



EXECUTIVE COMMITTEE
NOTICE/AGENDA

Posted at www.scdd.ca.gov

DATE: Tuesday, October 21, 2014

TIME: 10:00 a.m. – 3:00 p.m.

LOCATION: State Council on Developmental Disabilities
1507 21st Street, Suite 210
Sacramento, CA 95811

TELECONFERENCE SITES:

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

Area Board 13
8880 Rio San Diego Drive
San Diego, CA 92108

CALL-IN INFORMATION:

1-800-839-9416
Participant Code 2982825

Pursuant to Government code Sections 11123.1 and 11125(f), individuals with disabilities who require accessible alternative formats of the agenda and related meeting materials and/or auxiliary aids/services to participate in this meeting should contact Robin Maitino at (916) 322-8481 or email robin.maitino@scdd.ca.gov. Requests must be received by 5:00 pm on October 13, 2014

AGENDA

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|---------------------|----------|
| 1. CALL TO ORDER | A. Lopez |
| 2. ESTABLISH QUORUM | A. Lopez |

- | | | | |
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| 3. | WELCOME/INTRODUCTIONS | A. Lopez | |
| 4. | PUBLIC COMMENTS
<i>This item is for members of the public only to provide an opportunity to comments and/or present information to the Committee on matters not on the agenda. Each person will be afforded up to three minutes to speak. Written requests, if any, will be considered first. The Committee will provide a public comment period, not to exceed a total of seven minutes, for public comment prior to action on each agenda item.</i> | | |
| 5. | APPROVAL OF AUGUST MINUTES | A. Lopez | 4 |
| 6. | AIDD COMPLIANCE TASK CHART | M. Kennedy | 7 |
| 7. | BUDGET UPDATE | A. Carruthers | |
| 8. | GOLDEN GATE RC SPONSORSHIP | M. Clark | |
| 9. | JAY NOLAN CONTRACT UPDATE | A. Carruthers | |
| 10. | DESIGNATED STATE AGENCY
MEMORANDUM OF UNDERSTANDING STATUS | N. Bocanegra | 19 |
| 11. | DD SYSTEM SUSTAINABILITY | M. Kennedy | |
| 12. | VISION FOR THE COUNCIL'S FUTURE | All | 47 |
| 13. | BYLAW REVIEW | N. Bocanegra | 48 |
| 14. | CONFLICT OF INTEREST WAIVER REQUEST:
CENTRAL VALLEY REGIONAL CENTER | N. Bocanegra | 70 |
| 15. | CLOSED SESSION – PERSONNEL AND LITIGATION
Pursuant to Government Codes 11126 (a)(1) and 11126(e)(1) the Committee will have a closed session to consider the appointment and/or employment of a public employee and to discuss pending litigation. | | |
| 16. | RECONVENE OPEN SESSION
Pursuant to Government Code Section 11126.3 (f) there will be an announcement of any action(s) taken during closed session. | | |
| 17. | ESTABLISH SEPTEMBER COUNCIL AGENDA | All | |

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Executive Committee Meeting Minutes
August 12, 2014

Attending Members

Kecia Weller
April Lopez
Janelle Lewis
Molly Kennedy
Nancy Clyde
Ning Yang

Members Absent

Others Attending

Aaron Carruthers
Mark Polit
Nancy Dow
Natalie Bocanegra
Robin Maitino

1. **Call to Order**

April Lopez called the meeting to order at 1:10 p.m. and established a quorum present.

2. **Welcome and Introductions**

Members and others introduced themselves.

3. **Approval of June 10, 2014 Minutes**

It was moved/seconded (Yang/Lewis) and carried to approve the June 10, 2014 Executive Committee minutes as amended. (1 abstention)

Amendment

- Change minutes to reflect that April Lopez ***not*** Molly Kennedy called the meeting to order and adjourned the meeting.

4. **Public Comments**

There were no public comments.

5. **MTARS/AIDD Update**

Mike Clark and Molly Kennedy provided an update on the Correction Action Plan progress and notified members that Rita Stevens was no longer the Project Officer. Allison Cruz will now be the Project Officer from AIDD.

At the July 30, 2014, MTARS meeting Mike and Aaron Carruthers were tasked creating a draft "roadmap" that would assist in identifying priorities.

Finally, Aaron reported that the June reimbursements were submitted to AIDD on July 24, 2014.

6. **Self-Advocacy Grant**

Mark Polit informed the Committee that the contractor agreed to stop work on all aspects of the SSAN portion of the Self-Advocacy Support Grant. Mark then submitted a proposal to the Committee that would extend the Employment First (EFC) and Self-Advocates Advisory Committees (SAAC) portions the Self-Advocacy Support Grant to December 31, 2014. Legal Counsel Natalie Bocanegra advised that it was not clear that the proposed action could be taken due to the Department of General Services process and timing issues. Further legal research would be conducted in an attempt to identify a workable approach. After much discussion, the following action was taken.

It was moved/seconded (Lewis/Weller) and carried to extend the CAPC Self-Advocacy Support Grant until December 31, 2014 for the sole purpose of continuing to support EFC and SAAC as describe in the contract. The maximum expenditures by CAPC during the three month contract extension will be \$7,000 of the original \$155,844 grant. (3 in favor, 2 opposed,)

7. **Plain Language Accessible Meeting**

Due to a lack of time to review the material, this item was postponed until the next meeting.

8. **Contract Purchasing Manual**

Molly Kennedy reported that at the July 23rd Administrative Committee meeting, Committee members requested that the establishment of dollar amount thresholds be referred to the Executive Committee for consideration and discussion at the August 12th Executive Committee meeting. Discussion ensued regarding the type(s) and various dollar amount(s) of contracts and/or grants. The consensus was that everything program related shall go to the full Council for review. The Executive Committee also requested that staff reach out to Sheryl Matney at NACDD to see if she knew what other state council's practices are. Staff

will bring that information back to the Committee and continue discussion at that time.

9. **Establish September Council Agenda**

The following items, if applicable, will be included on the September Council agenda:

- Closed Session - Personnel
- MTARS/AIDD Update
- Sponsorship Request for Autism Conference
- Committee Reports

10. **Closed Session – Personnel**

The Committee went into closed session.

11. **Reconvene Open Session**

There were no actions to report.

12. **Adjournment**

April Lopez adjourned the meeting at 3:35 p.m.

SCDD – AIDD Compliance Task Chart DRAFT DRAFT DRAFT DRAFT DRAFT

state's diverse geographic locations, race, and ethnicity. Sec.125(b)(1)(C)	Council members has hindered compliance with the DD Act. Currently, SCDD's membership composition does not meet the requirements for geographic, racial, and ethnic diversity.	2013 MTARS Finding	other documentation as necessary) providing evidence of outreach efforts to recruit members that reflect the state's diverse geographic locations, race and ethnicity 2. Direct evidence that the Council's membership reflects the state's diverse geographic locations, race and ethnicity	evidence must be provided to adequately meet this finding and be considered for special terms and conditions to be lifted	2. Demographic analysis of Governor's appointees to the Council	2. 12/1/14	Legal, Council	2. No
III.1 Membership policies		Other Key Areas of Concern	Documentation/Evidence of Progress	Comments	Task (CA #4, 5, 6)	When	Who	Done
D The Council has provisions to rotate memberships. Sec.125(b)(2)	Each regional office (i.e. Area Board) representative has to be nominated by the governor. Membership rotation has been historically inhibited by the state's bureaucratic appointment process. For example, one regional office has not had representation on the Council for two years.	N/A	1. Policies and/or procedure with other documentation as necessary) providing evidence of Council provisions to rotate membership 2. Direct evidence that the Council is rotating its members per the Council's policy	Sufficient evidence must be provided to adequately meet this finding and be considered for special terms and conditions to be lifted	1. AB 1595, Bylaws 2. Council roster showing membership and changes for 2015	1. 12/1/14 2. 1/1/16	1. ED, Legal, Council 2. ED	1. No 2. No
E The Council has provisions that allow continuation of membership until a new member is appointed. Sec.125(b)(2)	The Council did not provide evidence of a policy for allowing the continuation of Council membership until a replacement member could be appointed.	N/A	1. Policies and/or procedures (with other documentation as necessary) providing evidence of Council provisions that allow continuation of membership until a new member is appointment 2. Direct evidence that the Council is following its members membership policy	Sufficient evidence must be provided to adequately meet this finding and be considered for terms and conditions status	1. AB 1595, Bylaws. 2. Council roster showing membership and changes for 2015	1. 12/1/14 2. 1/1/16	1. ED, Legal, Council 2. ED	1. No 2. No

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F	The Council has a process to notify Governor re: membership and vacancies. Sec. 125(b)(2)	The Council did not provide evidence of a transparent and effective process to notify Governor regarding membership vacancies.	N/A	1. Policies and/or procedures (with other documentation as necessary) providing evidence of appointment process to notify Governor of membership and vacancies 2. Direct evidence of notifying Governor of membership recommendations and vacancies	Sufficient evidence must be provided to adequately meet this finding and be considered for special terms and conditions to be lifted	1. 12/1/14 2. 4/1/15	1. ED, Legal, CDD, Council 2. ED, Comm	1. No 2. No		
		III.2 Membership requirements	2013 MTARS Finding	Other Key Areas of Concern	Documentation/Evidence of Progress	Comments	Task (CA #)	When	Who	Done
G	60% of membership represent individuals with DD in the following categories: Sec.125(b)(3); Sec.125(b)(5) 1/3 individuals with DD 1/3 parents and guardians of children with developmental disabilities or immediate relatives of guardians of adults with developmental disabilities, 1/3 combination at least one is immediate relative or guardian of an individual with developmental disabilities who resides or previously resided in an institution or an individual with developmental disabilities who currently/previously resided in an institution in the State. Sec.125(b)(6)	Historically the Council has had long term vacancies. Several membership rosters have been submitted since last year and four membership vacancies were filled just prior to the on-site monitoring visit. An updated membership roster is requested as part of the FY14 State Plan Amendment to AIDD to ensure compliance.	1. The Council does not have a standard orientation or mentoring process for the Chair or new members. Council members expressed the need for training on the DD Act, the Council program federal mandate, and organization governance 2. State agency representatives lack understanding of their role at Council meetings. While representatives attend full Council meetings, they do not actively engage with the committees. 3. The review team observed lack of supports for some of the self-advocate members of the Council. The review team could not determine if the events were isolated or an overall issue.	1. Since the MTARS visit, documentation of Council compliance with membership standard orientation or mentoring process for Chair and new members, including training in the DD Act, the Council program federal mandate, and organization governance. 2. Direct evidence of state agency representatives understanding their role and actively engaging in Council meetings 3. Direct evidence of supports for engaging self-advocate members of the Council in council meetings and council activities.	Sufficient evidence must be provided to adequately meet this finding and be considered for special terms and conditions to be lifted	1. 1/1/15 1b. 4/1/15 2. 2/1/15 3a. 1/1/15 3b. 1/1/16	1a. ED, Comm 1.b. ED 2. ED 3a. ED, Comm Council 3b. ED	1a. No 1b. No 2. No 3a. No 3b. No		

IV. PROGRAM ADMINISTRATION

Oct 6, 2014 Key: CA= Corrective Action Plan Corrective Action, ED= Executive Director, CDD=Chief Deputy Director, DDPP=Deputy Director of Policy and Planning, Comm=Council Committee, TA=Technical Assistance

SCDD – AIDD Compliance Task Chart

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IV.1. Five Year State Plan	2013 MTARS Finding	Other Key Areas of Concern	Documentation/Evidence of Progress	Comments	Task (CA #8)	When	Who	Done
<p>H</p> <p>The plan shall focus on Council efforts to bring about the purpose of this subtitle, by specifying 5-year goals, as developed through data driven strategic planning, for advocacy, capacity building, and systemic change related to the areas of emphasis, to be undertaken by the Council.</p> <p>Sec.124(c)(4)(A)</p>	<p>There was inadequate evidence that the Council engages in data-driven strategic planning to develop the State Plan and takes the primary role in the planning process.</p> <p>State Plan is the Council's Plan and that activities are undertaken by the Council versus the State Plan being one that is configured by and for the Area Boards.</p> <p>Council is free from state interference in the development of the State Plan. The state's DD agency awarded the Council two contracts: (1) Client Rights Advocacy and (2) Volunteer Advocacy Services. This state supported work is documented in the Goal 2 in the Council's State Plan which states: "local offices provide assistance that include systems navigation, technical assistance, attendance to Individualized Education Plan meetings and assistance with due process".</p> <p>The review team heard more about these two projects during interviews and public forum testimony than any other Council supported activity. While AIDD does not question the merit of the projects and the quality of the work being done by Council staff, it raises serious questions about whether the state is directing the Council's State Plan or whether the Council is developing the State Plan.</p>	<p>N/A</p>	<p>1.Evidence of activities, process and/or procedures (with other documentation as necessary) to develop a 5 year strategic plan that addresses systems change, capacity building and advocacy on a statewide basis</p> <p>2. Direct evidence of process and/or procedures (with other documentation as necessary) for the Council to make data driven decisions and evaluate the progress and impact of state plan implementation</p>	<p>This will require ongoing technical assistance and monitoring into the next state plan cycle (2016-2021) before considering whether to special terms and conditions are lifted</p>	<p>1. The plan to plan. Documentation of public outreach, meetings, surveys, use of available data sources (NCL, ICI, CDER, etc). Copies of staff products submitted to committees and Council to support integration of data and public input. Various other documents showing committee work and council review and revisions of state plan.</p> <p>2. Same as 1</p>	<p>1. 10/1/16</p> <p>2. 10/1/16</p>	<p>1. DDPP, Comm, Council, TA</p> <p>2. DDPP, Comm, Council, TA</p>	<p>1. No</p> <p>2. No</p>

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I	IV.1. Five Year State Plan	2013 MTARS Finding	Other Key Areas of Concern	Documentation/Evidence of Progress	Comments	Task (CA #9)	When	Who	Done
<p>Plan must include assurances related to:</p> <ul style="list-style-type: none"> ➤ (B) USE OF FUNDS - <i>At the request of any State, a portion of such funds provided to such State under this subtitle for any fiscal year shall be available to pay up to 1/2 (or the entire amount if the Council is the designated State agency) of the expenditures found to be necessary by the Secretary for the proper and efficient exercise of the functions of the designated State agency, except that not more than 5 percent of such funds provided to such State for any fiscal year, or \$50,000, whichever is less, shall be made available for total expenditures for such purpose by the designated State agency</i> ➤ (C) STATE FINANCIAL PARTICIPATION.— <i>The plan shall provide assurances that there</i> 	<p>The Council did not provide adequate evidence that the plan is supported by the assurances in Section 125(c)(5)(B - D) and (K - L).</p> <p>Regarding (B) Use of Funds, the review team could not draw any conclusions about the Council based on the information provided about the expenditures for the DSA. It was stated during interviews that:</p> <ul style="list-style-type: none"> • The DSA charges the Council an indirect rate for the services it provides. • The rate stated by Council staff was in excess of the 5% or \$50,000 limit. • Staff did not know the DSA's indirect policy and no written policy were provided. • The Council is required to pay the indirect rate. The Council staff stated it does so from two contracts the state awards to the Council. <p>In regards to (C) State Financial Participation, when the review team inquired about how the state provides state contract funds being factored in but there was a tremendous lack of clarity on this matter.</p>	<p>1. The DSA plays a vital role supporting the development and implementation of the Council's budget. AIDD highly recommends the Council and DSA enter into a Memorandum of Understanding in support of the Council</p> <p>2. Staff expressed a great need for training to better understand the DD Act, the DD Council's federal mandate to conduct and support advocacy, capacity building, and systemic change on a statewide level.</p>	<p>1. Direct evidence/documentation of MOU between the Council and the DSA in support of the Council</p> <p>2. Direct evidence/documentation of DSA's indirect policy</p> <p>3. Direct evidence that the DSA rates are charged to the Council consistent with documents</p> <p>4. Direct evidence that DSA provided match to the Council</p> <p>5. Policies and procedures (with other documentation as necessary) providing evidence of how the Council addresses Conflict of Interest, particularly findings in the MTARS</p> <p>6. Direct evidence that the Council is following its policy and procedures with regards to conflict of interest</p> <p>7. Policies and/or procedures (with other documentation as necessary) regarding : (a) Council staff carrying out solely the responsibilities duties of the Council as described in the DD Act; (b) training on the DD Act, the DD Council's federal mandate</p>	<p>Sufficient evidence must be provided to adequately meet this finding and be considered for special terms and conditions to be lifted</p>	<p>1. MOU</p> <p>2. MOU</p> <p>3. DSS Invoices</p> <p>4. DSS Invoices</p> <p>5. AB 1595, Bylaws</p> <p>6. Bylaws, Form 700, Gov't Codes 1090 & 87100</p> <p>7. Bylaws</p> <p>8. Breakdown of staff by funding source, training materials, staff orientation binder</p> <p>9. See A</p>	<p>1. 7/1/15</p> <p>2. 7/1/15</p> <p>3. 2/1/15</p> <p>4. 2/1/15</p> <p>5. 12/1/14</p> <p>6. 12/1/14</p> <p>7. 12/1/14</p> <p>8. 7/1/15</p> <p>9.</p>	<p>1. Legal</p> <p>2. Legal</p> <p>3. CDD</p> <p>4. CDD</p> <p>5. ED</p> <p>6. ED, Legal</p> <p>7. CDD, Legal, HR</p> <p>8. CDD, CCPP, HR</p> <p>9. ED,</p>	<p>1. No</p> <p>2. No</p> <p>3. No</p> <p>4. No</p> <p>5. No</p> <p>6. No</p> <p>7. No</p> <p>8. No</p> <p>9. No</p>	

Oct 6, 2014

Key: CA= Corrective Action Plan Corrective Action, FID= Executive Director, CDD=Chief Deputy Director, DPPP=Deputy Director of Policy and Planning, Comm=Council Committee, TA=Technical Assistance

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<p>will be reasonable State financial participation in the cost of carrying out the plan</p> <p>➤ (D) CONFLICT OF INTEREST.—The plan shall provide an assurance that no member of such Council will cast a vote on any matter that would provide direct financial benefit to the member or otherwise give the appearance of a conflict of interest.</p> <p>➤ (K) STAFF ASSIGNMENTS.—The plan shall provide assurances that the staff and other personnel of the Council, while working for the Council, will be responsible solely for assisting the Council in carrying out the duties of the Council under this subtitle and will not be assigned duties by the designated State agency, office, or entity of the State.</p>	<p>In regards to (D) Conflict of Interest, the majority of the Council is comprised of non-agency representatives who are Area Board representatives. There are 13 Areas Board representatives on the Council and 7 “at large” members. The Area Board representatives sit on the State Council and on the Advisory Committee to the Area Boards. This dual role presents a conflict of interest and gives the appearance of a conflict of interest. The Council does not have a policy or procedure to address this.</p> <p>In regards to (K) Staff Assignments, it appears that Council staff is carrying out work directed by the state and not necessarily the Council through the state funded Client Rights Advocacy and Volunteer Advocacy Services projects.</p> <p>Through these contracts, Council staff conducts assessments and monitoring in the State’s developmental centers. Providing direct services is outside the purview of the Council’s responsibilities. Furthermore, this work is in support of the two state contracts and therefore directs the work carried out by Council staff located in the regional office. Since it is work created by and for the state, it</p>	<p>to conduct and support advocacy, capacity building, and systemic change on a statewide level; (c) state plan implementation, data collection and analysis, supports to engage self-advocate members in council meetings and activities; (d) standard orientation tools for staff, policy manuals and trainings to learn Council programs and administrative requirements</p> <p>8. Direct evidence that the policies and procedures above are being carried out consistent with the policy</p> <p>9. Direct evidence the Council is functioning free of DSA interference as identified in the MTARS findings</p>	<p>evidence must be provided to adequately meet this finding and be considered for special terms and conditions to be lifted</p>	<p>(Staff), H (Five Year State Plan), and M (Fiscal Requirement)</p>	<p>10/1/16</p>	<p>CDD, DDPP, Legal, Comm, Council, TA</p>
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<p>➤ (L) NONINTERFERENCE <i>The plan shall provide assurances that the designated State agency, office, or entity of the State, will not interfere with the advocacy, capacity building, and systemic change activities, budget, personnel, State Plan development, or plan implementation of the Council, except that the designated State agency shall have the authority necessary to carry out the responsibilities described in section 125(d)(3). Sec.124(c)(5)</i></p>	<p>raises questions as to whether the Council staff is assisting the Council or the state.</p> <p>In regards to (L) <i>Noninterference</i>, it is very difficult to conclude whether the Council is free of interference:</p> <ul style="list-style-type: none"> • To avoid duplication, issues related to interference with the budget process are described under <i>VI.1 Fiscal Requirements</i> • To avoid duplication, issues related to interference with personnel are described under <i>II.1 Staff</i> • To avoid duplication, issues related to interference with State Plan development are described in the Section above <i>IV.1. Five Year State Plan</i>. 			
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SCDD – AIDD Compliance Task Chart

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IV.2 State Plan Implementation	2013 MTARS Finding	Other Key Areas of Concern	Documentation/Evidence of Progress	Comments	Task (CA #10)	When	Who	Done
<p>J</p> <p>The Council shall implement the State Plan by conducting and supporting advocacy, capacity building, and systemic change activities Sec.125(c)(5)</p>	<p>The Council's 5-year plan implementation does not promote advocacy, capacity building, and systemic change at the state level. As discussed above, the review team heard more about the two state funded projects implemented by the Area Boards. Since so much attention was paid to the two state funded projects, the review team did not hear about a coherent set of activities implemented by the Council at the state level.</p> <p>The Council is providing direct services through the two state contracts. This type of activity is outside the purview of the Council's responsibilities and appears to overlap with P&A functions.</p>	<p>1. Partnership efforts are evident however, there are no plans for collaboration between the DD Network Partners (the Council, the three UCEDDs and the P&A)</p>	<p>1. Policies and/or procedures (with other documentation as needed) providing evidence of how the Council will develop and address state plan goals on a statewide basis; plans for collaboration with the DD Network Partners</p> <p>2. For the remainder of the 2011-2016 state plan, evidence of amended and implemented goals on a statewide basis</p> <p>3. Approval of new state plan for FY 2016 – 2021</p> <p>4. Review of PPRs to assess the extent to which the Council is conducting and supporting advocacy, capacity building and systemic change activities consistent with the DD Act</p>	<p>This will require ongoing technical assistance and monitoring into the next state plan cycle (2016-2021) before considering whether to special terms and conditions are lifted</p>	<p>1a. State Plan work plan</p> <p>1b. Evidence of periodic meetings and joint activities</p> <p>2. Amended Plan and supporting documentation</p> <p>3. Approval of new plan.</p> <p>4. PPR</p>	<p>1a. 9/1/15</p> <p>1b. 7/1/15</p> <p>2. 1/1/16</p> <p>3. 1/1/17</p> <p>4. 1/1/18</p>	<p>1a. ED, DDPP, Comm, TA</p> <p>1b. ED</p> <p>2. DDPP, Comm, Council, TA</p> <p>3. DDPP, Comm, Council, TA</p> <p>4. DDPP, Comm, Council, TA</p>	<p>1a. No</p> <p>1b. No</p> <p>2. No</p> <p>3. No</p> <p>4. No</p>

SCDD – AIDD Compliance Task Chart DRAFT DRAFT DRAFT DRAFT DRAFT

V. EVALUATION AND REPORTS									
	Program Performance Report	2013 MTARS Finding	Other Key Areas of Concern	Documentation/Evidence of Progress	Comments	Task (CA #11)	When	Who	Done
K	The Council annually prepares and transmits to the Secretary a report containing information about the progress made in achieving the goals. The report includes: <ul style="list-style-type: none"> • Extent to which each goal of Council was achieved. Sec.125(c)(7)(A) • Description of strategies that contributed to achieving goals. Sec.125(c)(7)(B) • Extent to which each goal was not achieved, describes factors that impeded goal achievement. Sec.125(c)(7)(C) • Separate information on self-advocacy goal. Sec.125(c)(7)(D) 	Overall the Council's Program Performance Report does not specifically describe how each Area Board is contributing to State Plan implementation. Because there are 13 regional offices implementing different parts of the Council State Plan, it is difficult to determine how State Plan achievement is being measured and evaluated. Some Area Boards referenced using "mini-plans" to document which parts of the Council State Plan they were implementing. Other Area Boards did not provide evidence of having "mini-plans". Without consistent use of Area Board "mini-plans" or some other tool it is unclear how the Council can assess progress made in achieving goals.	N/A	1. Policies and/or procedures (with other documentation as needed) providing evidence for the Council to develop a high quality cohesive and comprehensive PPR as described in the guidance provided by ITACC and AIDD 2. Council evaluation plan submitted in the State Plan 3. Review of PPRs to assess whether the Council is utilizing its evaluation plan	This will require ongoing technical assistance and monitoring into the next state plan cycle (2016-2021) before considering whether to special terms and conditions are lifted	1. Documentation of TA received and products based on TA 2. Evaluation plan 3. PPR	1. 1/1/16 2. 10/1/16 3. 1/1/18	1. DDPP, TA 2. DDPP, Comm, Council, TA 3. DDPP, TA	1. No 2. No 3. No
L	An accounting of the manner in which funds paid to the State for a fiscal year were expended. Sec.125(c)(7)(G)	The Council presented several documents that detailed different aspects of how the federal allotment is being spent, but overall the review team could not determine how the budget is developed and executed and how expenditure data is calculated.	N/A	1. Policies and/or procedures (with other documentation as necessary) providing evidence of how the Council's budget is developed, executed, and how the expenditure data is calculated 2. Review of fiscal documents to assess whether the Council is following its policies and procedures and federal grant requirements	Sufficient evidence must be provided to adequately meet this finding and be considered for special terms and conditions to be lifted	1. State Accounting Policies, Budget Development Directives 2. Expenditures by Object Code for entire budget	1. 2/1/15 2. 2/1/15	1. CDD 2. CDD	1. No 2. No

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SCDD – AIDD Compliance Task Chart DRAFT DRAFT DRAFT DRAFT DRAFT

VI. FISCAL								
VI.1 Fiscal Requirements	2013 MTARS Finding	Other Key Areas of Concern	Documentation/Evidence of Progress	Comments	Task (CA #12)	When	Who	Done
<p>M Council has authority to prepare, approve, and implement a budget to fund programs, projects, and activities. Sec125(c)(8)</p>	<p>The Council did not provide adequate evidence on how it developed or implemented its budget to fund programs, projects, and activities:</p> <ul style="list-style-type: none"> • Council members expressed a strong need for more fiscal transparency and training on state versus federal fiscal policy and the Council's budget development/implementation process. • The Lanterman Act requires the Council to provide funding to Area Boards. • The Lanterman Act provisions require the Council to hire staff at the deputy director level thereby interjecting a line item in the Council's budget and limiting its authority to develop a budget. 	<p>N/A</p>	<ol style="list-style-type: none"> 1. Policies and/or procedures (with other documentation as necessary) providing evidence of how the Council's budget is developed, executed, and how the expenditure data is calculated 2. Policies and/or procedures revised (with other documentation as necessary) as a result of the Lanterman Act 3. Direct evidence that the full Council is developing, approving and managing its budget 	<p>Sufficient evidence must be provided to adequately meet this finding and be considered for special terms and conditions to be lifted</p>	<ol style="list-style-type: none"> 1. State Accounting Policies, Budget Development Directives 2. AB 1595 3. Council reviews of Quarterly Budget Projections, Council votes on resource allocation, including cost-reductions 	<ol style="list-style-type: none"> 1. 2/1/15 2. 12/1/14 3. 7/1/15 	<ol style="list-style-type: none"> 1. CDD 2. ED, Legal 3. ED, CDD, Comm, Council 	<ol style="list-style-type: none"> 1. No 2. No 3. No

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	VI.2 Fiscal Policies	2013 MTARS Finding	Other Key Areas of Concern	Documentation/Evidence of Progress	Comments	Task (CA #13)	When	Who	Done
N	<p>Council has policies to carry out appropriate subcontracting activities. Sec.125(c)(8)(A)</p> <p>Council directs expenditures of funds for grants, contracts, interagency agreements that are binding contracts and other activities authorized by State Plan approval. Sec.125(c)(8)(C)</p> <p>Grantee shall keep records that disclose:</p> <ul style="list-style-type: none"> • Amount and disposition of assistance by recipient • Total cost of project or undertaking in connection with assistance given • Amount of project costs supplied by other sources • Such other records that will facilitate an effective audit <p>Sec.103</p>	<p>The Council did not provide adequate evidence of that is has accurate financial accounting and record keeping:</p> <ul style="list-style-type: none"> • At the time of the on-site visit, the Administrative Services Manager position was vacant and the Council did not have a staff person dedicated to managing the Council's finances. • The Council could only provide limited information on the Council's fiscal policies during the on-site visit pertinent to the requirements in the DD Act. • The Council experienced fiscal impropriety under the previous Executive Director (Board Resource contract) • The state auditor's findings substantiate the immediate need for financial management systems. (Reference: <i>California Department of Finance Management Letter dated August 17, 2012</i>) 	N/A	<p>1. Policies and/or procedures (with other documentation as necessary) providing evidence the Council carries out appropriate subcontracting activities, accurate financial accounting and record keeping</p> <p>2. Direct evidence that the Council is following its subcontracting policies</p>	<p>Sufficient evidence must be provided to adequately meet this finding and be considered for special terms and conditions to be lifted</p>	<p>1. Contract Manual</p> <p>2. Signature pages of contracts, routing slips for contract review, meeting minutes for contracts that went to Council for 2015</p>	<p>1. 12/1/14</p> <p>2. 1/1/16</p>	<p>1. CDD</p> <p>2. CDD</p>	<p>1. No</p> <p>2. No</p>

SCDD – AIDD Compliance Task Chart

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VII. DESIGNATED STATE AGENCY								
VII.2 Responsibilities of DSA								
	2013 MTARS Finding	Other Key Areas of Concern	Documentation/Evidence of Progress	Comments	Task (CA #14)	When	Who	Done
<ul style="list-style-type: none"> Receives, accounts for, and disburses funds under subtitle based on State Plan. Sec125(d)(3)(C)(i) Provides the appropriate fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, funds paid to the state. Sec125(d)(3)(C)(ii) Keeps and provides access to records as Secretary and Council may determine necessary and timely financial reports regarding status of expenditures, obligations, and liquidation by agency or Council, and use of Federal and non-Federal shares. Sec125(d)(3)(D) Provides required non-Federal share. Sec125(d)(3)(E) Assists in obtaining appropriate State Plan assurances and consistency with state law. Sec125(d)(3)(F) Enters into MOU at request of Council. Sec125(d)(3)(G) 	<p>As mentioned above the Council's recent experience with fiscal impropriety under the previous Executive Director (Board Resource contract) and the state auditor's findings substantiates the DSA's need to establish processes, policies, and procedures that promote:</p> <ul style="list-style-type: none"> Accurate receipt, accounting, and disbursement of funds Provision of appropriate fiscal control and fund accounting procedures necessary to assure proper disbursement of, and accounting for, funds paid Access to records as the Secretary and Council may determine necessary Timely development and dissemination of financial reports regarding status of expenditures, obligations, and liquidation by agency or Council, and use of Federal and non-Federal shares <p>The Council does not have a Memorandum of Understanding with the DSA.</p> <p>There was no evidence that the Council has conducted a formal evaluation of the DSA at any point and time.</p> <p>Several Council staff position and DSA functions appear duplicative. Several DSA functions are performed by Council staff at the central office, specifically in the areas of: contracting, budget, fiscal, and personnel.</p>	N/A	<p>1. Policies and/or procedures (with other documentation as necessary) providing evidence the DSA has promoted: Accurate receipt, accounting, and disbursement of funds; Provision of appropriate fiscal control and fund accounting procedures necessary to assure proper disbursement of, and accounting for, funds paid; Access to records as the Secretary and Council may determine necessary; and timely development and dissemination of financial reports regarding status of expenditures, obligations, and liquidation by agency or Council, and use of Federal and non-Federal shares</p> <p>2. Direct evidence that the DSA is carrying out the policies and procedures</p>	<p>Sufficient evidence must be provided to meet this finding and be considered for special terms and conditions to be lifted</p>	<p>1. State accounting policies</p> <p>2. DSA Annual Evaluation (possibly CalSTARS reports)</p>	<p>1. 2/1/15</p> <p>2. 7/1/15</p>	<p>1. CDD, Legal</p> <p>2. CDD, Comm</p>	<p>1. No</p> <p>2. No</p>

DESIGNATED STATE AGENCY
MEMORANDUM OF UNDERSTANDING

- I. Purpose
 - a. Identify respective roles and responsibilities under DD Act and Lanterman Act
 - i. Discrete/Concurrent: Responsibilities, functions, tasks
- II. DD Act Provisions
 - a. Sections 124, 125, 126 (see excerpts)
- III. Structure
 - a. Background and Purpose
 - b. Statement of Agreement
 - i. General Responsibilities
 - ii. Budget, Fiscal, Accounting, Contract Administration
 - iii. Personnel
 - iv. General Administrative Support
 - v. Legal Assistance
 - vi. Delegation
 - vii. Council Authority
- IV. Process
 - a. Review, approval, AIDD

09/11/2014

DRAFT

MEMORANDUM OF UNDERSTANDING BETWEEN THE CALIFORNIA STATE COUNCIL ON DEVELOPMENTAL DISABILITIES AND THE CALIFORNIA HEALTH AND HUMAN SERVICES AGENCY

1. BACKGROUND AND PURPOSE

The California State Council on Developmental Disabilities (hereafter referred to as the COUNCIL) is established consistent with the federal Developmental Disabilities Assistance and Bill of Rights Act as amended (PL 106-402, hereafter referred to as the DD Act), and by the California Lanterman Act (W&I Code Sec. 4520 et seq.). Consistent with the DD Act, the Legislature has designated the California Health and Human Services Agency (hereafter referred to as AGENCY) as the designated state agency to provide fiscal, administrative and other support services to the Council as authorized by the DD Act [Sec.125 (d)]¹. Pursuant to Section 125(d)(3)(G), the purpose of this memorandum, requested by the Council, is to clarify the respective roles and responsibilities of the designated state agency and the Council as authorized by the DD Act and the California Lanterman Act. [See Sec. 125(d)(3)(G); W&I Code Sec. 4520 et seq.].

1.1 The State Council on Developmental Disabilities

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

1.2 The Designated State Agency: California Health and Human Services Agency

The designated state agency has the responsibility of providing fiscal, administrative and other support services to the Council. The California Health and Human Services Agency is the designated state agency and adheres to the criteria in the DD Act that such agency shall not interfere with the advocacy, capacity building, and systemic change activities, budget, personnel, State Plan development or plan implementation of the Council. [Sec.124(c)(5)(L)]

As permitted by federal law, contributions by the designated state agency to provide support services to the Council may be counted as part of the State of California's non-Federal share of the cost of projects supported by the DD Act. [Sec. 126(c)(2)(B)].

2. STATEMENT OF AGREEMENT

2.1 GENERAL RESPONSIBILITIES

2.11 The State Council on Developmental Disabilities

¹ All statutory references, unless otherwise noted, are to the Public Law 106-402 (42 USC 15001 et seq.).

A. Advocacy, Capacity Building and Systemic Change Activities

The Council is the State of California entity responsible for carrying out all responsibilities specified in PL 106-402, and shall conduct or support programs, projects, and activities that carry out the purpose of the DD Act, including advocacy, capacity building and systemic change activities. [Sec.125(c)(2)]

B. State Plan Development, Implementation and Monitoring

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

C. Reports

The Council shall develop and submit to the Secretary of the U.S. Department of Health and Human Services all required reports on Council activities. [Sec.125(c)(7)]

D. Review of Designated State Agency

As required by the DD Act, the Council shall periodically review the designated state agency with respect to the activities carried out under the DD Act and make any recommendations for change to the Governor. [Sec.125(c)(6)]

E. Timeliness

The Council shall perform all responsibilities in a timely manner that meets the requirements of the Administration on Intellectual and Developmental Disabilities and/or the DSA.

2.12 The Designated State Agency: California Health and Human Services Agency

A. Support Services

AGENCY as the designated state agency, is responsible for providing required assurances, fiscal, administrative and other support services as requested by and negotiated with the Council pursuant to Sections 125 (d)(1) and 125(d)(3)(A) of the DD Act.

B. Records, Access and Financial Reports

AGENCY shall ensure that access to records and such records are kept as the Administration on Intellectual and Developmental Disabilities and the Council determine necessary, and shall provide timely financial reports at the request of the Council regarding the status of expenditures, obligations, liquidation, and the Federal and non-Federal share pursuant to the DD Act. [Sec.125 (d)(3)(D)]

C. Communication

AGENCY shall ensure that all administrative communications and instructions it receives on behalf of the Council from any State of California office or other entity are routed directly to the Council.

D. Requests for Information

AGENCY shall route any requests for information or reports concerning the Council's activities, budget and contracts directly to the Council in a timely manner.

AGENCY will not develop and submit information and reports concerning the Council that are requested by a State of California agency, the Legislature, or other entity without the Council's knowledge and approval.

E. Assurances

AGENCY shall assist the Council in obtaining the assurances required by the DD Act and in ensuring that the Council's fiscal and administrative processes are conducted in a manner consistent with state law. [Sec.125 (d)(3)(F)]

AGENCY shall assist in ensuring that the State Plan is consistent with State Law. [Sec. 125(d)(3)(F).]

F. Timeliness

AGENCY will provide services pursuant to this memorandum and respond to requests in a timely manner.

G. Confidentiality

AGENCY, including any entity delegated a responsibility pursuant to this memorandum, will maintain confidentiality and will not disclose any confidential information of the Council except as necessary to carry out its duties and with prior written consent.

2.2 BUDGET, FISCAL, ACCOUNTING, AND CONTRACT ADMINISTRATION

2.21 The State Council on Developmental Disabilities

A. The Council shall prepare, approve, and implement a budget using amounts paid to the State of California under the DD Act to fund and implement all programs, projects, and activities. The Council will develop and forward budget information on State of California budget forms for inclusion in the State of California budget process. [Sec.125(c)(8)]

B. The Council shall direct the expenditure of funds for grants, contracts, interagency agreements, and other activities consistent with federal and State administrative procedures. [Sec.125(c)(8)(C)]

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C. The Council shall conduct all contract preparation, oversee processing of Council contracts and maintain a tracking system for all Council contract information, consistent with requirements of the State of California contracting rules.

D. The Council shall complete supporting documentation for, track and approve all invoices and reimbursement requests for Council funds.

E. The Council shall develop and submit all Council budgetary requests in accordance with State of California procedures.

F. The Council shall submit all necessary budget, fiscal, accounting and contract documents in accordance with State of California procedures.

G. The Council shall facilitate the payment of funds to the State of California under the DD Act for functions of AGENCY on behalf of the Council, but not to exceed \$50,000 per fiscal year. [Sec. 124(c)(5)(B)(vi)]

2.22 The Designated State Agency: California Health and Human Services Agency

A. AGENCY shall route to the Council any communications and information concerning fiscal and contract procedures relating to the Council.

B. AGENCY shall assist the Council by processing fiscal and contract transactions, provided that AGENCY shall not encumber any funds available to the Council, transfer any funds between Council budget categories or from the Council to any other entity, or otherwise initiate charges or expenses against funds available to the Council without specific authorization in advance by the Council.

C. AGENCY shall process Council contracts, as necessary.

D. AGENCY shall process or ensure processing of all Council-approved reimbursement requests.

E. AGENCY shall track or ensure tracking of matching funds on Council-approved reimbursement requests for federal reports.

F. AGENCY shall process or ensure processing of the federal draw, receive, account for, and disperse funds on behalf of the Council. [Sec. 125(d)(3)(C)(i)]

G. AGENCY shall provide or assist the Council in securing the non-federal share of the cost of projects as required by federal law.

H. AGENCY shall prepare or ensure the preparation of the federal ADD-02B expenditure report for the Council's review and approval.

I. AGENCY shall provide or ensure the provision of such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of, and accounting for, funds paid to the State of California under the DD Act [Sec.125(d)(3)(C)(ii)].

J. AGENCY shall provide or ensure provision of cost centers, accounts, encumbrances and reports on costs and other support documentation for Council budget preparation and for other Council fiscal management needs.

K. AGENCY shall provide contract, reimbursement and accounting services in a timely manner.

2.3 PERSONNEL ADMINISTRATION

2.31 The State Council on Developmental Disabilities

A. The Council shall develop its personnel requests consistent with California Department of Human Resources, State Personnel Board and State of California merit system laws, regulations and procedures. Council recruitment and hiring of staff shall be consistent with Federal and State nondiscrimination laws. Dismissal of personnel shall be consistent with State of California law and personnel policies.

B. The Council is responsible, consistent with State of California government employment laws, for recruiting and hiring an Executive Director of the Council, and supervising and annually evaluating the Executive Director.

C. The Council Executive Director is responsible for developing personnel requests for Council staff positions, hiring, supervising, and annually evaluating the staff of the Council in accordance with State of California civil service and merit system rules [Sec.125(c)(9)].

D. The Council staff are responsible for assisting the Council in carrying out its duties under the DD Act and shall not be assigned other duties by AGENCY or any other State of California agency or office unless pursuant to an agreement or other authorization approved by the Council and consistent with the DD Act and applicable law. [Sec.125(c)(10)]

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

2.32 The Designated State Agency: California Health and Human Services Agency

A. AGENCY shall route communications and information concerning State personnel procedures to the Council.

B. AGENCY shall assist the Council by processing personnel transactions in accordance with State of California civil service, merit system, and other government employment rules and procedures.

C. AGENCY shall ensure that records regarding Council personnel, insurance information, benefits tracking, and longevity are maintained.

D. AGENCY shall perform payroll functions for the Council, processing payroll deductions and transactions, consistent with state and federal requirements.

E. AGENCY shall complete all personnel functions in a timely manner.

2.4 GENERAL ADMINISTRATIVE SUPPORT

2.41 The State Council on Developmental Disabilities

A. The Council shall follow State of California policies and procedures for purchase of supplies and equipment.

B. The Council shall approve and submit Council travel reimbursement requests.

C. The Council shall determine its acquisitions or other purchases according to its needs.

D. The Council shall determine its information technology services and support according to its needs.

E. The Council shall request data and/or other information as needed to complete the State Plan and state and federal reports or carry out its work.

F. The Council shall complete all general administrative functions in a timely manner.

2.42 The Designated State Agency: California Health and Human Services Agency

A. AGENCY shall route communications and information concerning State of California purchasing procedures to the Council.

B. AGENCY shall process requests for purchase of equipment and supplies deemed necessary by the Council for the operation of its office.

C. AGENCY shall process travel authorizations and reimbursement requests for the Council, as necessary.

D. AGENCY shall provide or ensure the provision of data requests and information requests necessary for the Council to carry out its work.

E. AGENCY shall complete all general administrative functions in a timely manner.

2.5 LEGAL ASSISTANCE

2.51 The State Council on Developmental Disabilities

The Council shall request consultation with legal staff through the Agency or legal staff of other State of California departments or offices, or purchase private legal counsel as needed.

2.52 The Designated State Agency: California Health and Human Services Agency

AGENCY shall allow the Council to seek legal assistance when appropriate from the Agency or legal staff of other State of California departments or offices, or purchase private legal counsel as determined necessary by the Council's Executive Committee.

3. PERFORMANCE OF RESPONSIBILITIES

AGENCY may delegate one or more of its responsibilities to a department it oversees, provided AGENCY retains authority over, and responsibility for, the department's activities in carrying out the delegated responsibility or responsibilities.

The Council may use or contract with agencies other than AGENCY to perform the functions of AGENCY provided there is agreement between the Council and AGENCY. [Sec. 125(d)(4)(B)]

4. COUNCIL AUTHORITY

Nothing in this Memorandum of Understanding limits the Council's authority to engage in activities funded using moneys other than those amounts paid to the State of California under the DD Act provided such activities are consistent with applicable federal and state law.

5. TERMINATION OR AMENDMENT OF THE MEMORANDUM OF UNDERSTANDING

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

Mike Clark
Interim Executive Director
State Council on Developmental Disabilities

Date_____

Molly Kennedy

Date_____

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Chairperson
State Council on Developmental Disabilities

Diana S. Dooley
Secretary
California Health and Human Services Agency

Date _____

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(4) **REALLOTMENT OF REDUCTIONS.**—The Secretary shall similarly reallocate the total of the reductions among the States whose proportionate amounts were not so reduced.

(5) **TREATMENT.**—Any amount reallocated to a State under this subsection for a fiscal year shall be deemed to be a part of the allotment of the State under subsection (a) for such fiscal year.

42 USC 15023.

SEC. 123. PAYMENTS TO THE STATES FOR PLANNING, ADMINISTRATION, AND SERVICES.

(a) **STATE PLAN EXPENDITURES.**—From each State's allotments for a fiscal year under section 122, the Secretary shall pay to the State the Federal share of the cost, other than the cost for construction, incurred during such year for activities carried out under the State plan approved under section 124. The Secretary shall make such payments from time to time in advance on the basis of estimates by the Secretary of the sums the State will expend for the cost under the State plan. The Secretary shall make such adjustments as may be necessary to the payments on account of previously made underpayments or overpayments under this section.

(b) **DESIGNATED STATE AGENCY EXPENDITURES.**—The Secretary may make payments to a State for the portion described in section 124(c)(5)(B)(vi) in advance or by way of reimbursement, and in such installments as the Secretary may determine.

42 USC 15024.

SEC. 124. STATE PLAN.

(a) **IN GENERAL.**—Any State desiring to receive assistance under this subtitle shall submit to the Secretary, and obtain approval of, a 5-year strategic State plan under this section.

(b) **PLANNING CYCLE.**—The plan described in subsection (a) shall be updated as appropriate during the 5-year period.

(c) **STATE PLAN REQUIREMENTS.**—In order to be approved by the Secretary under this section, a State plan shall meet each of the following requirements:

(1) **STATE COUNCIL.**—The plan shall provide for the establishment and maintenance of a Council in accordance with section 125 and describe the membership of such Council.

(2) **DESIGNATED STATE AGENCY.**—The plan shall identify the agency or office within the State designated to support the Council in accordance with this section and section 125(d) (referred to in this subtitle as a "designated State agency").

(3) **COMPREHENSIVE REVIEW AND ANALYSIS.**—The plan shall describe the results of a comprehensive review and analysis of the extent to which services, supports, and other assistance are available to individuals with developmental disabilities and their families, and the extent of unmet needs for services, supports, and other assistance for those individuals and their families, in the State. The results of the comprehensive review and analysis shall include—

(A) a description of the services, supports, and other assistance being provided to individuals with developmental disabilities and their families under other federally assisted State programs, plans, and policies under which the State operates and in which individuals with developmental disabilities are or may be eligible to participate, including particularly programs relating to the areas of emphasis, including—

(i) medical assistance, maternal and child health care, services for children with special health care needs, children's mental health services, comprehensive health and mental health services, and institutional care options;

(ii) job training, job placement, worksite accommodation, and vocational rehabilitation, and other work assistance programs; and

(iii) social, child welfare, aging, independent living, and rehabilitation and assistive technology services, and such other services as the Secretary may specify;

(B) a description of the extent to which agencies operating such other federally assisted State programs, including activities authorized under section 101 or 102 of the Assistive Technology Act of 1998 (29 U.S.C. 3011, 3012), pursue interagency initiatives to improve and enhance community services, individualized supports, and other forms of assistance for individuals with developmental disabilities;

(C) an analysis of the extent to which community services and opportunities related to the areas of emphasis directly benefit individuals with developmental disabilities, especially with regard to their ability to access and use services provided in their communities, to participate in opportunities, activities, and events offered in their communities, and to contribute to community life, identifying particularly—

(i) the degree of support for individuals with developmental disabilities that are attributable to either physical impairment, mental impairment, or a combination of physical and mental impairments;

(ii) criteria for eligibility for services, including specialized services and special adaptation of generic services provided by agencies within the State, that may exclude individuals with developmental disabilities from receiving services described in this clause;

(iii) the barriers that impede full participation of members of unserved and underserved groups of individuals with developmental disabilities and their families;

(iv) the availability of assistive technology, assistive technology services, or rehabilitation technology, or information about assistive technology, assistive technology services, or rehabilitation technology to individuals with developmental disabilities;

(v) the numbers of individuals with developmental disabilities on waiting lists for services described in this subparagraph;

(vi) a description of the adequacy of current resources and projected availability of future resources to fund services described in this subparagraph;

(vii) a description of the adequacy of health care and other services, supports, and assistance that individuals with developmental disabilities who are in facilities receive (based in part on each independent review pursuant to section 1902(a)(30)(C) of the Social

Security Act (42 U.S.C. 1396a(a)(30)(C))) of an Intermediate Care Facility (Mental Retardation) within the State, which the State shall provide to the Council not later than 30 days after the availability of the review); and

(viii) to the extent that information is available, a description of the adequacy of health care and other services, supports, and assistance that individuals with developmental disabilities who are served through home and community-based waivers (authorized under section 1915(c) of the Social Security Act (42 U.S.C. 1396n(c))) receive;

(D) a description of how entities funded under subtitles C and D, through interagency agreements or other mechanisms, collaborated with the entity funded under this subtitle in the State, each other, and other entities to contribute to the achievement of the purpose of this subtitle; and

(E) the rationale for the goals related to advocacy, capacity building, and systemic change to be undertaken by the Council to contribute to the achievement of the purpose of this subtitle.

(4) PLAN GOALS.—The plan shall focus on Council efforts to bring about the purpose of this subtitle, by—

(A) specifying 5-year goals, as developed through data driven strategic planning, for advocacy, capacity building, and systemic change related to the areas of emphasis, to be undertaken by the Council, that—

(i) are derived from the unmet needs of individuals with developmental disabilities and their families identified under paragraph (3); and

(ii) include a goal, for each year of the grant, to—

(I) establish or strengthen a program for the direct funding of a State self-advocacy organization led by individuals with developmental disabilities;

(II) support opportunities for individuals with developmental disabilities who are considered leaders to provide leadership training to individuals with developmental disabilities who may become leaders; and

(III) support and expand participation of individuals with developmental disabilities in cross-disability and culturally diverse leadership coalitions; and

(B) for each year of the grant, describing—

(i) the goals to be achieved through the grant, which, beginning in fiscal year 2002, shall be consistent with applicable indicators of progress described in section 104(a)(3);

(ii) the strategies to be used in achieving each goal; and

(iii) the method to be used to determine if each goal has been achieved.

(5) ASSURANCES.—

(A) IN GENERAL.—The plan shall contain or be supported by assurances and information described in subparagraphs (B) through (N) that are satisfactory to the Secretary.

(B) USE OF FUNDS.—With respect to the funds paid to the State under section 122, the plan shall provide assurances that—

(i) not less than 70 percent of such funds will be expended for activities related to the goals described in paragraph (4);

(ii) such funds will contribute to the achievement of the purpose of this subtitle in various political subdivisions of the State;

(iii) such funds will be used to supplement, and not supplant, the non-Federal funds that would otherwise be made available for the purposes for which the funds paid under section 122 are provided;

(iv) such funds will be used to complement and augment rather than duplicate or replace services for individuals with developmental disabilities and their families who are eligible for Federal assistance under other State programs;

(v) part of such funds will be made available by the State to public or private entities;

(vi) at the request of any State, a portion of such funds provided to such State under this subtitle for any fiscal year shall be available to pay up to $\frac{1}{2}$ (or the entire amount if the Council is the designated State agency) of the expenditures found to be necessary by the Secretary for the proper and efficient exercise of the functions of the designated State agency, except that not more than 5 percent of such funds provided to such State for any fiscal year, or \$50,000, whichever is less, shall be made available for total expenditures for such purpose by the designated State agency; and

(vii) not more than 20 percent of such funds will be allocated to the designated State agency for service demonstrations by such agency that—

(I) contribute to the achievement of the purpose of this subtitle; and

(II) are explicitly authorized by the Council.

(C) STATE FINANCIAL PARTICIPATION.—The plan shall provide assurances that there will be reasonable State financial participation in the cost of carrying out the plan.

(D) CONFLICT OF INTEREST.—The plan shall provide an assurance that no member of such Council will cast a vote on any matter that would provide direct financial benefit to the member or otherwise give the appearance of a conflict of interest.

(E) URBAN AND RURAL POVERTY AREAS.—The plan shall provide assurances that special financial and technical assistance will be given to organizations that provide community services, individualized supports, and other forms of assistance to individuals with developmental disabilities who live in areas designated as urban or rural poverty areas.

(F) PROGRAM ACCESSIBILITY STANDARDS.—The plan shall provide assurances that programs, projects, and activities funded under the plan, and the buildings in which such programs, projects, and activities are operated, will meet standards prescribed by the Secretary in regulations and all applicable Federal and State accessibility standards, including accessibility requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d), and the Fair Housing Act (42 U.S.C. 3601 et seq.).

(G) INDIVIDUALIZED SERVICES.—The plan shall provide assurances that any direct services provided to individuals with developmental disabilities and funded under the plan will be provided in an individualized manner, consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities of such individual.

(H) HUMAN RIGHTS.—The plan shall provide assurances that the human rights of the individuals with developmental disabilities (especially individuals without familial protection) who are receiving services under programs assisted under this subtitle will be protected consistent with section 109 (relating to rights of individuals with developmental disabilities).

(I) MINORITY PARTICIPATION.—The plan shall provide assurances that the State has taken affirmative steps to assure that participation in programs funded under this subtitle is geographically representative of the State, and reflects the diversity of the State with respect to race and ethnicity.

(J) EMPLOYEE PROTECTIONS.—The plan shall provide assurances that fair and equitable arrangements (as determined by the Secretary after consultation with the Secretary of Labor) will be provided to protect the interests of employees affected by actions taken under the plan to provide community living activities, including arrangements designed to preserve employee rights and benefits and provide training and retraining of such employees where necessary, and arrangements under which maximum efforts will be made to guarantee the employment of such employees.

(K) STAFF ASSIGNMENTS.—The plan shall provide assurances that the staff and other personnel of the Council, while working for the Council, will be responsible solely for assisting the Council in carrying out the duties of the Council under this subtitle and will not be assigned duties by the designated State agency, or any other agency, office, or entity of the State.

(L) NONINTERFERENCE.—The plan shall provide assurances that the designated State agency, and any other agency, office, or entity of the State, will not interfere with the advocacy, capacity building, and systemic change activities, budget, personnel, State plan development, or plan implementation of the Council, except that the designated State agency shall have the authority necessary to carry out the responsibilities described in section 125(d)(3).

(M) STATE QUALITY ASSURANCE.—The plan shall provide assurances that the Council will participate in the planning, design or redesign, and monitoring of State quality assurance systems that affect individuals with developmental disabilities.

(N) OTHER ASSURANCES.—The plan shall contain such additional information and assurances as the Secretary may find necessary to carry out the provisions (including the purpose) of this subtitle.

(d) PUBLIC INPUT AND REVIEW, SUBMISSION, AND APPROVAL.—

(1) PUBLIC INPUT AND REVIEW.—The plan shall be based on public input. The Council shall make the plan available for public review and comment, after providing appropriate and sufficient notice in accessible formats of the opportunity for such review and comment. The Council shall revise the plan to take into account and respond to significant comments.

(2) CONSULTATION WITH THE DESIGNATED STATE AGENCY.—Before the plan is submitted to the Secretary, the Council shall consult with the designated State agency to ensure that the State plan is consistent with State law and to obtain appropriate State plan assurances.

(3) PLAN APPROVAL.—The Secretary shall approve any State plan and, as appropriate, amendments of such plan that comply with the provisions of subsections (a), (b), and (c) and this subsection. The Secretary may take final action to disapprove a State plan after providing reasonable notice and an opportunity for a hearing to the State.

SEC. 125. STATE COUNCILS ON DEVELOPMENTAL DISABILITIES AND DESIGNATED STATE AGENCIES. 42 USC 15025.

(a) IN GENERAL.—Each State that receives assistance under this subtitle shall establish and maintain a Council to undertake advocacy, capacity building, and systemic change activities (consistent with subsections (b) and (c) of section 101) that contribute to a coordinated, consumer- and family-centered, consumer- and family-directed, comprehensive system of community services, individualized supports, and other forms of assistance that contribute to the achievement of the purpose of this subtitle. The Council shall have the authority to fulfill the responsibilities described in subsection (c).

(b) COUNCIL MEMBERSHIP.—

(1) COUNCIL APPOINTMENTS.—

(A) IN GENERAL.—The members of the Council of a State shall be appointed by the Governor of the State from among the residents of that State.

(B) RECOMMENDATIONS.—The Governor shall select members of the Council, at the discretion of the Governor, after soliciting recommendations from organizations representing a broad range of individuals with developmental disabilities and individuals interested in individuals with developmental disabilities, including the non-State agency members of the Council. The Council may, at the initiative of the Council, or on the request of the Governor, coordinate Council and public input to the Governor regarding all recommendations.

(C) REPRESENTATION.—The membership of the Council shall be geographically representative of the State and

reflect the diversity of the State with respect to race and ethnicity.

(2) MEMBERSHIP ROTATION.—The Governor shall make appropriate provisions to rotate the membership of the Council. Such provisions shall allow members to continue to serve on the Council until such members' successors are appointed. The Council shall notify the Governor regarding membership requirements of the Council, and shall notify the Governor when vacancies on the Council remain unfilled for a significant period of time.

(3) REPRESENTATION OF INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES.—Not less than 60 percent of the membership of each Council shall consist of individuals who are—

- (A)(i) individuals with developmental disabilities;
- (ii) parents or guardians of children with developmental disabilities; or
- (iii) immediate relatives or guardians of adults with mentally impairing developmental disabilities who cannot advocate for themselves; and

(B) not employees of a State agency that receives funds or provides services under this subtitle, and who are not managing employees (as defined in section 1126(b) of the Social Security Act (42 U.S.C. 1320a-5(b)) of any other entity that receives funds or provides services under this subtitle.

(4) REPRESENTATION OF AGENCIES AND ORGANIZATIONS.—

(A) IN GENERAL.—Each Council shall include—

(i) representatives of relevant State entities, including—

(I) State entities that administer funds provided under Federal laws related to individuals with disabilities, including the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.), and titles V and XIX of the Social Security Act (42 U.S.C. 701 et seq. and 1396 et seq.);

(II) Centers in the State; and

(III) the State protection and advocacy system;

and

(ii) representatives, at all times, of local and non-governmental agencies, and private nonprofit groups concerned with services for individuals with developmental disabilities in the State in which such agencies and groups are located.

(B) AUTHORITY AND LIMITATIONS.—The representatives described in subparagraph (A) shall—

(i) have sufficient authority to engage in policy planning and implementation on behalf of the department, agency, or program such representatives represent; and

(ii) recuse themselves from any discussion of grants or contracts for which such representatives' departments, agencies, or programs are grantees, contractors, or applicants and comply with the conflict

of interest assurance requirement under section 124(c)(5)(D).

(5) COMPOSITION OF MEMBERSHIP WITH DEVELOPMENTAL DISABILITIES.—Of the members of the Council described in paragraph (3)—

(A) $\frac{1}{3}$ shall be individuals with developmental disabilities described in paragraph (3)(A)(i);

(B) $\frac{1}{3}$ shall be parents or guardians of children with developmental disabilities described in paragraph (3)(A)(ii), or immediate relatives or guardians of adults with developmental disabilities described in paragraph (3)(A)(iii); and

(C) $\frac{1}{3}$ shall be a combination of individuals described in paragraph (3)(A).

(6) INSTITUTIONALIZED INDIVIDUALS.—

(A) IN GENERAL.—Of the members of the Council described in paragraph (5), at least 1 shall be an immediate relative or guardian of an individual with a developmental disability who resides or previously resided in an institution or shall be an individual with a developmental disability who resides or previously resided in an institution.

(B) LIMITATION.—Subparagraph (A) shall not apply with respect to a State if such an individual does not reside in that State.

(c) COUNCIL RESPONSIBILITIES.—

(1) IN GENERAL.—A Council, through Council members, staff, consultants, contractors, or subgrantees, shall have the responsibilities described in paragraphs (2) through (10).

(2) ADVOCACY, CAPACITY BUILDING, AND SYSTEMIC CHANGE ACTIVITIES.—The Council shall serve as an advocate for individuals with developmental disabilities and conduct or support programs, projects, and activities that carry out the purpose of this subtitle.

(3) EXAMINATION OF GOALS.—At the end of each grant year, each Council shall—

(A) determine the extent to which each goal of the Council was achieved for that year;

(B) determine to the extent that each goal was not achieved, the factors that impeded the achievement;

(C) determine needs that require amendment of the 5-year strategic State plan required under section 124;

(D) separately determine the information on the self-advocacy goal described in section 124(c)(4)(A)(ii); and

(E) determine customer satisfaction with Council supported or conducted activities.

(4) STATE PLAN DEVELOPMENT.—The Council shall develop the State plan and submit the State plan to the Secretary after consultation with the designated State agency under the State plan. Such consultation shall be solely for the purposes of obtaining State assurances and ensuring consistency of the plan with State law.

(5) STATE PLAN IMPLEMENTATION.—

(A) IN GENERAL.—The Council shall implement the State plan by conducting and supporting advocacy, capacity building, and systemic change activities such as those described in subparagraphs (B) through (L).

(B) OUTREACH.—The Council may support and conduct outreach activities to identify individuals with developmental disabilities and their families who otherwise might not come to the attention of the Council and assist and enable the individuals and families to obtain services, individualized supports, and other forms of assistance, including access to special adaptation of generic community services or specialized services.

(C) TRAINING.—The Council may support and conduct training for persons who are individuals with developmental disabilities, their families, and personnel (including professionals, paraprofessionals, students, volunteers, and other community members) to enable such persons to obtain access to, or to provide, community services, individualized supports, and other forms of assistance, including special adaptation of generic community services or specialized services for individuals with developmental disabilities and their families. To the extent that the Council supports or conducts training activities under this subparagraph, such activities shall contribute to the achievement of the purpose of this subtitle.

(D) TECHNICAL ASSISTANCE.—The Council may support and conduct technical assistance activities to assist public and private entities to contribute to the achievement of the purpose of this subtitle.

(E) SUPPORTING AND EDUCATING COMMUNITIES.—The Council may support and conduct activities to assist neighborhoods and communities to respond positively to individuals with developmental disabilities and their families—

- (i) by encouraging local networks to provide informal and formal supports;
- (ii) through education; and
- (iii) by enabling neighborhoods and communities to offer such individuals and their families access to and use of services, resources, and opportunities.

(F) INTERAGENCY COLLABORATION AND COORDINATION.—The Council may support and conduct activities to promote interagency collaboration and coordination to better serve, support, assist, or advocate for individuals with developmental disabilities and their families.

(G) COORDINATION WITH RELATED COUNCILS, COMMITTEES, AND PROGRAMS.—The Council may support and conduct activities to enhance coordination of services with—

- (i) other councils, entities, or committees, authorized by Federal or State law, concerning individuals with disabilities (such as the State interagency coordinating council established under subtitle C of the Individuals with Disabilities Education Act (20 U.S.C. 1431 et seq.), the State Rehabilitation Council and the Statewide Independent Living Council established under the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), the State mental health planning council established under subtitle B of title XIX of the Public Health Service Act (42 U.S.C. 300x-1 et seq.), and the activities authorized under section 101 or 102 of the Assistive Technology Act of 1998 (29 U.S.C. 3011,

3012), and entities carrying out other similar councils, entities, or committees);

(ii) parent training and information centers under part D of the Individuals with Disabilities Education Act (20 U.S.C. 1451 et seq.) and other entities carrying out federally funded projects that assist parents of children with disabilities; and

(iii) other groups interested in advocacy, capacity building, and systemic change activities to benefit individuals with disabilities.

(H) BARRIER ELIMINATION, SYSTEMS DESIGN AND REDESIGN.—The Council may support and conduct activities to eliminate barriers to access and use of community services by individuals with developmental disabilities, enhance systems design and redesign, and enhance citizen participation to address issues identified in the State plan.

(I) COALITION DEVELOPMENT AND CITIZEN PARTICIPATION.—The Council may support and conduct activities to educate the public about the capabilities, preferences, and needs of individuals with developmental disabilities and their families and to develop and support coalitions that support the policy agenda of the Council, including training in self-advocacy, education of policymakers, and citizen leadership skills.

(J) INFORMING POLICYMAKERS.—The Council may support and conduct activities to provide information to policymakers by supporting and conducting studies and analyses, gathering information, and developing and disseminating model policies and procedures, information, approaches, strategies, findings, conclusions, and recommendations. The Council may provide the information directly to Federal, State, and local policymakers, including Congress, the Federal executive branch, the Governors, State legislatures, and State agencies, in order to increase the ability of such policymakers to offer opportunities and to enhance or adapt generic services to meet the needs of, or provide specialized services to, individuals with developmental disabilities and their families.

(K) DEMONSTRATION OF NEW APPROACHES TO SERVICES AND SUPPORTS.—

(i) IN GENERAL.—The Council may support and conduct, on a time-limited basis, activities to demonstrate new approaches to serving individuals with developmental disabilities that are a part of an overall strategy for systemic change. The strategy may involve the education of policymakers and the public about how to deliver effectively, to individuals with developmental disabilities and their families, services, supports, and assistance that contribute to the achievement of the purpose of this subtitle.

(ii) SOURCES OF FUNDING.—The Council may carry out this subparagraph by supporting and conducting demonstration activities through sources of funding other than funding provided under this subtitle, and by assisting entities conducting demonstration activities to develop strategies for securing funding from other sources.

(L) OTHER ACTIVITIES.—The Council may support and conduct other advocacy, capacity building, and systemic change activities to promote the development of a coordinated, consumer- and family-centered, consumer- and family-directed, comprehensive system of community services, individualized supports, and other forms of assistance that contribute to the achievement of the purpose of this subtitle.

(6) REVIEW OF DESIGNATED STATE AGENCY.—The Council shall periodically review the designated State agency and activities carried out under this subtitle by the designated State agency and make any recommendations for change to the Governor.

(7) REPORTS.—Beginning in fiscal year 2002, the Council shall annually prepare and transmit to the Secretary a report. Each report shall be in a form prescribed by the Secretary by regulation under section 104(b). Each report shall contain information about the progress made by the Council in achieving the goals of the Council (as specified in section 124(c)(4)), including—

(A) a description of the extent to which the goals were achieved;

(B) a description of the strategies that contributed to achieving the goals;

(C) to the extent to which the goals were not achieved, a description of factors that impeded the achievement;

(D) separate information on the self-advocacy goal described in section 124(c)(4)(A)(ii);

(E)(i) as appropriate, an update on the results of the comprehensive review and analysis described in section 124(c)(3); and

(ii) information on consumer satisfaction with Council supported or conducted activities;

(F)(i) a description of the adequacy of health care and other services, supports, and assistance that individuals with developmental disabilities in Intermediate Care Facilities (Mental Retardation) receive; and

(ii) a description of the adequacy of health care and other services, supports, and assistance that individuals with developmental disabilities served through home and community-based waivers (authorized under section 1915(c) of the Social Security Act (42 U.S.C. 1396n(c)) receive;

(G) an accounting of the manner in which funds paid to the State under this subtitle for a fiscal year were expended;

(H) a description of—

(i) resources made available to carry out activities to assist individuals with developmental disabilities that are directly attributable to Council actions; and

(ii) resources made available for such activities that are undertaken by the Council in collaboration with other entities; and

(I) a description of the method by which the Council will widely disseminate the annual report to affected constituencies and the general public and will assure that the report is available in accessible formats.

(8) BUDGET.—Each Council shall prepare, approve, and implement a budget using amounts paid to the State under this subtitle to fund and implement all programs, projects, and activities carried out under this subtitle, including—

(A)(i) conducting such hearings and forums as the Council may determine to be necessary to carry out the duties of the Council; and

(ii) as determined in Council policy—

(I) reimbursing members of the Council for reasonable and necessary expenses (including expenses for child care and personal assistance services) for attending Council meetings and performing Council duties;

(II) paying a stipend to a member of the Council, if such member is not employed or must forfeit wages from other employment, to attend Council meetings and perform other Council duties;

(III) supporting Council member and staff travel to authorized training and technical assistance activities including in-service training and leadership development activities; and

(IV) carrying out appropriate subcontracting activities;

(B) hiring and maintaining such numbers and types of staff (qualified by training and experience) and obtaining the services of such professional, consulting, technical, and clerical staff (qualified by training and experience), consistent with State law, as the Council determines to be necessary to carry out the functions of the Council under this subtitle, except that such State shall not apply hiring freezes, reductions in force, prohibitions on travel, or other policies to the staff of the Council, to the extent that such policies would impact the staff or functions funded with Federal funds, or would prevent the Council from carrying out the functions of the Council under this subtitle; and

(C) directing the expenditure of funds for grants, contracts, interagency agreements that are binding contracts, and other activities authorized by the State plan approved under section 124.

(9) STAFF HIRING AND SUPERVISION.—The Council shall, consistent with State law, recruit and hire a Director of the Council, should the position of Director become vacant, and supervise and annually evaluate the Director. The Director shall hire, supervise, and annually evaluate the staff of the Council. Council recruitment, hiring, and dismissal of staff shall be conducted in a manner consistent with Federal and State nondiscrimination laws. Dismissal of personnel shall be conducted in a manner consistent with State law and personnel policies.

(10) STAFF ASSIGNMENTS.—The staff of the Council, while working for the Council, shall be responsible solely for assisting the Council in carrying out the duties of the Council under this subtitle and shall not be assigned duties by the designated State agency or any other agency or entity of the State.

(11) CONSTRUCTION.—Nothing in this title shall be construed to authorize a Council to direct, control, or exercise

any policymaking authority or administrative authority over any program assisted under the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.) or the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

(d) DESIGNATED STATE AGENCY.—

(1) IN GENERAL.—Each State that receives assistance under this subtitle shall designate a State agency that shall, on behalf of the State, provide support to the Council. After the date of enactment of the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1994 (Public Law 103-230), any designation of a State agency under this paragraph shall be made in accordance with the requirements of this subsection.

(2) DESIGNATION.—

(A) TYPE OF AGENCY.—Except as provided in this subsection, the designated State agency shall be—

(i) the Council if such Council may be the designated State agency under the laws of the State;

(ii) a State agency that does not provide or pay for services for individuals with developmental disabilities; or

(iii) a State office, including the immediate office of the Governor of the State or a State planning office.

(B) CONDITIONS FOR CONTINUATION OF STATE SERVICE AGENCY DESIGNATION.—

(i) DESIGNATION BEFORE ENACTMENT.—If a State agency that provides or pays for services for individuals with developmental disabilities was a designated State agency for purposes of part B of the Developmental Disabilities Assistance and Bill of Rights Act on the date of enactment of the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1994, and the Governor of the State (or the legislature, where appropriate and in accordance with State law) determines prior to June 30, 1994, not to change the designation of such agency, such agency may continue to be a designated State agency for purposes of this subtitle.

(ii) CRITERIA FOR CONTINUED DESIGNATION.—The determination, at the discretion of the Governor (or the legislature, as the case may be), shall be made after—

(I) the Governor has considered the comments and recommendations of the general public and a majority of the non-State agency members of the Council with respect to the designation of such State agency; and

(II) the Governor (or the legislature, as the case may be) has made an independent assessment that the designation of such agency will not interfere with the budget, personnel, priorities, or other action of the Council, and the ability of the Council to serve as an independent advocate for individuals with developmental disabilities.

(C) REVIEW OF DESIGNATION.—The Council may request a review of and change in the designation of the designated State agency by the Governor (or the legislature, as the case may be). The Council shall provide documentation

concerning the reason the Council desires a change to be made and make a recommendation to the Governor (or the legislature, as the case may be) regarding a preferred designated State agency.

(D) APPEAL OF DESIGNATION.—After the review is completed under subparagraph (C), a majority of the non-State agency members of the Council may appeal to the Secretary for a review of and change in the designation of the designated State agency if the ability of the Council to serve as an independent advocate is not assured because of the actions or inactions of the designated State agency.

(3) RESPONSIBILITIES.—

(A) IN GENERAL.—The designated State agency shall, on behalf of the State, have the responsibilities described in subparagraphs (B) through (G).

(B) SUPPORT SERVICES.—The designated State agency shall provide required assurances and support services as requested by and negotiated with the Council.

(C) FISCAL RESPONSIBILITIES.—The designated State agency shall—

(i) receive, account for, and disburse funds under this subtitle based on the State plan required in section 124; and

(ii) provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of, and accounting for, funds paid to the State under this subtitle.

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

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

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

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

(4) USE OF FUNDS FOR DESIGNATED STATE AGENCY RESPONSIBILITIES.—

(A) CONDITION FOR FEDERAL FUNDING.—

(i) IN GENERAL.—The Secretary shall provide amounts to a State under section 124(c)(5)(B)(vi) for a fiscal year only if the State expends an amount from State sources for carrying out the responsibilities of the designated State agency under paragraph (3)

for the fiscal year that is not less than the total amount the State expended from such sources for carrying out similar responsibilities for the previous fiscal year.

(ii) EXCEPTION.—Clause (i) shall not apply in a year in which the Council is the designated State agency.

(B) SUPPORT SERVICES PROVIDED BY OTHER AGENCIES.—With the agreement of the designated State agency, the Council may use or contract with agencies other than the designated State agency to perform the functions of the designated State agency.

42 USC 15026.

SEC. 126. FEDERAL AND NON-FEDERAL SHARE.**(a) AGGREGATE COST.—**

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Federal share of the cost of all projects in a State supported by an allotment to the State under this subtitle may not be more than 75 percent of the aggregate necessary cost of such projects, as determined by the Secretary.

(2) URBAN OR RURAL POVERTY AREAS.—In the case of projects whose activities or products target individuals with developmental disabilities who live in urban or rural poverty areas, as determined by the Secretary, the Federal share of the cost of all such projects may not be more than 90 percent of the aggregate necessary cost of such projects, as determined by the Secretary.

(3) STATE PLAN ACTIVITIES.—In the case of projects undertaken by the Council or Council staff to implement State plan activities, the Federal share of the cost of all such projects may be not more than 100 percent of the aggregate necessary cost of such activities.

(b) NONDUPLICATION.—In determining the amount of any State's Federal share of the cost of such projects incurred by such State under a State plan approved under section 124, the Secretary shall not consider—

(1) any portion of such cost that is financed by Federal funds provided under any provision of law other than section 122; and

(2) the amount of any non-Federal funds required to be expended as a condition of receipt of the Federal funds described in paragraph (1).

(c) NON-FEDERAL SHARE.—

(1) IN-KIND CONTRIBUTIONS.—The non-Federal share of the cost of any project supported by an allotment under this subtitle may be provided in cash or in kind, fairly evaluated, including plant, equipment, or services.

(2) CONTRIBUTIONS OF POLITICAL SUBDIVISIONS AND PUBLIC OR PRIVATE ENTITIES.—

(A) IN GENERAL.—Contributions to projects by a political subdivision of a State or by a public or private entity under an agreement with the State shall, subject to such limitations and conditions as the Secretary may by regulation prescribe under section 104(b), be considered to be contributions by such State, in the case of a project supported under this subtitle.

(B) STATE CONTRIBUTIONS.—State contributions, including contributions by the designated State agency to

provide support services to the Council pursuant to section 125(d)(4), may be counted as part of such State's non-Federal share of the cost of projects supported under this subtitle.

(3) VARIATIONS OF THE NON-FEDERAL SHARE.—The non-Federal share required of each recipient of a grant from a Council under this subtitle may vary.

SEC. 127. WITHHOLDING OF PAYMENTS FOR PLANNING, ADMINISTRATION, AND SERVICES. 42 USC 15027.

Whenever the Secretary, after providing reasonable notice and an opportunity for a hearing to the Council and the designated State agency, finds that—

(1) the Council or agency has failed to comply substantially with any of the provisions required by section 124 to be included in the State plan, particularly provisions required by paragraphs (4)(A) and (5)(B)(vii) of section 124(c), or with any of the provisions required by section 125(b)(3); or

(2) the Council or agency has failed to comply substantially with any regulations of the Secretary that are applicable to this subtitle,

the Secretary shall notify such Council and agency that the Secretary will not make further payments to the State under section 122 (or, in the discretion of the Secretary, that further payments to the State under section 122 for activities for which there is such failure), until the Secretary is satisfied that there will no longer be such failure. Until the Secretary is so satisfied, the Secretary shall make no further payments to the State under section 122, or shall limit further payments under section 122 to such State to activities for which there is no such failure.

SEC. 128. APPEALS BY STATES. 42 USC 15028.

(a) APPEAL.—If any State is dissatisfied with the Secretary's action under section 124(d)(3) or 127, such State may appeal to the United States court of appeals for the circuit in which such State is located, by filing a petition with such court not later than 60 days after such action.

(b) FILING.—The clerk of the court shall transmit promptly a copy of the petition to the Secretary, or any officer designated by the Secretary for that purpose. The Secretary shall file promptly with the court the record of the proceedings on which the Secretary based the action, as provided in section 2112 of title 28, United States Code.

(c) JURISDICTION.—Upon the filing of the petition, the court shall have jurisdiction to affirm the action of the Secretary or to set the action aside, in whole or in part, temporarily or permanently. Until the filing of the record, the Secretary may modify or set aside the order of the Secretary relating to the action.

(d) FINDINGS AND REMAND.—The findings of the Secretary about the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case involved to the Secretary for further proceedings to take further evidence. On remand, the Secretary may make new or modified findings of fact and may modify the previous action of the Secretary, and shall file with the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

An Open Letter to our Elected State Officials:

Tierra del Sol is representative of the vast majority of California's day programs serving adults with developmental disabilities. We were founded in 1971 as one of the nonprofit organizations that California depended upon as an alternative to State institutional care for people with moderate to severe developmental disabilities. Many of our elderly clients were among that first wave of people to be deinstitutionalized as a result of the creation of the community based service system. Over the years we have continued to receive consumers exiting developmental centers and, to a far greater extent now, consumers who have been diverted from State institutional care because community programs exist as alternatives.

California, through its Regional Centers and Tierra have worked together over a thirty-five year period to create new programs and to modify others to meet the needs of people coming to us from Developmental Centers before, during and after the Coffelt De-institutionalization Court Settlement initiative. The local Regional Centers approved two Behavioral Day programs to serve persons with severe behavior disorders including self-abuse and violent-injurious behavior toward others. We also partnered to create smaller and more focused (look alike) programs to meet the unique needs of some individuals with very severe behavioral/psychiatric disorders and others whose physical and medical conditions prevented them from leaving their homes to attend treatment and training programs. More recently we have partnered with Regional Centers to create opportunities for people to succeed in real, wage paying and SSI reducing employment and even to succeed in community college education.

In 1999/2000 DDS published a comparison between the diagnostic characteristics of Developmental Center residents and consumers being served in community based day programs and residential care. The data demonstrated that the vast majority of even our most profoundly disabled consumers were now being served in community settings. The bottom line is that California is succeeding in responsibly deinstitutionalizing its citizens with profound developmental disabilities.

The value of this process is evident in the lives of the people we serve **and** by visiting our newest State University, CSUCI, that stands on the grounds of the now closed Camarillo Developmental Center. This represents a far higher and better use of this valuable State property to be sure. The ability of local Regional Centers and local provider organizations to create services that not only meet or exceed the health and safety record of State institutional care but also transform wasted lives into valued lives remains one of California's proudest public policy accomplishments.

But our success has been in establishing a far more cost effective and humane system of care – **not in finding cures for the genetic and neurological bases of the disabling conditions.** Regional Centers and program providers have collaborated to develop a coherent set of service and support models that can meet the lifelong needs of people whose cognitive disabilities leave them with little or no self help or safety

awareness capacities, people who are dually challenged by active psychiatric disorders as well mental retardation, as well as people with the most profound of medical and physical disabilities.

In each and every one of these collaborations the Regional Center negotiated rates far below what open market conditions warranted and below what we believed we needed to provide the service to the our own quality assurance standards. As a nonprofit organization, our Board, including parents, knew that we would need to raise money privately to subsidize these State funded rates.

But, just exactly like a bridge over the Mississippi or a levy, without maintenance structures and systems erode and ultimately fail catastrophically. In 1999/2000 the Department of Developmental Services published a record of rate adjustments for community services over a ten-year period as compared to the CPI. That matrix has been up-dated by the CDSA through 2007. The document demonstrates that rates have lost nearly 50% of their ability to pay wages, health care and workers compensation, rents, insurances and every category of essential expense. The distance between unavoidable costs and rates of reimbursement has grown far beyond our ability to span with fundraising and economizing. Wages can not shrink below their near minimum wage current level and revenues from fundraising dinners are diminishing.

Regrettably, Tierra is once again a good barometer of the impact of current State policy. The real and indisputable effect of frozen rates and cost control measures is our recent decisions to begin closing programs that were highly regarded and considered necessary by the regional center and the consumers they served. In 2006 Tierra recognized that we could no longer raise sufficient funds to subsidize the rates paid for our Tierra West Behavior Management Day Program. This meant we could not pay the current lease cost of our facility and we could not pay sufficient wage levels to attract qualified staff. We took the unprecedented risk management decision to close this program rather than look for a degrading building in an unsafe neighborhood that we would staff with unqualified and over-matched workers. For us the looming catastrophic failure of the underfunded program was clear and present: eventually a consumer or consumers would be injured, abused or neglected.

Recently the same risk management analysis concluded that our Supported Living Service was on the same trajectory. While we still met the Regional Center's minimum standards and those of our consumers and families – we did not meet our own standards for quality assurance, supervision and management. Eventually a medication error, staff absence or error in judgment would lead to a client illness, injury or worse. Given our inability to provide sufficient management oversight we knew that a catastrophic client tragedy was inevitable. Again, we knew that what we needed to do to resolve the shortcoming would require a modest increase in funding – the kind of minimal incremental adjustments that regional centers could facilitate prior to State mandated controls and freezes. Three months ago we notified the consumers, their families and the Regional Center that we were withdrawing from Supported Living.

Risk Management and contraction driven by economic survival has replaced service development as the principle driver of our decision-making. There are at least 3 other very crucial services currently under this same scrutiny.

Because Tierra is associated with nearly every other community service provider in California we know that we are representative of this change. We have been active and supportive partners with Regional Centers in creating the State's community based alternatives to institutional care. Since the institutions are now gone, we are not clear what the de-construction of this system means to the people who are now dependent upon it for their care and safety. We have the vision of the mental health system and its dependence upon homeless shelters and prison mental health care. Our fear is that our consumers will be even less safe in these environments than people living with mental illness.

Respectfully Submitted

Steve Miller
818 352-1419 SMiller@tierradelsol.org

Designing SCDD Future



The SCDD Council Leadership and Executive Management Team are currently developing a roadmap that will lead the organization in advocacy, systems change, and capacity building. We are seeking input from committee members to assist with this process by requesting input on the following for questions:

1. Please write down three recent Council accomplishments.
2. How can the Council establish itself as a model leader in California and throughout the Nation?
3. What uniqueness can the Council bring to improving the California Developmental Disabilities System?
4. How does the Council want to improve and impact the lives of people with disabilities and their family in the next 10 years?

State Council on Developmental Disabilities

DRAFT REVISIONS
(Version: September 8, 2014)
AB 1595 and Other Changes
For November Council Approval



BY-LAWS

Adopted by Council: May 29, 2014

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CALIFORNIA STATE COUNCIL ON DEVELOPMENTAL DISABILITIES BY-LAWS

ARTICLE I. NAME & DEFINITIONS

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

ARTICLE II. RESPONSIBILITIES

The responsibilities of the State Council on Developmental Disabilities are set forth in 42 United States Code Section 15001 et. seq. ("DD Act") and Sections 4433.5, 4520 et. seq., and 4868 of the California Welfare and Institutions Code.

ARTICLE III. PRINCIPAL OFFICE

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

ARTICLE IV. AREA OF SERVICE

The area of service shall be the State of California.

ARTICLE V. MEMBERSHIP

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

SECTION 1. Appointments:

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

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

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- ~~(b) Eleven (11) members of the Council shall include: directors or members, as appropriate, of State departments or agencies or of local agencies as prescribed in state and federal laws. These persons are referred to as agency representatives in these By-laws and shall include a representative of a non-governmental agency or group concerned with the provision of services to persons with developmental disabilities, the Executive Director of Disability Rights California, and three (3) members appointed to represent the three California University Centers for Excellence (UCE) programs funded by the Administration on Developmental Disabilities.~~
- (be) Pursuant to Section 4521(d), prior to appointing the thirty-one (31) members, the Governor shall request and consider recommendations from organizations representing or providing services, or both, to persons with developmental disabilities and shall take into account socioeconomic, ethnic, and geographic considerations of the state. The Council may, ~~at the request of the Governor,~~ coordinate Council and public input to the extent feasible to the Governor regarding recommendations for membership.
- (c) In accordance with Section 125(b) of the DD Act, the Council will work through its Membership Committee and with the Governor and concerned organizations to ensure that:
 - (1) Recommendations for appointments to the Council are solicited from organizations representing a broad range of individuals with developmental disabilities and individuals interested in individuals with developmental disabilities, including the non-State agency members of the Council;
 - (2) Membership of the Council shall be geographically representative of the State and reflect the diversity of the State with respect to race and ethnicity;
 - (3) Membership of the Council is rotated, except that members may serve until members' successors are appointed; and
 - (4) The Council will notify the Governor regarding membership requirements of the Council and when vacancies of the Council remain unfilled for a significant period of time.

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SECTION 2. Term of Office:

The term of office on the State Council shall be in accordance with state law. As specified in Section 4521(d) of the Welfare and Institutions Code, the term of each self or family advocate member and representative of a non-governmental organization shall be for three years, with the term beginning on the date of appointment to the first term. These members may serve no more than two terms. In no event shall any self or family advocate member serve for more than a total of six years. A member may continue to serve following the expiration of his or her term until the Governor appoints that member's successor.

SECTION 3. Conflict of Interest:

Pursuant to California Welfare and Institutions Code Section 4525, the Council's approved Conflict of Interest Policy, is incorporated by reference into these By-laws. Each member must recuse himself or herself from discussion and votes on any matter that would provide direct financial benefit to the member or otherwise give the appearance of a conflict of interest and as required by Section 125(b)(4)(B)(ii) of the DD Act. In addition, each member is responsible for

complying with all state conflict of interest rules, including rules of Government Code Sections 87100 et seq. and 1090 et seq.

SECTION 4. Vacancies:

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

- (a) The death of the member.
- (b) An adjudication pursuant to a legal proceeding declaring that the member is physically or mentally incapacitated due to disease, illness, accident, or other condition and there is reasonable cause to believe that the member will not be able to perform the duties of office for the remainder of his/her term.
- (c) The member's resignation.
- (d) The member's removal from office.
- (e) The member's ceasing to be a legal resident of the state or the area the member was appointed to represent.
- (f) The member's absence from the state without the permission required by law beyond the period allowed by law.
- (g) The member's ceasing to discharge the duties of his/her office for the period of three consecutive meetings, except when prevented by sickness, or when absent from the state with the permission required by law. After three (3) consecutive unexcused absences, a member shall be considered as having ceased to discharge the duties of Council membership. An unexcused absence is an absence of a member when previous notice of absence has not been given to the Council Chair or Committee Chair and to the Executive Director by telephone, email, or mail.
- (h) The member's conviction of a felony or any offense involving a violation of his/her official duties. A member shall be deemed to have been convicted under this section when trial court judgment is entered.
- (i) The member's refusal or neglect to file his/her required oath, ~~or declaration statement of conflict of economic interests, or other required filings~~ within the time prescribed after being provided notice of non-compliance and a reasonable time to comply.
- (j) The decision of a competent tribunal declaring void the member's election or appointment.
- (k) The making of a vacating order or declaration of vacancy.
- (l) The member assumes a position or responsibility that violates the Council's conflict of interest policy.

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

SECTION 5. Resignations:

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

SECTION 6. Compensation and Expenses:

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

ARTICLE VI. MEETINGS

SECTION 1. Parliamentary Authority:

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

SECTION 2. Meetings:

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

SECTION 3. Quorum:

- (a) A quorum for the Council shall be a simple majority of the statutory required membership which is 16 members per California Attorney General Opinion No. 10-901 (2011) (94 Ops. Cal. Atty. Gen. 100) and shall remain established until adjourned.
- (b) A quorum for each Council committee and sub-committee shall be a simple majority of the appointed members of that committee.

SECTION 4. Voting Rights of Members:

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

SECTION 5. Chairperson Pro Tem:

If neither the Chairperson nor Vice-Chairperson is present to preside at a Council meeting, a chairperson pro tem shall be elected by the majority vote of the Council members present.

ARTICLE VII. OFFICERS

SECTION 1. Officers:

The officers of the Council shall be a Chairperson and a Vice - Chairperson elected from among the self and family advocate members appointed pursuant to Welfare and Institutions Code Section 4521(b)(1). These officers shall perform the duties described in these By-laws.

SECTION 2. Election of Member Officers:

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

SECTION 3. Voting Procedure:

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

SECTION 4. Term of Office:

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

SECTION 5. Vacancies:

If the Chairperson resigns or is permanently unable to serve during the term of office pursuant to Article V Section 4, the Vice-Chairperson shall become the Chairperson for the remainder of such term. Upon the vacancy of the Vice-Chairperson's term of office or if the Vice-Chairperson

resigns or is permanently unable to serve during the term of office, the Chairperson shall appoint an interim Vice-Chairperson to serve until an election is conducted. The Chairperson shall also appoint a nominating committee of at least three (3) but not more than five (5) Council members that will provide a slate of nominations for the election of Vice-Chairperson during the next appropriate Council meeting.

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

SECTION 6. Duties of the Officers:

- (a) Chairperson - The responsibilities of the Chairperson are: to preside at all meetings of the Council; to appoint chairpersons and members to all Council committees, except the Nominating Committees, to appoint Council representatives in relation to other agencies and consumer groups; and to represent the Council as needed. The Chairperson shall have full voting rights on all Council actions.
- (b) Vice-Chairperson - The responsibilities of the Vice-Chairperson are to perform all the duties of the Chairperson if the Chairperson is absent or if the Chairperson requests the Vice-Chairperson to do so. When acting in the capacity of the Chairperson, the Vice-Chairperson has the same authority as the Chairperson. The Vice-Chairperson also serves as Chair of the Executive Committee and as Parliamentarian.

SECTION 7. Removal from Office:

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

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

- (d) Written charges shall be distributed and reviewed at the specified meeting of the Council.
- (e) A majority vote shall be required to remove a chairperson or vice-chairperson from office. If removal of the Chairperson is under consideration, the vice-chairperson shall preside.

ARTICLE VIII. EXECUTIVE DIRECTOR

SECTION 1. Appointment:

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

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SECTION 2. Responsibilities and Duties:

- (a) ~~(a)~~ The Executive Director shall be the chief administrative officer of the Council and shall have all the authority and responsibility assigned to the director of a state agency including budget, personnel, and contractual transactions. These include authority for entering into and execution of agreements on behalf of the Council in order to implement the policies of the Council. The Executive Director shall hire, supervise, and annually evaluate the staff of the Council.
- (b) The Executive Director is responsible for ensuring that:
 - (1) For the purposes of administration, Council directives are carried out by Council staff through the proper assignment and conduct of Council work.
 - (2) Council members and staff receive training on the federal mandate of the DD Act to conduct and support advocacy, capacity building and systemic change on a statewide level;
 - (3) There is adequate supervision over the development and implementation of standard orientation tools for staff, policy manuals, and trainings addressing program and administrative requirements; and
 - (4) Where federal funds disbursed under the DD Act are expended, members of the Council staff carry out solely the responsibilities of the Council as described in the DD Act.
- (cb) The Executive Director shall be under the direction and control of the Council and shall do and perform such other duties as may be assigned by the Council.

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- (e) (d) The Executive Director shall serve as clerk to the Council.

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SECTION 3. Removal:

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

ARTICLE IX. COMMITTEES

SECTION 1. Authority:

- (a) Subject to the provision of these By-laws, all committees, with the exception of the Executive Committee, shall be advisory and shall not have the power to bind the Council except when specifically authorized by the Council to do so. Recommendations made by advisory committees shall be presented to the Council for adoption in the form of a motion.
- (b) Subject to provision of these By-laws, a vacancy in the membership of a committee, except the Nominating Committee, may be filled by the Council Chairperson.
- (c) A committee may meet upon call of the chairperson of the committee or the Council Chairperson.
- (d) Unless otherwise specified in these By-laws, the Chairperson and the Executive Director of the Council shall serve ex officio, without vote, on all committees, except the Nominating Committee.
- (e) A committee member may be removed from the committee by the Council Chair after three (3) consecutive unexcused absences. An unexcused absence is an absence of a member when previous notice of absence has not been given to the Committee Chair or Executive Director or appropriate Deputy Director by telephone, e-mail or mail.

SECTION 2. Standing Committees:

- (a) There shall be seven (7) standing committees of the State Council:

- (1) Executive
 - (2) Administrative
 - (3) Legislative and Public Policy
 - (4) Self-Advocates Advisory
 - (5) Employment First
 - (6) Membership
 - (7) State Plan Committee
- (b) The Chairperson and members of each of the standing committees shall be appointed by the Council Chairperson. In the event of a vacancy for any reason in membership or the Chairperson, a successor may be appointed by the Council Chairperson. The Chairpersons and Vice-Chairpersons ~~of the State Council and of its standing committees~~ shall be individuals with a developmental disability, or the parent, sibling, guardian, or conservator of an individual with a developmental disability ~~(WIC 4535(b))~~. ~~The~~ All committee chairperson appointments shall be announced to the Council at the next available Council meeting.
- (c) The membership of all standing committees, except the Executive Committee, shall be open to non-members of the Council. The expenses of non-Council members may be reimbursed on the same basis as a Council member with the exception of the honorarium.
- (d) All members of the Council shall be expected to serve on at least one standing committee of the Council.
- (e) The charge of each of these committees shall be as follows:
- (1) **Executive Committee**
The Executive Committee shall serve as the coordinating body to the Council. The Committee shall:
 - [a] Consist of the Council Chairperson, Vice-Chairperson, the chair of each standing committee, and up to two (2) other Council members.
 - [b] Be chaired by the Council Vice-Chairperson.
 - [c] Have delegated authority to act on behalf of the Council between meetings, but shall not modify any action taken by the Council unless authorized by the Council to do so. The full Council at the next regular or special meeting shall receive a report of all Executive Committee actions taken between Council meetings.
 - [d] Administrative matters shall be a standing agenda item at every meeting and shall include but not be limited to, budget reports, expenditure reports and other major administrative issues.

- [e] Make recommendations to the Council regarding approval of Community Program Development Grants (CPDG) projects to be funded, and allocations.
- [f] Provide direction to the Executive Director regarding all matters pertaining to Council responsibilities.
- [g] Make recommendations to the Council regarding amendments to the By-laws, changes in committee structure or responsibilities.
- [h] Make recommendations to the Council regarding Council member training.
- [i] Make recommendations to the Council regarding the presentation of awards on behalf of the Council.
- [j] Make recommendations to the Council regarding matters assigned by the Council or the Council Chairperson.
- [k] Make recommendations to the Council regarding the appointment, evaluation, or removal of the Executive Director.
- [l] Monitor and evaluate California State Strategic Plan on Developmental Disabilities implementation and submit findings to the Council.
- ~~[m] Review and make recommendations to the Council regarding area boards' requests to initiate litigation per Welfare and Institution Code Section 4548(g)(4) and (6).~~
- [n] Coordinate the Council's litigation activities, as needed, and make recommendations to the full Council.
- [o] Present a slate of nominees to be elected to the Nominating Committee. Election to the Nominating Committee shall occur at the September Council meeting during election years.

(2) **Administrative Committee**

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

shall:

- [a] Be composed of at least three (3) Council Members
- [b] Make recommendations to the Council regarding allocation of discretionary fiscal resources and other budgetary issues.
- [c] Make recommendations to the Council regarding budgeting for anticipated fiscal resources among Council operations and specific service priorities for inclusion in the California State Strategic Plan and the Governor's budget.
- [d] Make recommendations to the Council regarding monitoring and evaluating administrative contracts and agreements.
- [e] Make recommendations to Council regarding all contracts and agreements.
- [f] Monitor and evaluate administrative contracts and agreements; and take actions authorized in all Council contracts and agreements.
- [g] Make recommendations to the Council regarding administrative matters and policies including organizational charts and structure.

(3) Legislative and Public Policy Committee

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

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

Council Chairperson.

(4) Self-Advocates Advisory Committee

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

- [a] Be composed of self-advocate members of the Council who wish to participate on the committee.
- [b] Advise the Council regarding self-advocate needs related to serving the Council including manners in which to ensure participation and inclusion in all meetings.
- [c] Advise the Council regarding policies, programs and any other area affecting self-advocates in California.
- [d] Review materials and other Council produced information to evaluate and make recommendations regarding plain language approaches.
- [e] To nominate a standing representative to the Statewide Self-Advocacy Network (SSAN).

(5) Employment First Committee

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

- [a] Be composed of a representative from each of the following:
 - (1) The Department of Developmental Services
 - (2) The Department of Rehabilitation
 - (3) The California Department of Education
 - (4) One from each of the three University Centers of Excellence in California
 - (5) Disability Rights California
 - (6) Employment Development Department
 - (7) Family Resource Center Network
 - (8) Association of Regional Center Agencies
 - (9) Service Employees International Union
 - (10) The ARC
 - (11) Four self-advocates

- (12) Four family advocates
- (13) Such others as deemed needed to implement the responsibilities of the Council.

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

(6) Membership Committee

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

- [a] Be comprised of at least three (3) members, ~~two (2)~~ a majority of which shall be Council members;
- [b] Be comprised of self-advocates and family advocates;
- [c] Meet at least quarterly;
- [d] Coordinate Council and public input regarding appointments to the Governor;
- [e] At least quarterly solicit recommendations for candidates via social

media, email/web alerts, from among self-advocacy groups, family support groups, non-agency councilmembers, Federal Partners and service providers for the purpose of identifying multiple candidates recommended for appointment and ensuring that membership composition requirements of Section 125(b) of the DD Act and Section 4521 of the Welfare and Institutions Code are met including those pertaining to socioeconomic, geographic, disability, racial, ethnic, and language diversity;

- [f] Facilitate interagency communications with the Designated State Agency and other state agencies to solicit multiple recommendations for Council appointment to be considered by the Council and for possible submission. Submit all recommendations for appointments to the Governor's Office for consideration.
- [g] While maintaining confidentiality of names, Mmake a report of submissions to the Governor's Office to the Council during the next regular meeting following any submissions.
- [h] In the interest of interagency collaboration and coordination, at least every 60 calendar days, provide written notification to the Council or its Executive Committee, the Designated State Agency, and the Governor's Office of 1) the expiration date of each member's term, and 2) any vacancy existing on the Council that remains unfilled for more than 60 days. Such notification may be made by electronic mail or as part of a Council agenda item, as appropriate.
- ~~(h)~~[i] Notify the Governor's Office in writing, immediately when a vacancy occurs prior to the expiration of a member's term.
- [j] Solicit support from the Designated State Agency for appointments when a vacancy occurs for more than four months.
- ~~(h)~~[k] Make recommendations to the Council on membership of any advisory committees that the Council may establish.

(7) State Plan Committee

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

- [a] Be comprised of at least three (3) members
- [b] Meet at least quarterly.
- [c] Advise the Council on the collection and reporting of information on needs, including unmet needs, priorities and emerging issues
- [d] Make recommendations to the Council regarding policy priorities, goals and objectives for the California State Plan on Developmental Disabilities
- [e] Advise the Council in the planning of the implementation and reporting on progress towards meeting the goals and objectives of the Council's California State Plan on Developmental Disabilities.
- [f] Make recommendations to the Council regarding the grant application process and suggested priorities/criteria for proposals.
- [g] Develop methods to market and implement successful programs funded by these grants throughout the State.
- [h] Carry out other responsibilities as assigned by the Council or the Council Chairperson.

SECTION 3. Nominating Committee:

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

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

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

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

members may be reimbursed on the same basis as a Council member with the exception of the honorarium.

ARTICLE X. COUNCIL ORGANIZATION

SECTION 1. Regional Operations of the Council:

- a) The Council is responsible for engaging in advocacy, capacity, and systemic change activities statewide that implement mandates of the DD Act so that individuals with developmental disabilities have access to all available services and supports. In order to carry out its federal mandates in a manner consistent with the access, use, and community based principles of Section 101(c) of the DD Act, the Council exercises its authority to establish Regional Offices and Regional Advisory Committees to perform Council work. Pursuant to Welfare and Institutions Code Section 4544(d), such offices and committees shall be constituted and operated according to policies and procedures of the Council.
- b) Regional Offices and Regional Advisory Committees, being part of the Council, are subject to the Bagley-Keene Act, the Public Records Act, and any other laws applicable to a state governmental entity.
- c) Public notice shall be provided at least 120 days before any changes in the number or boundaries of Regional Offices.
- d) The bylaws, membership composition, terms of members, and membership eligibility in addition to other rules of the Regional Advisory Committees shall be determined by the Council except as provided by Welfare and Institutions Code Section 4546.
- e) At the request of the Council, and according to the policy and procedures of the Council, Regional Advisory Committees will advise, provide input, be a source of data, and perform other activities as described in Welfare and Institutions Code Section 4548.

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ARTICLE XI. COUNCIL GENERAL PROVISIONS

SECTION 1. Certification and Inspection:

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

SECTION 2. Records, Reports and Inspection:

- (a) The Council shall maintain adequate and correct accounts, books and records of all its business and properties.

- (b) Such records shall be kept at its principal place of business. All books and records shall be open to inspection by the Council and the general public, except those records or data regarding an employee, if such disclosure would constitute an unwarranted invasion of personal privacy, or records of the Council relating to its participation in a judicial proceeding.
- (c) The Council shall prepare, approve, and implement a budget to fund programs, projects, activities, staff, and operations.
- (de) An annual financial report and budgets shall be available for inspection at the Council's principal place of business.

ARTICLE XII. AMENDMENTS OF BY-LAWS

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

ARTICLE XIII. INDEMNIFICATION

SECTION 1. Definitions:

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

SECTION 2. Indemnification in Actions by Third Parties:

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

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

The Council shall have the power to indemnify any person who was or is a party or is threatened

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

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

SECTION 4. Indemnification Against Expenses:

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

SECTION 5. Required Determinations:

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

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

SECTION 6. Advance of Expenses:

Expenses incurred in defending any proceeding may be advanced by the Council prior to the final disposition of such proceeding upon receipt of an undertaking by or on behalf of the agent

to repay such amount unless it shall be determined ultimately that the agent is entitled to be indemnified as authorized in this Article XII.

SECTION 7. Other Indemnification:

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

SECTION 8. Forms of Indemnification Not Permitted:

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

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

CENTRAL VALLEY REGIONAL CENTER INC.

Main Office: 4615 N. Marty \$ Fresno, California 93722-7818
Phone: (559) 276-4300 - Fax (559) 276-4360 - TDD (559) 276-4441

RECEIVED

SEP 30 2014



September 25, 2014

Dr. Michal Clark, Interim Executive Director
State Council on Developmental Disabilities
1507 21st St., Ste. 210
Sacramento, CA 95811

RE: Request for Waiver of Potential Conflict of Interest – Scot Miller

Dear Mr. Rogers:

This letter is to present a request by Mr. Robert Riddick, Central Valley Regional Center's ("CVRC") Executive Director, and CVRC, pursuant to Section 54523 of Title 17, California Code of Regulations, for a waiver of a potential conflict of interest for CVRC Board Member Scot Miller.

Enclosed please find the following as part of the request the following:

- (1) A copy of Mr. Miller's Conflict of Interest Disclosure Statement;
- (2) A Disclosure Conflict of Interest, Request for Waiver and Plan of Action.

The limitations proposed by CVRC are set forth in the plan of action and no other limitations are proposed.

This Waiver packet is also being served upon Area Board VIII and the State Council as required by Title 17.

Thank you for your cooperation with this matter. We look forward to hearing from you with regard to this Waiver Request.

Sincerely,

A handwritten signature in black ink that reads "Robert Riddick". The signature is written in a cursive, somewhat stylized font.

Robert Riddick
Executive Director

cc: Santi J. Rogers, Director, Department of Developmental Services
Joseph Bowling, Executive Director, Sequoia Area VIII Board
Randy Tellalian, CVRC Board President

Merced: 530 West 16th Street - Suite A - Merced, California 95340 - Phone: (209) 723-4245 - Fax: (209) 723-2442
Visalia: 5441 West Cypress Avenue - Visalia, California 93277 - Phone: (559) 738-2200 - Fax: (559) 738-2265 - TDD: (559) 738-2299

CONFLICT OF INTEREST REPORTING STATEMENT

DS 6016 (New 08/2012)

The duties and responsibilities of your position with the regional center require you to file this Conflict of Interest Reporting Statement. The purpose of this statement is to assist you, the regional center and the Department of Developmental Services (DDS) to identify any relationships, positions or circumstances involving you which may create a conflict of interest between your regional center duties and obligations, and any other financial interests and/or relationships that you may have. In order to be comprehensive, this reporting statement requires you to provide information with respect to your financial interests.

A "conflict of interest" generally exists if you have one or more personal, business, or financial interests, or relationships that would cause a reasonable person with knowledge of the relevant facts to question your impartiality with respect to your regional center duties. The specific circumstances and relationships which create a conflict of interest are set forth in the California Code of Regulations, title 17, sections 54500 through 54530. You should review these provisions to understand the specific financial interests and relationships that can create a conflict of interest.

Please answer the following questions to the best of your knowledge. If you find a question requires further explanation and/or there is not enough space to thoroughly answer the question, please attach as many additional sheets as necessary, and refer to the question number next to your answer. If the regional center identifies a conflict involving you, it will be required to prepare a conflict resolution plan. Some relevant definitions have been provided in the footnotes to assist you in responding to this statement.

You are required to file this Reporting Statement within 30 days of beginning your employment with the regional center or from the date that you are appointed to the regional center board or advisory committee board. You are then required to file an annual Reporting Statement by August 1st of every year while you remain employed with the regional center or while you are a member of the regional center board or advisory committee board. You must also file a Reporting Statement within 30 days of any change in your status that could result in a conflict of interest. Circumstances that can constitute a change in your status that can require you to file an updated Reporting Statement are described below in footnote one.

A. INFORMATION OF REPORTING INDIVIDUAL

Name: Scot Miller Regional Center: Central Valley

Regional Center Position/Title: Governing Board Member Executive Director
 Vendor Advisory Committee sitting on Board Employee
 Contractor Agent Consultant

Reporting Status: Annual New Appointment (date): 8-26-14
 Change of Status¹

If a change in status, date and circumstance of change in status:

1. Please list your job title and describe your job duties at the regional center.

¹ Change of status includes reporting a previously unreported activity that should have been reported, change in the circumstance of a previously reported activity, change in financial interest, familial relationship, legal commitment, change in regional center position or duties, or change to outside position or duties. See California Code of Regulations, title 17, sections 54531(d) and 54532(d).

- Governing Board Member
- Vendor Advisory on Board
- Executive Director
- Employee/Other

2. Do you or a family member² work for any entity or organization that is a regional center provider or contractor?
 yes no -- If yes, provide the name of the entity or organization and describe what services it provides for the regional center or regional center consumers. If the provider or contractor is a state or local entity, provide the specific name of the state or local entity and describe your job duties at the state or local entity.

Mom works @ EPCU Children's Center

3. Do you or a family member own or hold a position³ in an entity or organization that is a regional center provider or contractor? yes no -- If yes, provide the name of the entity or organization, describe what services it provides for the regional center or regional center consumers, and describe your or your family member's financial interest.

4. Are you a regional center advisory committee board member? yes no -- If yes, are you a member of the governing board or owner or employee of an entity or organization that provides services to the regional center or regional center consumers? yes no -- If yes, provide the name of the entity or organization and describe what services it provides for the regional center or regional center consumers.

5. If you are a regional center advisory committee board member and answered yes to all the questions in Question 4 above, do any of the following apply to you: (a) are you an officer of the regional center board; (b) do you vote on purchasing services from a regional center provider; or (c) do you vote on matters where you might have a financial interest? yes no -- If yes, please explain.

² Family member includes your spouse, domestic partner, parents, stepparents, grandparents, siblings, stepsiblings, children, stepchildren, grandchildren, and in-laws. See California Code of Regulations, title 17, sections 54505(f).

³ For purposes of this question, hold a position generally means that you or a family member is a director, officer, owner, partner, employee, or shareholder of an entity or organization that is a regional center provider or contractor. For a specific description of positions that create a conflict of interest in a regional center provider or contractor see the California Code of Regulations, title 17, sections 54520 and 54526.

- Governing Board Member
- Vendor Advisory on Board
- Executive Director
- Employee/Other

6. Do any of the decisions you make when performing your job duties with the regional center have the potential to financially benefit you or a family member⁴? yes no -- If yes, please explain.

7. Are you responsible for negotiating, making,⁵ executing or approving contracts on behalf of the regional center? yes no -- If yes, please explain.

as a board member we APPROVE CONTRACTS
That are \$250,000 or greater

8. Do you have a financial interest in any contract⁶ with the regional center? yes no -- If yes, did you negotiate, make, execute or approve the contract on behalf of the regional center? yes no -- If yes, please explain.

9. Do any of your family members have a financial interest in any contract with the regional center? yes no
If yes, did you negotiate, make, execute or approve the contract on behalf of the regional center? yes no
If yes, please explain.

⁴ Generally, a decision can financially benefit you or a family member if the decision can either directly or indirectly cause you or a family member to receive a financial gain or avoid a financial loss. For a specific description of the types of decisions that can result in a financial benefit to you or a family member see the California Code of Regulations, title 17, sections 54522 and 54527.

⁵ California Code of Regulations, title 17, sections 54523(b)(2) and 54528(b)(2) describes the types of conduct which constitute involvement in the making of a contract.

⁶ For purposes of questions 8 and 9, a financial interest in a contract generally means any direct or indirect interest in a contract that can cause you or a family member to receive any sort of financial gain or avoid any sort of financial loss irrespective of the dollar amount. California Code of Regulations, title 17, sections 54523 and 54528 define when financial interests in a contract will occur.

- Governing Board Member
- Vendor Advisory on Board
- Executive Director
- Employee/Other

10. Do you evaluate employment applications or contract bids that are submitted by your family member(s)?
 yes no -- If yes, please explain.

11. Your job duties require you to act in the best interests of the regional center and regional center consumers. Do you have any circumstances or other financial interests not already discussed above that would prevent you from acting in the best interests of the regional center or its consumers? yes no -- If yes, please explain.

B. ATTESTATION

I SCOT MILLER (print name) HEREBY CONFIRM that I have read and understand the regional center's Conflict of Interest Policy and that my responses to the questions in this Conflict of Interest Reporting Statement are complete, true, and correct to the best of my information and belief. I agree that if I become aware of any information that might indicate that this statement is not accurate or that I have not complied with the regional center's Conflict of Interest Policy or the applicable conflict of interest laws, I will notify the regional center's designated individual immediately. I understand that knowingly providing false information on this Conflict of Interest Reporting Statement shall subject me to a civil penalty in an amount up to fifty thousand dollars (\$50,000) pursuant to Welfare and Institutions Code section 4626.

Signature SCOT MILLER Date 8/25/14

INTERNAL USE ONLY

Date this Statement was received by Reviewer:

The reporting individual does does not have a present potential conflict of interest

Signature of Designated Reviewer <u>[Signature]</u>	Date Review Completed <u>9.2.2014</u>
--------------------------------------------------------	------------------------------------------

Law concerning Governing Board Member Conflict of Interest

The prohibition against a Regional Center governing board member having a conflict of interest is derived from Welfare and Institutions Code section 4626(a). The conflict of interest definition is set forth in more detail in the California Code of Regulations, Title 17.

Title 17 section 54520 (a) "A conflict of interest exists when a regional center governing board member...or a family member of such a person is any of the following for a business entity, entity, or provider as defined in section 54505 of these regulations, except to the **extent such position is permitted by Welfare and Institutions Code sections 4622 and 4626.**" (emphasis added)

Welfare and Institutions ("W&I") Code section 4622(e) "A minimum of 50 percent of the members of the governing board shall be persons with developmental disabilities or their parents or legal guardians. No less than 25 percent of the board shall be persons with developmental disabilities."

Section 54520 concludes: "(b) No regional center governing board member who has a conflict of interest shall continue to serve as a board member in violation of these provisions unless the board member has eliminated the conflict of interest **or obtained a waiver pursuant to these regulations.**" (emphasis added)

Disclosure of Conflict of Interest for Mr. Scot Miller

Potential or Actual Conflict of Interest

Mr. Miller was elected to the CVRC Board by the Client Advisory Committee. His welcome membership on the CVRC Board allows CVRC to meet the requirements of W&I Code section 4622(e) which provides an exception to the requirements of Title 17, section 54520(a).

Mr. Miller's mother works for Exceptional Parents Unlimited "EPU". EPU is a longtime vendor for early intervention services. Early intervention services are for the first three years of a potential CVRC consumer. DDS sets the rate for payment to EPU. *Mr. Miller's mother is an employee of EPU and has no financial interest in EPU and has no authority to make financial or management decisions for EPU.*

CVRC contends that Mr. Miller does not have a conflict, because W&I section 4622(e) exempts him from compliance with Title 17, section 54520.

Request for Waiver of Conflict of Interest

Even though CVRC does not believe that Mr. Miller has a conflict of interest for the reasons set forth above, in an abundance of caution, this information is being provided to the Department along with a proposed Waiver should the Department determine that Mr. Miller has a conflict of interest as defined in the W&I Code and Title 17.

For the reasons that follow, pursuant to Title 17, section 54523, CVRC requests a Waiver of any potential or actual conflict of interest given that:

- (a) Mr. Miller was elected by his peers from CVRC's Client Advisory Committee;
- (b) Mr. Miller fulfills CVRC's compliance requirements under W&I section 4622(e);
- (c) CVRC does not set the vender rate or approve any contracts with EPU; and
- (d) Mr. Miller's mother does not have any financial interest in or decision making authority at EPU.

Proposed Plan of Action

CVRC's suggested plan of action for resolving this "conflict of interest" is as follows:

1. As a governing CVRC Board Member, Mr. Miller will not participate in any discussion or vote on any matter involving EPU;
2. CVRC governing board and management staff will be informed of this Plan of Action and will be informed of the need to ensure that Mr. Miller does not participate in any discussion or vote on any issue relating to EPU.
3. The Executive Committee of the CVRC Board has been informed of and has approved the submission of this Proposed Plan of Action for Waiver of Conflict of Interest.
4. CVRC Board of Directors itself will be responsible for ensuring that the above plan and limitations are applied and monitored.
5. This Request for Waiver packet is also being served on the Area VIII Board and the State Council as required by Title 17, section 54523.