through Self-Determination. The person with I/DD is in charge. With the support of those they choose and trust, people with I/DD and their families are empowered to develop their own unique needs, develop their own life goals, and construct those services and supports most appropriate to reach their full potential. The process begins with a Person Centered Plan (PCP) which details their unique needs, competencies, and aspirations. Self-Determination gives individuals the tools and the basic human right to pursue life, liberty, and happiness in the ways that they choose.

SELF-ADVOCACY

Individuals with I/DD must be in charge of their lives and be respected for the choices made. They must be provided the opportunity and support to be heard and be leaders in the service system and society including voting and other civic responsibilities. Self-advocates must have access to training, plain language materials, and policy making opportunities.

EMPLOYMENT AND ECONOMIC SELF-SUFFICENCY

Employment in the community, at least minimum wage or above, is known as competitive integrated employment (CIE). CIE is the priority outcome for working age individuals with I/DD, regardless of the severity of their disability. CIE provides every person a chance to build

"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."





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relationships with co-workers, be a part of the community, and contribute to the local economies. It reduces poverty and reliance on state support and leads to greater self-sufficiency. The Council supports the full and robust implementation of California's Employment First Law.

Transition planning should begin as early as possible. Policies and practices must set expectations for integrated employment, microenterprise training, self-employment, and promote collaboration between local agencies, state agencies, and remove barriers to CIE through access to information, benefits counseling, job training, inclusive postsecondary education, and appropriate provider rates that incentivize quality employment outcomes. The Council supports the phasing out and elimination of subminimum wage and/or segregated employment for all individuals with I/DD.

TRANSPORTATION

Access to transportation is essential to the education, employment, and inclusion of individuals with disabilities. Timely accommodations must be available to the I/DD community that are available to the public at-large. Mobility training must be a standard program among transportation providers to increase the use of available transportation and reduce reliance on costlier segregated systems. Barriers between geographic areas and transportation systems must be addressed so people with I/DD can travel as safely and easily as people without disabilities.

HEALTH CARE

Every person must have access to comprehensive, timely, quality, affordable health care, dental care, and wellness services, and access to plain language information and supports to make informed decisions about their health care. This requires informed consent, individualized, appropriate medication, treatments, and an adequate network of health professionals. It also includes people with multiple health care needs, those who require routine preventative care, mental and/or behavioral health treatment, dental care, durable medical equipment, and reproductive health needs. Service system complexities must not delay, reduce or deny access to services. Individuals must be reimbursed for insurance co-pays, co-insurance, and deductibles when their health insurance covers therapies that are on their Individual Program Plans (IPPs).

EDUCATION

Every student has the right to be safe in school and to receive a quality education with their peers that prepares them for post-secondary education and/or meaningful employment in the community. Schools must ensure robust implementation of the Individuals with Disabilities





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Education Act (IDEA), Every Student Succeeds Act (ESSA), and other federal and state laws and regulations, to ensure that students with I/DD receive a free appropriate public education (FAPE).

Students with disabilities will be educated alongside their peers without disabilities in the least restrictive environment. Comprehensive transition planning must be considered part of the IEP process. School districts and other educational agencies must be held accountable for implementing the letter and the intent of all state and federal laws. Parents and students must have equal participation in the Individual Education Program (IEP) process, including the ability to give informed consent.

Teachers, school leaders, paraprofessionals and other school-based professionals must be trained to use valid, positive, and proactive practices, such as individualized school-wide positive behavior interventions and supports, with fidelity. The needs of the student must not impact the child's placement in the least restrictive environment. The Council opposes the use of all forms of seclusion and restraint.

HOUSING

Statewide community integrated living options for individuals with I/DD must be increased and enhanced through access to housing programs, and subsidies. Community education and integration must be provided to reduce discrimination. Permanent, affordable, accessible, and sustained housing options must be continually developed to meet both current and future needs.

COMMUNITY PARTICIPATION

Individuals with I/DD must have access to and be fully supported to fully participate in their communities, with their peers without disabilities, through opportunities in all areas of community life including education, employment, recreation, organizational affiliations, spiritual development, and civic responsibilities.

TRANSITION TO ADULT LIFE

All services, including education, rehabilitation, and regional center services, must support students to transition to competitive integrated employment, post-secondary education or other opportunities that will lead to meaningful employment in the community. Transition services must be considered at the earliest possible opportunity and across the lifespan. Adults with I/DD must have access to meaningful activities of their choice with the appropriate services and supports.



State Council on Developmental Disabilities

• website • www.scdd.ca.gov

• email • council@scdd.ca.gov



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SAFETY

All people have a right to be safe. People with I/DD need emergency preparedness training. Individuals with I/DD experience a much greater rate of victimization and a far lower rate of prosecution for crimes against them. The same level of due process protections must be provided to all people. Individuals with I/DD should be trained in personal safety, how to protect themselves against becoming victims of crime, and how their participation in identification and prosecution can make a difference. In addition, to many interactions between law enforcement and people with I/DD end in avoidable tragedy. Law enforcement personnel, first responders, and the judicial system must be trained in how to work with people with I/DD during the course of their duties, including those who are suspects, victims or witnesses of crimes.

QUALITY AND RATES FOR SERVICES AND SUPPORTS

Having access to and receiving quality services and supports is the cornerstone for people with I/DD to be safe, healthy, and to promote self-determination, independence, and inclusion in all aspects of community life. An adequate safety net must be in place to quickly and timely address medical, mental health, behavioral, residential, staffing, equipment, or other needs when those services or supports fail, are interrupted, are not available, or additional services and supports are necessary for urgent or immediate need.

The state must streamline burdensome and duplicative regulations and processes that do not lead to positive outcomes for people with I/DD and their families. Quality and timely assessment and oversight must be provided.; It must measure what matters, be administered in a culturally competent manner, and the results made public and used to improve the system of services and supports.

The state must restore rates to adequately support the availability of quality services for people with all disabilities. A planned and systematic approach to rate adjustments must prioritize and incentivize services and supports.

August 20, 2020

AGENDA ITEM 9. ACTION ITEM

STATE COUNCIL ON DEVELOPMENTAL DISABILITIES – LPPC

2021 Policy Priorities

The goal of this agenda item is to review the 2020 Policy Priorities and determine whether changes are needed for 2021.

Recommended Action

Recommend Council approve the revised 2021 Policy Priorities with any suggested revisions.

Attachment(s)

- 2020 Policy Priorities
- SCDD Bay Area Regional Advisory Committee Policy Recommendations



POLICY PRIORITIES 2020

PROTECTING AND ENHANCING CIVIL RIGHTS

Every person with a developmental disability has the right to self-determination, equality of opportunity, full participation, independent living and economic self-sufficiency regardless of how significantly the person is impacted by their disability.

The Council will work to ensure civil rights are protected and enhanced. The Council will work to ensure the full and robust implementation of recent federal policies that enshrine the values of the Americans with Disabilities Act including but not limited to the Workforce Innovation and Opportunities Act, Home and Community-Based Services Settings Rule, Every Student Succeeds Act and Achieving Better Life Experience Act.

GUARANTEEING ACCESS TO EDUCATION AND EMPLOYMENT

Every student has the right to be safe in school and to receive a quality inclusive education with their peers that prepares them for post-secondary education and/or competitive integrated employment (CIE). Every person with a developmental disability should have the opportunity to be employed in the community and receive at least minimum wage. CIE is the priority outcome for working age individuals with developmental disabilities regardless of the severity of their disability. Pathways to CIE must be developed and supported. Transition services must be considered at the earliest possible opportunity and across the lifespan. Policies and practices must promote collaboration and remove barriers to CIE through access to information, benefits counseling, job training, inclusive postsecondary education and appropriate provider rates that incentivize quality and inclusive employment outcomes. The Council supports the phasing out and elimination of subminimum wage and/or segregated employment.

The Council will work to ensure the full and robust implementation of the Individuals with Disabilities Education Act, Every Student Succeeds Act, and other federal and state policies to ensure that students with developmental disabilities receive a quality inclusive education.

The Council will work to ensure the full and robust implementation of the Workforce Innovation and Opportunity Act and California's Employment First Law. The Council will work to ensure that policies and practices improve opportunities for and incentivize CIE. The Council will work to create incentives and supports to all types of employers and contractors for hiring. The Council will work to make the State of California a model employer.

PROMOTING ACCESS TO QUALITY SUPPORTS IN THE COMMUNITY

Every person with a developmental disability should have access to and be fully supported to fully participate in their communities. Having access to and receiving quality services is the cornerstone for people with developmental disabilities to be safe, healthy and to promote self-determination and inclusion. Services and supports in the community require adequate wages for providers. The state must restore rates, and a planned and systematic approach to rate adjustments must prioritize and incentivize quality services. Disparities in access, outcomes, and quality for all services and supports must be addressed. Complexities in the service delivery systems must be reduced. Assistance in supports should be provided to individuals with developmental disabilities and their families.

The Council will work to continue to restore the Department of Developmental Services programs cut in 2009. The Council will work to make meaningful improvements to the service delivery system to reduce disparities, increase transparency and accountability and increase quality outcomes. The Council will support efforts to provide adequate wages to providers for inclusive and quality supports. The Council will work to ensure successful implementation of the Self-Determination Program.

ENSURING SAFETY IN THE COMMUNITY

Every person with a developmental disability must be safe. Every person must be provided emergency preparedness training. Law enforcement personnel, first responders, emergency medical professionals and the judicial system must be trained in how to work with people with developmental disabilities (including those who are suspects, victims or witnesses of crimes) during the course of their duties.

The Council will work to ensure people with developmental disabilities are safe, free from abuse and neglect and have access to services and supports in their communities during all types of disasters or emergencies.

IMPROVING HOUSING AND COMMUNITY LIVING

Every person with a developmental disability should have the opportunity to live in the community. Permanent, affordable, accessible and sustained housing options must be continually developed. Statewide inclusive living options for individuals with developmental disabilities must be increased and enhanced through access to housing and subsidies that are paired in a timely manner with needed services and supports.

The Council will work to implement the policy recommendations in the Statewide Strategic Framework for Housing. The Council will work to create a dedicated housing fund to support integrated community housing for people with developmental disabilities.

For more information, contact: Cindy Smith, Deputy Director for Policy and Public Affairs at cindy.smith@scdd.ca.gov | 916-263-7919 Bay Area Regional Advisory Committee c/o State Council on Developmental Disabilities Bay Area Regional Office 1515 Clay Street, Ste. 300 Oakland, CA 94612

August 3, 2020

State Council on Developmental Disabilities Legislative and Public Policy Committee c/o Cindy Smith, Deputy Director, Policy and Public Affairs 3831 N. Freeway Blvd. #125 Sacramento, CA 95834

RE. Racial Justice Community Feedback Results & Recommendations

Legislative and Public Policy Committee Members,

In July 2020, the Regional Advisory Committee (RAC) for the State Council's Bay Area Region set out to gather input, personal stories, and policy recommendations from the community on issues related to racial justice and law enforcement reform, specifically as it impacts the intersectional communities of people with IDD, who have other disabilities, who are Black, Indigenous, and/or people of color. This work was executed by a RAC member workgroup, with support from the State Council's Regional Office.¹

This RAC workgroup would like to elevate the following policy recommendations that have come from this work. Please consider these as you develop legislative priorities and focuses for the 2020-21 legislative cycle.

¹ Feedback was collected in the Bay Area region through a confidential online survey in English and Spanish available from July 20th – July 26th, and through a public listening session over Zoom, held the evening of July 22nd in English and Spanish, and with captioning. Forty-nine people attended the listening session, and 30 people completed the online survey. Input, qualitative data (including personal stories), and policy recommendations were provided by individuals from at least four counties, and who self-identified as having one or more of the following identities: someone with a disability, someone who is Black, Indigenous, Hispanic / Latinx, a person of color, transgender, non-binary, a family member of a person with a disability, a member of law enforcement, a member of the criminal justice field, and/or a community advocate / professional working with the disability community. Importantly, the majority who participated shared that they have had direct interaction with law enforcement in which they believe their race, ethnicity, and/or disability played a part.

Police Recruitment and Training

- Law enforcement officers should be actively recruited from and be representative of the communities in which they serve. This will require commitment to substantially increase outreach/assistance to candidates who reside in the community.
- Further develop screening of police candidates to avoid history of violence, mental health issues, anti-social associations.
- Law enforcement officer training should be radically reformed. Descalation, diversity, and dispute resolution training should be mandatory, extensive, continuous and reinforced from the top levels. Diversity training should include disability, gender, sexual orientation, sensitivity, cultural/ethnic differences.

More Humane and Cost-Effective Alternatives to Law Enforcement

- Most law enforcement officers are not trained to deal with, nor is it appropriate for them to respond to, many situations involving people with mental health issues, domestic disputes, and non-criminal issues. Many of these are better addressed by experienced social workers or other professionals. Accordingly, reduce police responsibilities for these categories of services and make the funds resulting from the corresponding decrease in police budgets available for more appropriate health and social service responses as outlined below.
- Use the newly appropriated and other funds to further develop mental health/social worker/homeless/drug counselor alternative response teams supervised by agencies outside of the law enforcement establishment. These teams address non-criminal matters, while civilian agents could handle more administrative issues (e.g., traffic stops, traffic tickets).
- Monitor and publicize the results of the work of law enforcement agencies that offer Psychiatric Emergency Response Teams (PERT) and related programs in partnership with mental health, behavioral health and social service entities. Scale those programs that demonstrate results.

Administrative Public Policy Changes

- Enact legislation to prohibit District Attorneys from accepting money from law enforcement organizations/unions for election campaigns/celebrations.
- Require all incidents involving law enforcement use of force/violence/ miscreant behavior to be turned over to the State Attorney General for investigation, rather than the internal affair section of each law enforcement agency.

• Establish local civilian oversight commissions with real power to approve law enforcement policy, recommend dismissals and discipline.

Most Importantly: Addressing the Systemic Issues that Cause Racial Injustice

 Law enforcement reflects prevailing societal attitudes which unfortunately include both implicit and explicit bias towards "minority" groups (e.g., African Americans, BIPOC, people with disabilities, etc.). Accordingly, reform to reduce law enforcement bias will become effective only if bias is addressed in society.

The State Council should be among the organizations and change makers who recognize that radical remedial efforts will be required to address systemic racism, ableism, and bias. Such efforts include implementing serious consideration of reparations, universal basic income, expanded affirmative action, equitable primary educational funding, tuition-free higher education, widespread free physical and mental health coverage, and similar strategies.

We will be available and would be pleased to provide any additional insight or information at the committee's request. We urge you to address these pressing issues at this pivotal moment in our nation's history when racial justice issues have been projected to the forefront of public policy.

Thank you for your valuable work. We would greatly appreciate your keeping our workgroup informed of what action you pursue, so we can report back to our entire Bay Area Regional Advisory Committee.

Sincerely,

The Bay Area Regional Advisory Committee Workgroup on Racial Justice

Sascha Bittner Francisco Garcia Elizabeth Grigsby Dianne Millner Pamela Perls

Further Reading and Resources:

- Bay Area RAC's Community Feedback Survey on Racial Justice See all responses from the online survey, provided to LPPC
- Police Violence Against Black Disabled People Can't Be Ignored Anymore https://apple.news/A2ITz4W_4RleOONRTxNrZpg
- Why We Need to Talk About Both Race and Disability When Addressing Police Brutality https://www.thenation.com/article/archive/blackdisabledlivesmatter/

Why Intersectionality Can't Wait

https://www.washingtonpost.com/news/in-theory/wp/2015/09/24/whyintersectionality-cant-wait/

Ruderman Report, 2016

https://rudermanfoundation.org/wp-content/uploads/2017/08/MediaStudy-PoliceDisability_final-final.pdf

About the Service, CAHOOTS

https://whitebirdclinic.org/services/cahoots/ https://whitebirdclinic.org/services/cahoots/cahoots-in-the-news/