

Nebraska Council on Developmental Disabilities

November 17, 2023 at 9:30AM, CST

In-Person Meeting

Country Inn & Suites – Nebraska Ballroom

[North Hotel & Conference Center]

5353 N. 27th Street

Lincoln, NE

The agenda was mailed to Council members prior to the meeting. The meeting was chaired by Rachel Siffring and called to order at 9:30AM, CST and the *Pledge of Allegiance* was recited. Quorum was present.

Present: Quinton Corwin, Caiti Donaldson, Jason Gieschen, George Griffith, Dr. Tom Janousek, Shaistha Kiran Karipi, Matt Kaslon, Seamus Kelly, Eddie Kraska, Stephen Morton, DJ Plautz, Jennifer Severe-Oforah, Rachel Siffring, and Nate Watson.

Absent: Shauna Graham, Tony Green, Beth Libra Plisek, Cheryl Montgomery, Amy Rhone, Mark Shriver, Judy Trent, Dee Valenti, and Kirsten Wilcox.

Guests: Francine Armstrong, Tania Diaz, Tiffany Donaldson, Theresa Hayes, Sue Gieschen, Candi Kraska, Colin Large, Kristin Mayleben-Flott, Edison McDonald, Stacy Pfeifer, and Sherry Stansberry.

Staff: Kristen Larsen, Edith Titamoh, and Nikki Krause.

Absent: Rachel Ward.

Welcome and Declaration of Conflicts of Interest

Rachel Siffring welcomed new Council members Dr. Tom Janousek, DJ Plautz, and Jennifer Severe-Oforah. Tom is the Agency Representative for the Division of Behavioral Health. DJ is the Agency Representative for the Department of Education, Vocational Rehabilitation. Jennifer is the Agency Representative for the Division of Public Health, Maternal & Child Health.

Kristen Larsen explained that she has reached out to Governor Pillen's Assistant on Executive Appointments to see where the Council stands regarding Council member reappointments and new appointments to the Council. Governor Pillen has reviewed the reappointments for Quinton Corwin, Shaistha Kiran Karipi, Seamus Kelly, and Judy Trent. The Secretary of State needs to sign the reappointment certificates, and these should be sent out after the Thanksgiving Holiday. In the meantime, the Governor is reviewing the applications for potential new Council members.

- A self-advocate to fill the vacancy left by Dustin Henderson when he resigned.
- A family member to fill the vacancy left by Tricia Strauch when she resigned.
- A self-advocate to fill Kristen Wilcox's position since she is not reapplying for a second year.
- An immediate relative/guardian of an individual with a developmental disability who resides or previously resided in an institution or an individual with a developmental disability who resides or previously resided in an institution [must be a resident of the State] to fill Dee Valenti's position since she has termed out.

An email was sent out to NCDD Friends and Stakeholders on November 18, 2023 to assist with the recruiting effort.

Nebraska Open Meetings Act

Rachel S. explained that Council meetings fall under the Nebraska Open Meetings Act and a copy of the Act is posted on the entrance door by the sign-in table.

The Governor's Public Meeting Calendar referred members of the public and media to the Council's Meetings webpage for additional information (posted October 27, 2023).

Public Comment Period #1

Rachel S. mentioned that all public meetings must allow time on their agenda for people who are not on the Council to comment. Members of the public, who wanted to address the Council, were instructed to identify himself or herself, including an address and the name of any organization represented. No public comments were made.

Approval of Minutes

Jason Gieschen asked the Council members if there were any corrections to the *DRAFT* August 18, 2023 DD Council meeting minutes. There were no corrections. [Failed to get a motion or a second, proceeded directly to the roll call vote.]

A roll call vote was taken: **Yes – 9, No – 0, Abstain – 3.*** Motion carried.

Declaration of Conflicts of Interest

As required by Council policy, at the first meeting of each federal fiscal year, members of the Council shall verbally declare any potential conflicts of interest of which they are aware. Council members were asked to verbally declare any potential conflicts of interest. They are noted below.

Quinton Corwin	Nebraska Youth Leadership Council
Caiti Donaldson	None
Jason Gieschen	Special Olympics Nebraska, Education Service Unit 16, Nebraska State Rehabilitation Council
Shauna Graham	Absent
Tony Green	Absent
George Griffith	Humboldt Table Rock Steiner Public School District, Humboldt Chamber of Commerce, Humboldt Shares
Dr. Tom Janousek	Department of Health and Human Services – Division of Behavioral Health
Shaistha Kiran Karipi	University of Nebraska Medical Center, Munroe-Meyer Institute, University Center of Excellence for Developmental Disabilities
Matt Kaslon	Special Olympics Nebraska, Nebraska Youth Leadership Council, Nebraska Statewide Independent Living Council, Nebraska State Rehabilitation Council, Hands of Heartland, The Arc of Nebraska, The Arc of the United States
Seamus Kelly	Absent at time to declare conflicts of interest. [Arrived at approximately 10:20AM, CST.]
Eddie Kraska	Ollie Webb Center, Special Olympics
Beth Libra Plisek	Absent
Cheryl Montgomery	Absent
Stephen Morton	The Arc of Norfolk,
DJ Plautz	Nebraska Department of Education - Nebraska Vocational Rehabilitation

Amy Rhone	Absent
Jennifer Severe-Oforah	Department of Health and Human Services – Division of Public Health – Maternal & Child Health
Mark Shriver	Absent
Rachel Siffring	The Arc of Platte County
Judy Trent	Absent
Dee Valenti	Absent
Nate Watson	Department of Health and Human Services – Division of Medicaid and Long-Term Care
Kirsten Wilcox	Absent

Financial Reports

The Department of Health and Human Services (DHHS) is the Designated State Agency (DSA) for the Council. DHHS is the flow thru for Council funds. However, it is the Council that decides on how Council funds are to be allocated and monitors the allocated funds.

Kristen Larsen presented the final Financial Report for Federal Fiscal Year (FFY) 2023, a handout at the meeting. For FFY2023 (October 1, 2022 to September 30, 2023), the Council budgeted \$415,553. The Year-to-Date Expenditures were \$375,285 – 90.31% of the FFY2023 budget.

Kristen explained that the Council was over budget in two areas and under budget in two areas, but everything balanced out.

- Personal Expenses & Benefits is at 121% of the budget. This was because originally the second Program Specialist position was figured as a SOS position with the salary coming out of Operating Expenses. However, the Council got a shared position with Emergency Health Services and Edith Titamoh's salary comes out of Personal Expenses instead of Operating Expenses. This is part of the reason that the Operating Expenses is at 50% of the budget.
- Other reasons that Operating Expenses is at 50 % of the budget are:
 - \$2,500 for the Disability Education Series was not submitted by the Nebraska Statewide Independent Living Council.
 - No funds were spent for Interpreter Services. Council staff were instructed by iTACC that unless there is a specific request from an individual for Interpreter Services, Interpreter Services should not be provided. That is not a good use of federal funds.
 - No funds were spent for the Leadership Development Fund.
- Functions of DSA is at 66% of the budget. At the time of this report, the DSA has not taken all the allotted funds for FFY2023.

NOTE: The DSA can take 5% of the total award for the FFY.

Additionally, Kristen presented the FFY2024 Financial Report, a handout at the meeting. At the August 18, 2023 Council meeting, the Council approved the budget of \$371,459 for FFY2024 (October 1, 2023 to September 30, 2024). The Year-to-Date Expenditures for the first month of FFY2024 (October 1, 2023 to October 31, 2023) were \$25,005 – 6.7% of the FFY2024 budget.

The report reflects the balance of funds from FFY2022, FFY2023, and FFY2024 as of October 31, 2023. Available Current Funds totaled \$741,820. Expenditures totaled \$238,409. Balance of Current Funds Available was \$503,411.

The Financial Forecast (what is being anticipated) shows a breakout of income and expenses by Federal Fiscal Year.

The Administration for Community Living (ACL) allowed Councils to seek a No-Cost Extension on FFY2022 funds. Kristen submitted the request for a No-Cost Extension on FFY2022 funds on August 25, 2023 and it was approved. The Council received a new Notice of Award (NoA) from ACL on September 14, 2023. The new revised period of performance for FFY2022 will be October 1, 2021 to September 30, 2024.

NOTE: This is good news since many of the Council's grantees have funds obligated and do not plan on spending all their funds. The Council will continue to draw down remaining FFY2022 funds during FFY2024.

Council staff are working with Procurement to obligate the following FFY2023 Funds.

• People First of Nebraska Continuation (Year 3)	\$40,000
• PTI Nebraska Continuation (Year 3)	\$30,000
• The Arc of Nebraska Continuation (Year 2)	\$20,000
• Disability Rights Nebraska Continuation (Year 2)	\$20,000
• Easterseals Nebraska Continuation (Year 2)	\$20,000
• University of Nebraska at Omaha Continuation (Year 2)	\$20,000
• B Kessler Consulting (Year 1)	\$50,000
• Madonna School & Community Based Services (Year 1)	\$20,000
• Munroe-Meyer Institute – Virtual Health (Year 1)	\$19,995
Total Anticipated Obligations	\$239,995

NOTE: Once approved by DSA, the Council plans to re-release Request for Applications (RFAs) for the Home and Community-Based Services (HCBS) Final Settings Rule at \$75,000 and Opportunity Subawards for \$40,000 for a total of \$115,000.

Update on Requests for Applications

After the August 18, 2023 Council meeting, Council staff notified the Procurement Division that the Council wanted to re-release the HCBS Final Settings Rule RFA and Opportunity Subaward RFA. On August 21, 2023, Greg Walklin, Director of DHHS Procurement and Grants, issued an email to all of DHHS announcing that until the arrival of the new DHHS CEO on September 11, 2023, DHHS would be holding the release of all RFAs among other items. In late September 2023, the Council staff were able to proceed with the release of the two RFAs. However, Council staff ran into legal issues. The Lead Contract Attorney would **not** allow the RFAs to be re-released with “*for-profit entities*” being allowed to apply, even though the RFAs **were previously released** with “*for-profit entities*” being allowed to apply. Council staff provided the Lead Contract Attorney with documentation from ACL that “*for-profit entities*” **may apply for subawards**, to no avail. As a concession to get the RFAs re-released, Kristen agreed to take “*for-profit entities*” out of the RFAs. Hopefully the RFAs will be released in late November 2023 so any applications received can be evaluated and voted on at the February 2, 2023 Council meeting.

NOTE: Best practice would be to have competitive subawards. However, the Council does have the authority to directly subaward with an entity.

FFY2024 Continuation Subaward Proposal from Munroe-Meyer Institute

Initially, the Munroe-Meyer Institute (MMI) was interested in submitting a continuation subaward proposal (Year 2) for its *Promoting the Autonomy of Autistic Individuals with Severe Behavior: A Survey of*

Opinions on Law Enforcement Interactions when in Behavioral Crises project. However, upon further deliberation, MMI decided against seeking a second year of funding for its project.

FFY2024 Committee Assignments and Election of Standing Committee Chairpersons

The standing committees include the Legislative and Advocacy Committee, the Planning Committee, and the Grant Review Committee. Kristen and Rachel S. reviewed the Committee Preference forms that were turned in and tried to assign members to their top-rated committee preference. The FFY2024 committee assignments were emailed on October 27, 2023 and were also included in the meeting packet. Council members were asked to review the committee assignments and to contact Council staff if there were any concerns or conflicts about the committee they were assigned to and if they had an interest in running for Chairperson of their assigned committee.

Per the By-Laws, elections for FFY2024 standing committee Chairpersons were conducted at today's Council meeting. Chairpersons of standing committees shall serve at least a one (1) year term and may serve an additional two (2) terms.

Legislative and Advocacy (L&A) Committee Chairperson: Beth Libra Plisek and Stephen Morton had said they would be willing to run for the L&A Committee Chairperson. There were no additional nominations from the floor.

Matt Kaslon nominated Beth for the position of L&A Committee Chairperson and Quinton seconded. Jason nominated Stephen for the position of L&A Committee Chairperson and Matt seconded. A vote was taken by secret ballot. Stephen Morton is the L&A Committee Chairperson for FFY2024. (Stephen 10 votes, Beth 3 votes) [Dr. Tom Janousek arrived at approximately 10:10AM, CST.]

Planning Committee Chairperson: Caiti Donaldson and Matt Kaslon had said they would be willing to run for the Planning Committee Chairperson. When asked if there were any nominations from the floor, Shaistha Kiran Karipi was nominated. Shaistha Kiran declined the nomination for the Planning Committee Chairperson.

Kristen clarified that there was nothing in the By-Laws that would prevent Matt, who is Vice-Chair, from running for the Planning Committee Chairperson.

Stephen Morton nominated Caiti for the position of Planning Committee Chairperson and Nate Watson seconded. George Griffith nominated Matt for the position of Planning Committee Chairperson and Dr. Tom Janousek seconded. A vote was taken by secret ballot. Caiti Donaldson is the Planning Committee Chairperson for FFY2024. (Caiti 8 votes, Matt 5 votes)

Grant Review Committee Chairperson: Quinton Corwin and Matt Kaslon had said they would be willing to run for the Grant Review Committee Chairperson. When asked if there were any nominations from the floor, Nate Watson was nominated. Nate declined the nomination for the Grant Review Committee Chairperson.

Again, Kristen clarified that there was nothing in the By-Laws that would prevent Matt, who is Vice-Chair, from running for the Grant Review Committee Chairperson.

Eddie Kraska nominated Quinton for the position of Grant Review Committee Chairperson and George seconded. Shaistha Kiran nominated Matt for the position of Grant Review Committee Chairperson and

Jason seconded. A vote was taken by secret ballot. Quinton is the Grant Review Committee Chairperson for FFY2024. (Quinton 11 votes, Matt 3 votes) [Seamus Kelly arrived at approximately 10:20AM, CST.]

Council Members Conference Report Summaries

Eddie and George attended the Association of Community Professionals (ACP) 2023 Fall Conference October 19-20, 2023 in Kearney, Nebraska.

Eddie said that he now understands why there such a high turnover in support staff. Low pay, hiring the wrong person, and lack of staff training were some of the reasons for the high turnover. Eddie explained that this would help him when he reviews legislation and when he advocates.

George said it is easy to group people together by their similarities, but it is the differences that make all people shine. You need to identify the person's strengths and use those. George went on to explain that when he returned to work, he was able to discern a level of conflict with his staff. He used some of the conflict resolution techniques that he learned at the ACP Conference. There are different types of personalities and different ways that people handle things. He was able to adjust the staff training and identify potential conflicts and address those conflicts in a positive way. His staff responded well to the conflict resolution techniques he learned. This will be very helpful tool to have moving forward with his staff.

Council members were reminded to turn in their *Council Member Conference Request Form* to Council staff as soon as you know about a conference, so copies of the requests can be made and sent out in the meeting packets. Council members may request to attend two in-state conferences and one national conference per FFY (October 1 – September 30) as funds allow, and the conference relates to one of the State Plan goals. Upon return from a conference, Council members need to submit the *Council Member Conference Report Summary* and report on the conference at the Council meeting following the conference. Expense Reimbursements and receipts must be submitted and approved no more than 60 days after the final day in which the expenses were incurred.

Nebraska 2023 Supported Employment Summit

Kristen explained that the Council entered into a second contract with Dr. Lisa Mills to facilitate the Nebraska 2023 Supported Employment Summit which was held on September 20, 2023 at the Embassy Suites Hotel in Lincoln, Nebraska. Dr. Mills is also providing consultation and technical assistance to: the DHHS Divisions of Developmental Disabilities and Behavioral Health, The Nebraska Department of Education – Nebraska Vocational Rehabilitation, the DD Network Partners (DD Council, Munroe-Meyer Institute/University Center of Excellence for Developmental Disabilities (MMI/UCEDD), and Disability Rights Nebraska, and the Nebraska Association of Service Providers (NASP). [These entities were also co-sponsors of the Summit.]

Close to 100 people attended the Summit. There was representation from all key agencies and provider organizations. All the stakeholders are committed to collaborating with a common goal to improve supported employment outcomes. There were four subject matter facilitators and four scribes for the breakout sessions. Dr. Mills is working on compiling all the scribes' notes and developing a comprehensive action plan to advance competitive integrated employment outcomes for Nebraskans with IDD.

Governor Pillen has taken an interest in supported employment evidenced by having Kenny Zoeller from the Governor's Policy Research Office at the Summit and by the press conference Governor Pillen

hosted on October 20, 2023 to celebrate Disability Employment Awareness Month. Governor Pillen proclaimed the month of October as Developmental Disabilities Employment Awareness Month and highlighted the contributions of capable and eager individuals who are ready to join the workforce and help the state's economy grow.

The momentum is growing in the supported employment movement. NASP is a main player with a very active subcommittee on employment and Senator Lynne Walz is interested in introducing some type of legislation on supported employment in the upcoming legislative session.

108th Legislature, 2nd Session

Rachel S. explained that for the 108th Legislature, 1st Session, Senator Arch, Speaker of the Legislature, sped up the hearing process on introduced legislative bills. Hearings started on January 23, 2023. As a result, the Executive Committee met virtually, per the Nebraska Open Meetings Act, to review and take positions on any relevant legislative bills that had a hearing between January 23, 2023 and February 6, 2023. This provided Council staff time to prepare written position statement letters and gave Council staff the authority to act on any additional bills that had a hearing scheduled between January 23, 2023 and February 6, 2023.

A suggestion that came out of the February 2, 2023 Legislative & Advocacy (L&A) Committee meeting was to possibly allow Council staff more flexibility to be reactive to introduced legislation. The consensus was that since the legislative hearings started earlier this year than in past years, chances are the legislative hearings for the 108th Legislature, 2nd Session (and future sessions) would start as early, or earlier.

Stephen mentioned that is important to stay ahead of the game. If position statement letters are not submitted prior to the committee hearing, the letters are not read. The Council needs to be more proactive and aggressive. Seamus asked if it would be necessary for the L&A Committee to meet sooner or if the L&A Committee could meet earlier and take their recommendations to the Executive Committee. Kristen explained that if a committee makes a decision, not a recommendation to the Council, then it would be a public meeting and the committee would be subject to follow the Nebraska Open Meeting Act. Kristen also explained that due to staff capacity, it would not work to have an earlier Committee meeting. Disability Rights Nebraska and The Arc of Nebraska are faced with the same dilemma. Quinton mentioned that the legislators have ten days to introduce bills. The tenth day falls on January 17, 2024. Stephen added the Council follows 20-25 legislative bills and if hearings start early, the Council could miss an opportunity to testify or submit position statement letters.

Edison McDonald, the Executive Director of The Arc of Nebraska, was recognized to speak. He wanted to thank the Council for considering this suggestion. Of all The Arc of Nebraska's disabilities partners, the Council probably has the most restrictions, but the Council has an important voice. The more flexibility Council staff are given, the more positive impact the Council will have.

Seamus asked if this would open the Council to a federal audit. Are Council staff and the Executive Director taking too much authority from the Council? Because the Council is voting to give authority to Council Staff, Rachel S. does not believe the Council would be open to a federal audit.

Tania Diaz, Chief Executive Officer of Disability Rights Nebraska, was recognized to speak. Disability Rights Nebraska has the ability to take action on a bill that was previously introduced. However, if it is a new bill, Disability Rights Nebraska has the same dilemma as the Council and needs to take the

recommendation to their Board of Directors. Right now, Disability Rights Nebraska is looking at moving the date of the Board of Directors meeting up.

Kristen recommended that Council members reach out to their legislature as concerned citizens, not Council members, about the hearings process. The earlier hearings make it harder for public citizens to take part in the legislative process. Kristen believes that this coming legislature will operate the same as last year's. The Council needs to decide today.

Quinton made the motion to allow the Executive Director and Council staff to take positions on proposed legislative bills with hearings up to and including February 2, 2024, after conferring with the L&A Committee Chair and both are in agreement on the position the Council should take. The Executive Director would then follow-up with the Executive Committee to convey the position the Council will be taking, and Matt seconded.

A roll call vote was taken: **Yes – 13, No – 0, Abstain – 0.*** Motion carried.

Council Member Responsibilities

Rachel S. mentioned that Kristen will be conducting an orientation with new Council members in the near future and she reviewed the *DD Council Member Guide*, which was a "day of" handout. Council member responsibilities include:

- Determine mission (the purpose of a DD Council is mandated by the DD Act)
 - Create and review a statement of mission and purpose that speaks to the DD Council's goals and primary people served.
- Select the Executive Director
 - Review and update the Executive Director's job duties and responsibilities; conduct a careful search to find the most qualified person for the position.
- Support and annually evaluate the Executive Director
 - DD Council members should ensure the Executive Director has the moral and professional support to further the goals of the organization; annually evaluate the Executive Director following applicable policies and procedures.
- Ensure effective planning
 - DD Council members should actively participate in the overall planning process for the DD Council 5-Year State Plan.
- Implement and monitor the DD Council 5-Year State Plan
 - DD Council members should actively participate in the implementation of the 5-Year State Plan (by providing leadership for strategies, activities, and approving funding) and monitor the plan's goals.
- Approve and implement the budget; provide financial oversight
 - DD Council members should assist in developing, approving, and implementing the annual budget.
- Build a competent DD Council
 - Identify potential members for appointment; orient and mentor new members: periodically evaluate individual and overall DD Council membership effectiveness.
- Ensure legal and ethical integrity (conflict of interest, code of conduct, etc.)
 - Be knowledgeable about legal and ethical requirements for public officials; follow all conflict-of-interest policies (and other policies, as applicable) to ensure the public trust.
- Enhance the DD Council's public standing

- Can talk about the DD Council mission, accomplishments, and goals to the public and gain support from the community.

Kristen reviewed Council membership.

At least 60 percent of all Council members must be:

- People with intellectual and/or developmental disabilities.
- Parents or guardians of children with intellectual and/or developmental disabilities.
- Immediate relatives or guardians of adults with intellectual disabilities who cannot speak for themselves.
- In addition, these Council members cannot be a managing employee of an agency that receives money from the Council.

Of the members of the Council described above:

- 1 /3 must be individuals with intellectual and/or developmental disabilities.
- 1 /3 must be parents or guardians of children with intellectual and/or developmental disabilities described in paragraph, or immediate relatives or guardians of adults with developmental disabilities.
- 1 /3 must be a combination of individuals with developmental disabilities or family members of people with developmental disabilities.
- At least one DD Council member must be an immediate relative or guardian of an individual with an intellectual and/or developmental disability who lives or used to live in an intermediate care facility, or the member could be an individual with an intellectual and/or developmental disability who lives or used to live in an intermediate care facility. – [Dee Valenti](#)

The other members of the DD Council speak and act for agencies and organizations listed below:

- Rehabilitation Act – [DJ Plautz](#)
- Individuals with Disabilities Education Act – [Amy Rhone](#)
- Older Americans Act – [Nate Watson](#)
- Maternal and Child Health Programs of Title V of the Social Security Act – [Jennifer Severe-Oforah](#)
- Medicaid/Title XIX of the Social Security Act – [Nate Watson](#)
- University Center(s) for Excellence in Developmental Disabilities – [Mark Shriver](#)
- Protection and Advocacy System – [Seamus Kelly](#)
- Local and non-governmental agencies involved with services for individuals with developmental disabilities – [Cheryl Montgomery](#)
- Non-profit groups involved with services for individuals with developmental disabilities – [Stephen Morton](#)

Additional agency representation included in the Council membership, as approved by the Council and the Governor, includes:

- A representative from DHHS Division of Developmental Disabilities – [Tony Green](#)
- A representative from DHHS Division of Behavioral Health – [Dr. Tom Janousek](#)

Seamus asked if other Council's are having problems recruiting a person for Dee's position. Kristen responded that other Council's don't seem to have any difficulty recruiting for that position. Kristen went on to say that the make-up of the Council has been called into question by ACL. The make-up of the Council is to be reflected of the make-up of the state not only in urban/rural, but in diversity and ethnicity.

A blast email was sent out on November 8, 2023, to recruit Council members. Philip Gray indicated he was interested in applying to be on the Council but was not sure if he would be eligible since his son with I/DD passed away in January 2022. Council staff reached out to Community Living Specialist Jack Brandt, M.S., Administration on Disabilities, Administration for Community Living with the U.S. Department of Health and Human Services, for guidance. Council staff were told that the Administration on Disabilities believes that the intent of the DD Act is for the family members role to be filled by a family member of living individuals with developmental disabilities to be represented on the Council. However, the DD Act in Section 125(b)(1)(B) does encourage, "...a broad range of individuals with developmental disabilities and individuals interested in individuals with developmental disabilities..." If a family member of a deceased individual wishes to serve on a DD Council, they may seek to be appointed in another capacity on the DD Council. Since Philip is on the Board of The Arc of Nebraska, Council staff advised him he would qualify for the Non-Profit Representative position on the Council when Stephen Morton terms out of the position on October 1, 2024. He was advised if this was something he would like to pursue, he would need to apply with Governor Pillen's Office.

CY2023 NE DD Council Executive Director Annual Performance Evaluation

Rachel S. explained that a motion was needed to enter into a closed session to discuss the Executive Committee's recommended evaluation of the Executive Director. Stephen so moved and Matt seconded. A roll call vote was taken: **Yes – 13, No – 0, Abstain – 0.*** Motion carried.

At 11:37AM, CST, the Nebraska Council on Developmental Disabilities meeting entered into a closed session and Council staff and members of the public (non-Council members) left the meeting room while the Executive Committee's recommended Executive Director Annual Performance Evaluation was discussed.

At 11:57AM, CST, Stephen made a motion to close the closed session by Unanimous Consent and Jason seconded. Having no objections, the motion passed by Unanimous Consent. The closed session was closed.

The Nebraska Council on Developmental Disabilities meeting was re-opened to the public at 11:59AM, CST and Council staff and members of the public (non-Council members) returned to the meeting room. George moved to accept and submit the Executive Committee's recommended Executive Director Annual Performance Evaluation to Sue Medinger, the Designated State Agency (DSA) representative: and Shaistha Kiran seconded.

A roll call vote was taken: **Yes – 10, No – 0, Abstain – 3.*** Motion carried.

Updates on Current Subawards and Contracts

Edith said that she and Rachel Ward are monitoring all the subawards and contracts to make sure the information is accurate in regard to: activities, timelines, key performance indicators, and expense reports. If there are discrepancies, then she or Rachel W. contacts the subrecipient or contractor to remedy the discrepancies. She mentioned that all the quarterly reports have been received, but not all the summary (final) reports have been submitted.

NOTE: Final reports will be shared in the February Council meeting packet.

Updates from State Agency Representatives

NOTE: Agency representatives were asked to briefly touch on any pressing issues or important updates the Council needed to be informed of. The written reports in their entirety are attached at the end of the

minutes for review. [Tony Green, Division of Developmental Disabilities; Dr. Tom Janousek, Division of Behavioral Health; Jennifer Severe-Oforah, Maternal and Child Health – Division of Public Health; Amy Rhone, Department of Education – Office of Special Education; DJ Plautz, Nebraska Vocational Rehabilitation; Nate Watson, Medicaid and Long-Term Care and Aging]

Maternal and Child Health – Division of Public Health (MCH-DPH)

Connecting Families is a stakeholder group that is sponsored by Nebraska's Title V Maternal and Child Health Block Grant has begun to meet quarterly. The goal of Connecting Families is to enhance the services and supports available for youth in schools who need mental and behavioral health supports across the state of Nebraska. It is a space where stakeholders can come together and support one another across the state. It is a framework for sharing and advancing individual knowledge and skills to navigate a continuum of family support and maximize the interaction of family and service providers.

The Title V Maternal and Child Health Block Grant's 5-Year Needs Assessment will be conducted in 2024. The assessment covers women, infants, children, adolescents, and Child/Youth with Special Health Care Needs (CYSHCN). The Title V team is currently designing ways to incorporate families and individuals' experiences, including barriers to participation. The Stakeholder portion will begin next fall and will invite members of the DD Council to participate. [CYSHCN are children who have or at increased risk for chronic physical, developmental, behavioral, or emotional conditions. They also require health and related services of a type or amount beyond that required by children generally.]

Jennifer said that she would welcome any feedback on what the Council would like her to report on regarding Nebraska's Title V Maternal and Child Health Block Grant.

Nebraska Vocational Rehabilitation (VR)

Nebraska VR participated in a variety of events in October to increase awareness and celebrate National Disability Employment Awareness Month (NDEAM). These events included:

- The State Rehabilitation Council Disability Employment and Inclusion Awards Ceremony
- The Nebraska State Board of Education's NDEAM Resolution Declaration
- The Governor's 2023 Proclamation for NDEAM and Employment Awareness Press Conference

Nebraska VR is working on its portion of the Workforce Innovation and Opportunity Act (WIOA) State Plan. A draft was submitted to the Board last Wednesday. The State Plan includes goals, priorities, and strategies related to supported employment and serving individuals with I/DD. The entire State Plan will be available for public comment in January 2024 with a submission date of March 1, 2024.

Nebraska VR is also developing a comprehensive training on supported and customized employment. Training will be made available to existing and prospective providers beginning in January 2024. This will not be a one-and-done training, but a community of practice.

Nebraska Department of Education (NDE) – Office of Special Education

Theresa Hayes, Education Specialist III and Transition Coordinator in the Office of Special Education, provided the Nebraska Department of Education (NDE) – Office of Special Education update in Amy Rhone's absence. Federal regulations require states to monitor the implementation of the Individuals with Disabilities Education Act (IDEA). The primary focus of the state's monitoring must be on ensuring that school districts in the state meet the requirements of IDEA, with particular emphasis on those requirements that are most closely related to improving educational results for children with disabilities. The Office of Special Education monitors districts annually based on a weighted risk analysis of all

Special Education data submitted. Through the analysis, districts then receive focused or differentiated monitoring in four priority areas. In the past, monitoring was done based on a calendar year. With the changes that have occurred with the marriage of NECounts and Determinations, monitoring has changed from being on a calendar year, to coinciding with the school year.

Additionally, Nebraska is required to annually identify the percent of districts with the significant discrepancy in out-of-school suspensions for students with disabilities and by race/ethnicity for students with disabilities in out-of-school suspension. Also, required is identifying districts with disproportionate representation of racial/ethnic groups due to inappropriate identification. Districts identified with significant disproportionality or in the Cautionary Zone for Identification or Placement will be notified in writing by NDE in the Fall.

Indicator 13 is a compliance indicator that requires specific information is included for students with disabilities who are transition age (ages 14 through the end of the school year the student becomes 21 years old) in their post-secondary transition plan. Indicator 13 is a Compliance indicator with a performance target of 100%.

Stephen asked how the teacher shortage was affecting NDE – Office of Special Education. Theresa explained that overall, complaints have increased due to COVID. However, it could be looked as a good thing as well because 2020 made parent aware of the needs of their child/children and taught parents how to speak up and advocate for their child/children.

Division of Behavioral Health

Dr. Tom provided an implementation update on Certified Community Behavioral Health Centers (CCBHC). CCBHCs is a one-stop-shop clinic model designed to ensure access to coordinated comprehensive behavioral health care. CCBHCs are required to serve anyone who requests care for mental health or substance abuse use, regardless of their ability to pay, place of residence, or age – including developmentally appropriate care for children and youth. The Divisions of Behavioral Health, Medicaid and Long-Term Care, and Public Health are in the initial kick-off and preliminary stages of project planning. A large part of the plan is engaging community providers for feedback about the state's model, clinic requirements, and payment plan.

LB1173, also known as Reimagine Well-Being, was passed unanimously by the 2022 Legislature tasks the three branches of state government (legislative, executive, and judicial) to work to gether to transform child and family well-being in Nebraska. The workgroup is required to submit a written framework to the HHC Legislative Committee by December 1, 2023. Some recommendations included:

- Educating the judicial system about behavioral health and individuals are clinically eligible for services. (Here is the clinical pathway and here are the services needed.)
- Exploration of opportunities for Serious Mental Illness (SMI) waivers. (A new set of services and new Medicaid waiver.)
- Looking for more opportunities for regional behavioral health authorities to be larger partners for child-related services.

The Recovery Friendly Workplace Initiative is progressing. The Division would like to break the stigma regarding mental health in the workplace and the Recovery Friendly Workplace Initiative gives business owners the resources and support they need to foster a supportive environment that encourages the success of their employees in recovery. The Division is working on developing preliminary content and re-engaging feedback groups.

Division of Developmental Disabilities (DDD)

Colin Large, DHHS Administrator II in the Division of Developmental Disabilities, provided the DDD update in Tony Green's absence. On October 25, 2023, the Family Support waiver was submitted to the Centers for Medicare and Medicaid Services (CMS) for review. Pending CMS approval, the proposed start date of the waiver is March 1, 2024.

DDD is offering a one-time opportunity for Home and Community-Based Services (HCBS) agency providers to apply for a mini-grant for training opportunities for their Front Line Supervisors (FLS). FLSs are responsible for the oversight and support of Direct Care staff. The grant application period is open until December 12, 2023. The funding for this grant comes from the American Rescue Plan Act (ARPA).

DHHS signed with CBIZ Optumas with Myers and Stauffer to complete an evaluation of all Nebraska HCBS waivers. The evaluation has been completed and the final draft of the report is in the approval process. The final report needs to be submitted on or before December 31, 2023.

Provider Bulletin No. 23-01 dated September 27, 2023 was issued to inform all Developmental Disabilities providers about changes to the Shared Living Service currently being developed by DDD for publication in January 2024. DDD wanted to let the community know it was looking at making some changes to the Shared Living Policy to be more aligned with the person-centered planning initiative. There have been a number of feedback sessions and the Division anticipates making some minor changes and clarifications to the Policy and then publishing the Policy Manual Guidance for Shared Living Providers in January 2024.

Division of Medicaid and Long-Term Care and Aging (M<C)

Beginning January 1, 2024, Nebraska Medicaid will contract services through the following health plans: Nebraska Total Care, United Healthcare, and Molina. [Molina replaces Healthy Blue on January 1, 2024.] Some highlights from the upcoming contracts include removing the annual dental benefit maximum, consolidating provider enrollment, and integrating dental benefits into existing plans' covered services.

NOTE: Please reach out and let M<C know if you encounter any problems with any of the health plans so M<C can address the problem in a timely manner.

During the COVID-19 pandemic, Medicaid members kept their coverage even if they were no longer eligible for Medicaid. On March 1, 2023, Medicaid returned to its normal eligibility rules. It will take approximately 12 months to review each member's eligibility. Medicaid has reviewed about 45% of the members. 31% of members reviewed lost Medicaid coverage. 15% were truly not eligible for Medicaid and 15% were not getting back to Medicaid to verify eligibility. It is very important that Medicaid members make sure their contact information is up to date with Nebraska Medicaid. If Nebraska Medicaid is not able to reach a member, they could unnecessarily lose Medicaid coverage.

Even if a person was found ineligible for Medicaid, their child may still be eligible. Some adults mistakenly think that if they are not eligible for Medicaid, my child/children are not eligible for Medicaid. That is not the case. Children have different eligibility criteria. To help ensure that you child/children do not unnecessarily lose coverage, please verify or update your family's information with ACCESS Nebraska. You will not need to submit another Medicaid application to update your information. Nebraska Medicaid uses available information to check if your child still qualifies for Medicaid and will only ask you for information if necessary.

Updates from the DD Network Representatives

NOTE: DD Network representatives were asked to briefly touch on any pressing issues or important updates the Council needed to be informed of. The written report for Disability Rights Nebraska is attached at the end of the minutes for review. No report was submitted for Munroe-Meyer Institute [Seamus Kelly, Disability Rights Nebraska; Mark Shriver, Munroe-Meyer Institute]

Disability Rights Nebraska

The written report provided by Disability Rights Nebraska, references a couple of advocacy examples. In example #1 where the staff attorney provided the woman with information about voting rights in Nebraska and about a person's rights under a legal guardianship for her to share with her brother, Seamus explained that this example **is** an example of **Supported Decision Making**. This is why it is so important that Supported Decision Making needs to be individualized to meet individual needs and not a blanket. You cannot box everyone all together. Supported Decision Making needs to be tailored to each person.

Disability Rights Nebraska has a Resource Clearinghouse for Supported Decision Making which catalogues a wealth of information and a category included is Supported Decision Making and mental illness. The Resource Clearinghouse can be found at: <https://www.disabilityrightsnebraska.org/what-we-do/supported-decision-making/>.

Disability Rights Nebraska had their quarterly Board of Directors meeting on September 9, 2023. The Disability Rights Nebraska Board has similar challenges to the Council in filling various Board member categories. If you know someone who would be interested in being on the Board of Directors for Disability Rights Nebraska, let Seamus or Tania Diaz know.

Work continues with Disability Rights Nebraska's Inclusive Education Lay Advocacy Program. Seven families were referred to the Inclusive Education Lay Advocacy Program. Inclusive Education Lay Advocacy training began on September 12, 2023 with five participants.

Council Chair and Staff Updates

Rachel S. said that she attended the Nebraska 2023 Supported Employment Summit and the press conference Governor Pillen hosted to celebrate Disability Employment Awareness Month. She also thanked the Executive Committee members for their work on the CY2023 NE DD Council Executive Director Annual Performance Evaluation.

Kristen attended the National Association of Councils on Developmental Disabilities' 2023 Executive Director Leadership Summit October 16-28, 2023 in Providence, Rhode Island. Some of topics discussed included:

- The NACDD Board of Directors let go of Executive Officer Donna Meltzer. Robin Troutman is the Interim Executive Officer. The NACDD Board of Directors is collaborating with the NACDD Executive Search Committee to finalize the process for the search for the new leader of NACDD.
- Councils are now mandated to start collecting sexual and gender orientation data.
NOTE: Council staff will make sure that there is a "prefer not to answer" box available.
- Minimum allotment states, such as Nebraska, have the same reporting requirements as larger states, such as California. Perhaps the minimum allotment states need more funding to get the necessary work done.
- There is a self-advocacy movement going on to eventually change the DD ACT so that self-advocate organizations are noted as the fourth leg of the stool (the DD Network). This would

make it possible for self-advocate organizations to receive funding by the federal government and supported by the other three legs of the stool.

- The three legs of the stool are:
 1. Munroe/Meyer Institute/University Centers of Excellence on Developmental Disabilities
 2. Nebraska Council on Developmental Disabilities
 3. Disability Rights Nebraska (Protection & Advocacy)
- There was discussion regarding the difference between “advocacy” vs “lobbying”.
- Several Councils use “Readable” software so items are in “plain language”.
- **NOTE:** Council staff will explore purchasing the “Readable” software.

Kristen congratulated Nikki Krause on receiving the Celebration of Excellence Award.

Disability Pride Day is July 20, 2024. More details to come.

The Leadership Development Fund was established to make funds available to defray the costs for self-advocates and/or parents/family members/guardians of children/adult children with intellectual/developmental disabilities to participate in conferences, workshops, and other training opportunities that will increase their knowledge of disability issues and increase their skills as advocates for people with developmental disabilities. Edith has been working on the Leadership Development Fund Policy and editing the form to simplify and clarify the steps while keeping the intent of the Fund. Edith was pleased to announce that Mary Phillips was the first awardee of Leadership Development Funds. **NOTE:** A copy of the edited Leadership Development Fund Policy was a “day of” handout.

Council Member Updates

Eddie was in the play *Dozynki: A Celebration of Polish Tales* October 13-15, 2023. It was fun and a great experience. He also attended the ACP 2023 Fall Conference and learned a lot.

Quinton attended the press conference Governor Pillen hosted to celebrate Disability Employment Awareness Month. He said it was good to know that the Governor cares about employment.

Caiti wanted to thank everyone for electing her Chair of the Planning Committee.

Stephen mentioned that he was impressed by the Agency Representatives Reports. He realizes that governmental agencies usually get pounded on for what they do, but he wanted to thank the Agency Representatives for all the work they do.

Sherry Stansberry wanted to thank the Council for helping to send People First of Nebraska members to the 2023 SOAR Conference October 27-29, 2023, in Overland Park, Kansas.

Matt said that The Arc of the United States is looking for a new Chief Executive Officer (CEO). Sometime down the line, he is going to make a motion to nominate Edison McDonald for CEO.

Rachel S. said she and Braxton spoke at the Kids & Dreams Foundation 2024 Autism Conference on October 27, 2023 in Kearney, Nebraska. They spoke about using his device in different ways at home, school, and in the community. There were also sessions at the conference on Supported Decision Making and Charting the LifeCourse. Rachel said that the kids got 1st place last week in unified bowling.

There is a tournament in Grand Island tomorrow and Districts are next week. Aubree will graduate in May 2024 and Rachel S. has taken a long-term substitute kindergarten teacher position.

Everyone wished everyone a Happy Thanksgiving!!!

Public Comment Period #2

Rachel S. mentioned that all public meetings must allow time on their agenda for people who are not on the Council to comment. Members of the public, who wanted to address the Council, were instructed to identify himself or herself, including an address and the name of any organization represented.

Kristen entered public comment for Mandi Wilson, a Shared Living Provider and guardian. Due to unforeseen circumstances, Ms. Wilson was unable to attend today's Council meeting. Kristen read Ms. Wilson's letter regarding concerns she had with the Shared Living Provider Policy changes that are to take place on January 1, 2024. Kristen only read Ms. Wilson's letter and said she would provide a copy of it and another email to DDD. Nate moved to receive and file the emails regarding Shared Living Provider Policy changes by unanimous consent and Matt seconded. Having no objections, the motion passed by Unanimous Consent. The Council received six individual letters and one letter on behalf of the Support Professionals of Nebraska. The emails regarding Shared Living Provider Policy changes were received and filed.

NOTE: A copy of the emails regarding the Shared Living Provider Policy changes are attached to the end of the minutes for review.

Adjourn

Nate motioned to adjourn the meeting and Jason seconded. The meeting adjourned at 2:47PM, CST.

The next Council meeting is scheduled for February 2, 2024 and will be hybrid (in-person and virtual). The Legislative and Advocacy (L&A) Committee meeting will be February 1, 2024 and will also be hybrid. The Grant Review Committee meeting will be virtual and the date to be announced.

Nebraska Council on Developmental Disabilities

Mission

The Council engages in **Advocacy**, **Capacity Building**, and **Systemic Change** activities that assure that individuals with developmental disabilities and their families participate in the design and have access to needed community services, individualized support, and other forms of assistance that promote *self-determination, independence, productivity, and integration and inclusion* in all facets of community life.

Nebraska Council on Developmental Disabilities
State Agency Representative
Report to Council Members

November 17, 2023

Representative: Tony Green, Director

Agency: Department of Health and Human Services – Division of
Developmental Disabilities and Home & Community Based
Services

Update on activities/trends/improvements/issues impacting individuals with I/DD since the last Agency update:

Family Support Waiver

- The Division has submitted the Family Support Waiver draft to the Centers for Medicare and Medicaid Services (CMS) for their review.
- The proposed start date of the waiver is March 1, 2024, pending CMS approval.

Provider Mini-Grants – Front Line Supervisor Training

- The Division is offering a one-time opportunity for Home and Community-Based Services (HCBS) agency providers to apply for a mini-grant for training opportunities for their Front Line Supervisors (FLS). FLSs are responsible for the oversight and support of Direct Care staff.
- The grant application period is open now through December 12, 2023. The training topics must be targeted for building the skills and professional development of FLSs. Training topics could include motivation and engagement, teamwork and collaboration, time management, communication, managing conflict, and others.

System Evaluation

- DHHS signed with CBIZ Optumas with Myers and Stauffer to complete the evaluation of all Nebraska HCBS waivers.
- The final draft of the report is in the approval process. The report will be submitted to the consultant to the Governor, the Department of Health and Human Services, the chairperson of the Health and Human Services Committee of the Legislature, and the Clerk of the Legislature on or before December 31, 2023.

Future/upcoming Agency activities:

- Monthly HCBS Final Settings Rule Q&A Session – November 17th 2023, 3:00 pm – 4:00 pm.
- The “Right” to an Effective Human Rights Committee Training – November 21, 2023, 4:00 pm – 6:00 pm
- DD Advisory Committee Meeting – November 29, 2023, 10:00-2:00 PM, Conference Room P, 5220 South 16th St, Lincoln, NE. Public Comment at Noon.
- Monthly HCBS Stakeholder Meeting – December 4, 2023, 4:00 PM – 5:00 PM CT Zoom Meetings. Link on the DD Event Calendar
- Stakeholder Feedback Session – December 6, 2023, 2:00 pm – 5:00 pm.

Nebraska Council on Developmental Disabilities

State Agency Representative
Report to Council Members

Representative: Thomas Janousek

Agency: Division of Behavioral Health

Update on activities/trends/improvements/issues impacting individuals with I/DD since the last Agency update:

1. CCBHC Implementation updates
 - a. What are CCBHCs: Clinic model is designed to ensure access to coordinated comprehensive behavioral health care. CCBHCs are required to serve anyone who requests care for mental health or substance use, regardless of their ability to pay, place of residence, or age - including developmentally appropriate care for children and youth.
 - b. DBH, Medicaid and Public Health are in the initial kick-off and preliminary stages of project planning.
 - c. A large part of the plan is engaging community providers for feedback about the state's model, clinic requirements, and payment plan.
2. 1173 Workgroup and Behavioral Health
 - a. Report is located at <https://dhhs.ne.gov/Pages/LB-1173-Child-and-Family-Well-Being-Working-Group.aspx>
 - b. Recommendations
 - i. Education to the judicial systems about behavioral health
 1. Clinical eligibility
 2. Payor sources
 - ii. Exploration of opportunities for SMI waivers
 - iii. Looking for more opportunities for our regional behavioral health authorities to be larger partners for child-related services.
3. Recovery Friendly Workplaces update
 - a. Refresher overview: The Recovery Friendly Workplace Initiative gives business owners the resources and support they need to foster a supportive environment that encourages the success of their employees in recovery.
 - i. Education about recovery friendly policies
 - ii. Mental health support
 - iii. Community connections
 - b. Position has been hired and we are working on developing preliminary content and re-engaging feedback groups
 - c. Progressive roll out of the program

Nebraska Council on Developmental Disabilities

State Agency Representative Report to Council Members

Representative: Amy Rhone

Agency: Nebraska Department of Education – Office of Special Education

Update on activities/trends/improvements/issues impacting individuals with I/DD since the last Agency update:

The federal regulations require states to monitor the implementation of IDEA. The primary focus of the state's monitoring must be on:

Ensuring that school districts in the state meet the requirements of the Individuals with Disabilities Education Act (IDEA), with particular emphasis on those requirements that are most closely related to improving educational results for children with disabilities.

The Office of Special Education monitors districts annually based on a weighted risk analysis of all Special Education data submitted. Through the analysis, districts then receive focused or differentiated monitoring in four priority areas.

Performance Report

The FFY 2021 SPP APR District Public Reporting Guide explains how we in Nebraska publicly report on each LEA's performance. The State Performance Plan (SPP) consists of measurable and rigorous targets for each of the indicators. This document lays out the Data Source, Data Year, Data Due date, Measurement/Calculation and Public Reporting Considerations for the data.

NECounts Risk Analysis

The Nebraska Department of Education, Office of Special Education is required to make an annual level of determination on the performance of each school district under Part B of the IDEA [\[34 C.F.R. § 300.600\(a\)\(2\)\]](#). NDE makes each district's annual determination using both outcome and compliance data. NDE is also required to assess each school district for risk under the Uniform Grant Guidance, determining the school district's risk of noncompliance with federal statutes and regulations and whether the school district may not achieve intended outcomes with federal special education dollars. NDE has fulfilled both requirements through a process called NECounts which is described in the [NECounts and District Annual Determination Guide](#).

A higher risk score means a district is at higher risk of federal dollars not achieving intended outcomes. A lower risk score means a district is at lower risk of federal dollars not achieving intended outcomes. Districts are then sorted by total percentage score to determine the monitoring and technical assistance each district needs.

Email Notification of Determinations came out in August.

The Levels of Determinations have been live on ILCD 3.0 since June 1, 2023 and although The Office of Special Education has put out communications on how to access these determinations and the data that led to these determinations (annual performance reports), upon review, it was evident that many districts had not yet opened their 2022-23 Determination and NDE, OSE took an extra step to provide individualized notification.

We have received a lot of stakeholder feedback concerning the categories of determinations used. These categories are dictated by the Office of Special Education (OSEP) and states do not have the freedom to alter these categories. Let's take a look at those categories and where we landed as a state.

The Office of Special Education is beginning the differentiated, focused monitoring of districts that were recently selected. In the past monitoring was done based on a calendar year. With the changes that have occurred with the marriage of NECounts and Determinations, we have changed monitoring from being on a calendar year, to coinciding with the school year. We are hoping this change will be easier for districts to follow. When you receive that notification, it will include the monitoring protocol informing each district what can be expected throughout the process. There will also be a link to an Introductory Webinar highlighting the monitoring activities expected, and a data questionnaire tailored to each district. For the districts selected for monitoring, please return the completed questionnaire to the team lead named within the notification letter.

In 2016 the Federal Office of Special Education Programs amended the Individuals with Disabilities Education Act (IDEA) regulations relating to **significant disproportionality**. This disproportionality occurs when students of one racial/ethnic group are more likely to receive special education identification in a specific category, placement in a more restrictive setting, or more out of class discipline compared to all other students, thus denying them access to instruction and the support they need to succeed academically. The IDEA requires the Department to promote equity by identifying and preventing significant disproportionality.

Understanding and applying the knowledge of your district's data story helps ensure services are getting to students in an appropriate way.

Additionally, Nebraska is required to identify, annually, the percent of districts with the **significant discrepancy** in out-of-school suspensions for students with disabilities and by race/ethnicity for students with disabilities in out-of-school suspension. Also, required is identifying districts with **disproportionate representation** of racial/ethnic groups due to inappropriate identification.

Districts identified with significant disproportionality or in a Cautionary Zone for Discipline will be notified in writing by NDE in the Spring. Districts identified with significant disproportionality or in the Cautionary Zone for Identification or Placement will be notified in writing by NDE in the Fall.

- Indicator 13 is a compliance indicator that requires specific information is included for students with disabilities who are transition age (ages 14 through the end of the school year the student becomes 21 years old) in their post-secondary transition plan. Indicator 13 is a Compliance indicator with a performance target of 100%.

Percent of youth with IEPs aged 16 (14 in Nebraska) and above with an IEP that includes

appropriate measurable postsecondary goals that are annually updated and based upon an age-appropriate transition assessment, transition services, including courses of study that will reasonably enable the student to meet those postsecondary goals, and annual IEP goals related to the student's transition services needs. There also must be evidence that the student was invited to the IEP team meeting where transition services are to be discussed and evidence that, if appropriate, a representative of any participating agency that is likely to be responsible for providing or paying for transition services, including, if appropriate, pre-employment transition services, was invited to the IEP Team meeting with the prior consent of the parent or student who has reached the age of majority.

Current Agency activities/trends/improvements/issues impacting individuals with I/DD:

In the spring of this year the Office of Special Education released the Indicator 13 Self-Assessment Pilot. The survey was created by using the Indicator 13 Checklist developed by NTACT-C, the National Technical Assistance Center for Transition- the Collaborative. The purpose of the pilot was to get a baseline of the data statewide, as well as determine if the questions needed to be altered to ensure clarity for those completing it. We took the feedback and revised the survey to be as clear as possible.

September 1, 2023, the Indicator 13 Self-Assessment was made live in ILCD for districts to complete. Districts had from September 1 to October 16 to complete the self-assessment survey for each of their students. It is very important that districts completed these surveys within this time frame. Failure to complete the survey by the due date will impact a districts timely, accurate, and complete data.

The survey could be accessed via ILCD in the NDE portal, under the Accountability tab, and then the Indicator 13 tab.

The Indicator 13 Collection is intended to review a District's system and not the individual student files for SY2022-23. All files needed to be reviewed regardless of a student graduating, moving to another district, or returning to regular education. If a student graduated, moved, or returned to regular education the self-assessment still needed to be completed using the most recent IEP, Previous IEP, and the most recent Meeting Invite.

Future/upcoming Agency activities:

Nebraska Council on Developmental Disabilities

State Agency Representative
Report to Council Members

Representative: DJ Plautz_____

Agency: Nebraska VR_____

Update on activities/trends/improvements/issues impacting individuals with I/DD since the last Agency update:

Nebraska VR co-hosted and participated in the Employment Summit on September 20th.

Nebraska VR participated in a variety of events in October to increase awareness and celebrate National Disability Employment Awareness Month (NDEAM). These events included:

- The State Rehabilitation Council Disability Employment and Inclusion Awards ceremony;
- The Nebraska State Board of Education’s NDEAM Resolution declaration; and
- The Governor’s 2023 Proclamation for NDEAM and Employment Awareness press conference.

Current Agency activities/trends/improvements/issues impacting individuals with I/DD:

Nebraska VR continues to provide technical assistance to supported employment providers in an effort of improving the quality of service delivery.

Future/upcoming Agency activities:

Nebraska VR is working on its portion of the Workforce Innovation and Opportunity Act (WIOA) State Plan;

- The state plan includes goals, priorities, and strategies related to supported employment and serving individuals with I/DD; and
- The entire state plan will be available for public comment in January 2024 with a submission date of March 1, 2024.

Nebraska VR is developing a comprehensive training on supported and customized employment.

- This training will be made available to existing and prospective providers beginning in January 2024.

Nebraska Council on Developmental Disabilities

State Agency Representative
Report to Council Members

Representative: Jennifer Severe-Oforah

Agency: Division of Public Health, DHHS

Update on activities/trends/improvements/issues impacting individuals with I/DD since the last Agency update:

Connecting Families is stakeholder group that is sponsored by Nebraska's Title V Maternal and Child Health Block Grant that has begun to meet quarterly.

Connecting Families Goal:

To enhance the services and supports available for youth in schools who need mental and behavioral health supports across the state of Nebraska.

By creating a space where stakeholders connect to design a framework for sharing and advancing individual knowledge and skills to navigate a continuum of family support and maximize the interaction of family and service providers.

Current Agency activities/trends/improvements/issues impacting individuals with I/DD:

The Title V Maternal and Child Health Block Grant's 5-year Needs Assessment will be conducted in 2024. All states are currently preparing. The goal of the assessment is to identify 7-10 priority needs to be addressed (2025-2030). The assessment covers women, infants, children, adolescents and Child/Youth with Special Health Care Needs (CYSCHN). Nebraska's process is stakeholder and data-driven. The Title V team is currently designing ways to incorporate families and individuals' experiences, including barriers to participation. The stakeholder portion will begin next fall and will invite member of the DD council to participate.

Future/upcoming Agency activities:

Nebraska Council on Developmental Disabilities

State Agency Representative Report to Council Members

Representative: Nate Watson – Deputy Director

Agency: DHHS – Medicaid & Long-Term Care

Update on activities/trends/improvements/issues impacting individuals with I/DD since the last Agency update:

Fall Listening Tour

Nebraska Medicaid wrapped up its “Navigating Medicaid: Exploring Updates and Changes to Health Plans, Coverage, and the Unwind” Listening Tour on Tuesday, November 14.

During the Listening Tour, which comprised of 12 meetings in 10 cities throughout Nebraska, including two virtual sessions, Nebraska Medicaid announced upcoming changes to the program and provided updates on the continuous coverage unwind.

Nebraska Medicaid plans to continue the listening sessions on a biannual basis, with the next sessions tentatively scheduled for early next year in the spring.

Managed Care Re-procurement

Nebraska Medicaid announced its selection for the next managed care contracts. These new contracts begin January 1, 2024. Medicaid selected the following health plans:

- Nebraska Total Care
- UnitedHealthcare
- Molina

Some highlights from the upcoming contracts include removing the annual dental benefit maximum, consolidating provider enrollment, and integrating dental benefits into existing plans’ covered services.

Meetings with Stakeholders

Nebraska Medicaid's communications team holds regular meetings with stakeholders to update them on changes to the program.

Public meetings are held each Monday for stakeholders to attend. Additionally, a dedicated provider call is held on the first Wednesday of each month.

Finally, meetings are held with NALHD and members of the local health department every other week to update our local health departments on upcoming changes.

Public Health Emergency Unwind

During the COVID-19 pandemic, Medicaid members kept their coverage even if they were no longer eligible.

Medicaid returned to its normal eligibility rules on March 1, 2023. It will take approximately twelve months to review each member's eligibility.

It is very important that Medicaid members make sure their contact information is up to date with Nebraska Medicaid. If Nebraska Medicaid is not able to reach a member, they could unnecessarily lose Medicaid coverage.

Make sure your contact information is up-to-date and report any changes to income or household size (divorce, marriage, new children). You can report these changes in any of the following ways:

- Online at ACCESSNebraska.ne.gov
- Email at DHHS.ANDICenter@nebraska.gov
- Fax at (402) 742-2351
- Over the phone by calling ACCESS Nebraska at:
 - Omaha: (402) 595-1178
 - Lincoln: (402) 473-7000
 - Toll Free: (855) 632-7633
 - TDD: (402) 471-7256

You should check your mail regularly. DHHS may send you important information that you need to respond to, so you don't unnecessarily lose your coverage. If you have provided your email address and phone number, DHHS will also send you texts and emails when your renewal is coming up.

Lost Medicaid Coverage? Your child may still be eligible.

Even if you were found ineligible for Medicaid, your child may still be eligible. Updating your family's information can make all the difference in maintaining the healthcare they need.

To help us ensure that your child doesn't unnecessarily lose coverage, please verify or update your family's information with ACCESSNebraska. You will not need to submit another Medicaid application to update your information. Nebraska Medicaid uses available information to check if your child still qualifies for Medicaid and will only ask you for information if necessary.

Medicaid is always open. Remember that you can apply for Medicaid at any time, even when you have life changes.

Nebraska Medicaid's communications team has developed a new flyer, rack card, fact sheet, and FAQ to address messaging misconceptions regarding child eligibility and Medicaid applications.

Current Agency activities/trends/improvements/issues impacting individuals with I/DD:

Please see the above, which includes current and upcoming activities.

Future/upcoming Agency activities:

Please see the above, which includes current and upcoming activities.

Nebraska Council on Developmental Disabilities

State Agency Representative
Report to Council Members
November 2023

Representative: Seamus Kelly/ Tania Diaz

Agency: Disability Rights Nebraska

Update on activities/trends/improvements/issues impacting individuals with I/DD since the last Agency update:

Advocacy Examples:

Example #1

When a person has a legal guardian, individuals, their friends and family members are sometimes confused as to whether that person has the right to vote. In Nebraska, a legal guardianship by itself does not usually prevent a person from voting. Being civilly committed, whether in the past or present, also does not affect one's right to vote. That's what a western Nebraska woman asked on behalf of her brother, who has a developmental disability. The woman wanted to be able to assure her brother that he could exercise this fundamental right. Our staff attorney provided the woman with information about voting rights in Nebraska and about a person's rights under a legal guardianship for her to share with her brother.

Example #2

Disability Rights Nebraska staff assisted an individual with Autism with employment accommodations. The individual worked for a grocery store since 2015 without major incident. In 2023, he was moved to a maintenance position despite preferring his previous positions in the dairy and produce department. Additionally, he applied for several other positions, but was told he would not be considered. Finally, he requested a reasonable accommodation that he be given a written list of tasks and expectations at the beginning of each work shift. His manager never responded to that request. A staff attorney at Disability Rights Nebraska wrote a letter on the individual's behalf to the store manager and the corporate headquarters. Staff attorney then engaged in discussions with a human resources director with the store's corporate headquarters. As a result, the individual received all his requested accommodations, Disability Rights Nebraska was assured that he would be considered for other open positions, and the individual was given shifts back in the produce and dairy departments.

Supported Decision Making

Presentations:

- Presented to Special Education teachers at the ESU 3 “Parent Resource Fair” in La Vista with vendor table for teachers; then in the evening a vendor table for the resource fair. We spoke to many parents and teachers; a couple of parents asked Mary Phillips how she has implemented Supported Decision Making for her daughter (said they didn’t know of alternatives).
- Presented at the Elder Justice Training Event that was broadcasted by Nebraska Public Broadcasting. At least 400 people were reached for this training.

Web-based resource Clearinghouse:

We have a “resource clearinghouse” for Supported Decision Making which catalogues a wealth of information and a category included is Supported Decision Making and mental illness. See the Clearinghouse here: <https://www.disabilityrightsnebraska.org/what-we-do/supported-decision-making/>.

Current Agency activities/trends/improvements/issues impacting individuals with I/DD:

Beatrice State Developmental Center:

As reported in the last quarter, a routine monitoring visit revealed there was a teenager who was being kept on a floor with no other residents due to his behaviors. In this quarter, we returned to the Crisis Stabilization Unit where some of the largest concerns exist about use of force and/or seclusion and restraint and verified that this young man has been discharged to a community-based entity where we hope he will no longer experience the isolation we’d observed. Ongoing review of the monthly incident reports allows staff to decide which cottages to visit during monitoring visits.

Other Activities:

A one-day virtual workshop led by Darcy Elks called THE CHALLENGES OF SOCIAL INCLUSION was held Thursday, September 7, 2023 from 9:00-3:00. Approximately 50 people attended. The group included advocates, service providers, family members and people with disabilities.

Disability Rights Nebraska had their quarterly Board of Directors meeting September 9th. Both the proposed objectives and budget were approved so we are ready for Fiscal Year 2024. The Board also elected a new member, Danni Schutz, a fourth-year student at UNL who has a visual disability.

Our Community Engagement Director was interviewed for a Channel 6 News story on Douglas County’s crackdown on misuse of accessible parking spaces on September

27th. The story resulted in a few interesting calls and we were able to provide follow-up recommendations to the callers.

We provided a short presentation at the annual People First of Nebraska conference on October 7th on voting rights. About 35-40 people attended that session and they were very engaged. Many were already registered to vote. We did register one new voter and provided information on rights and the new voter ID law.

Lay Advocacy Program:

- Seven (7) families were referred to the Inclusive Education Lay Advocacy Program during this period. Four of these families were referred to a Lay Advocate. There was no advocate available to assist the other three families. Information was provided on other possible options for the families to pursue.
- Inclusive Education Lay Advocacy training began on September 12 with five (5) participants.
- A meeting with the volunteers who assist with the Inclusive Education Lay Advocacy training was held on August 7 to discuss the upcoming training. Discussion centered on the changes in education since the pandemic and how to include updated information in discussions.
- A meeting was held with advocates on August 8 to provide an opportunity to meet the new advocates and to talk about advocate experiences in their work. A presentation was made by a staff lawyer on the federal guidance for schools on discipline procedures for students with disabilities. Seventeen advocates joined either through zoom or in person.

11/17/23

My name is Mandi Wilson. I'm here today as a shared living provider of 14 years and a guardian of 13 years.

I am here due to concerns that I have with the shared living provider policy changes that will take place January 1st, 2024. These changes have been poorly planned, communicated, and executed. Still today there are participants and guardians who have not been contacted by DHHS in regards to how these changes will impact them. The biggest reason of all that I am here is because this is far from person centered. Part of that person centered plan could be to develop safety plans and supports within a persons individualized service plan to meet their wants, needs, and desires.

One of the largest concerns I have for those I'm guardian for is the state limiting access to homes with children under 13. The draft states "If a shared living provider has children under the age of 13, another adult must live full time in the home and be noted in the home study survey, to provide care and supervision to the child in the event of an emergency." On numerous provider calls, stakeholder calls, and agency training calls we have been told this mean anytime a child under 13 and a waiver participant are in a shared space both supervising adults need to be present. We have also been told that it doesn't matter if the safety plan is built around the family setting that the waiver participant wants to live in nor does it matter the supervision or needs of the person being supported. Living in a family setting can be exactly what someone on a waiver is wanting to experience. By limiting this you are not only limiting the option for families to provide the service and participants to experience a family setting you are also limiting the growth of future support professionals. What better for the future of community supports than children watching their parents include others in their homes. As a guardian I don't like the stigma or implication it makes on the person being supported that someone also needs to be available anytime children under 13 are present especially when it is not based off a safety plan or the needs or support levels of the person being supported.

Another concern I have is with the grandfathered in conditions. According to the department all current shared living providers are grandfathered in to all the changes but one. If you are grandfathered in, the person you support will not be moved out of their home. They will be able to stay in the community setting they prefer as long as any of the following does not take place: The shared living provider doesn't get married, get divorced, someone in the home doesn't pass away, a baby is not brought into the family, a spouse isn't deployed, an agency doesn't shut down, or a guardian or waiver participant doesn't want to move agencies due to that agency not fitting the needs for the participant any longer. If any of those things were to occur that waiver participant will need to find a new living setting. With many families leaving the field due to this policy change I fear that means group homes will be the only realistic option for many. At one point on stakeholder and provider calls we were told there would be an exception process. We are now told that is not the case. I have even heard service coordinators tell me that they are waiting to be trained on the exception process before speaking to participants and their teams. We learned last week from the department no exception process is coming. We are now 45 days out from these changes taking effect.

The last change that brings me great concern is the change to shared living providers no longer being able to provide vocational and residential services. This is the only change effecting my household. I am concerned due to the progress I've seen. I have the permissions of the waiver participants and their guardians to share their stories. My husband and myself both pride ourselves in being the best shared living providers we can possibly be. We have no children of our own and the young ladies we support are truly our family. We do what we have to do in order to support them no questions asked and we will continue to do that. At this time any money we make from the vocational services we provide go towards family activities, vocational activities, things the young ladies need, and family vacations.

Tiff has been with us for nearly 13 years. She has attended a vocational site for 10 of those years. When we first started looking for vocational sites Tiff had wanted to lose weight and be involved with horses. She was promised that at her site. As her shared living providers, we had purchased time with a personal trainer, gym memberships, horse camps, and arranged for time with horses. The only time Tiff would be able to do these things or make these events were if we took her. Her vocational site was either short staffed, didn't have other participants who also wanted to engage in these activities, or Tiff wouldn't follow through due to the lack of relationships built with her DSPs. We have found that with Tiff a hybrid approach works best for her. Tiff attends a vocational site twice a week. Tiff gets just the right amount of social time with her friends that she wants and works on her personal goals with us the other 3 days. This allows her the evenings and weekends to do parks and rec club and camps, people first, aktion club, capital crew, arc events, volunteering at the penguin project, and spending time with family and other friends. Tiff has also been able to lose 60 pounds. These are services built for Tiff, around Tiff, and with Tiff. We have provided these services in the past with no compensation and will continue to do so once these policy changes take place if need be. The department has stated that the changes need to take place due to participants not being part of their community. I argue that Tiff is building the community she wants. The department also states that being with the same person all the time opens Tiff up to a high risk of abuse and neglect. I argue that having a hybrid approach eliminates that higher risk. Tiff and her guardian however will need to fire my husband as her independent contractor. Not because he is doing an unsatisfactory job but because the state is now dictating who Tiff can hire and can't hire. At this time, we are fortunate enough to be able to provide the service without pay if needed, at least until the state restricts our abilities to negotiate rates as support professionals independently contacted. That I'm expecting in July once CMS gives the state approval on how they an implement it.

Aly has been with us for nearly 9 years. Aly has been served at a 1 to 1 level in all her school settings. Even though Aly really needs those supports she is not funded at that level in the DD world. At school in one setting, she even had a classroom built over the summer in the school exclusively for her. We were called often to help support school staff and to end her day and weeks early. When Aly was graduating from the LPS transition program in May the department came to us asking us to provide the day supports. The goal is and was to take a hybrid approach to Aly's vocational day as well. Aly needs consistent messages with little grey area. That can be difficult with too voices being heard. Aly has gone from 2 to 3 crisis events ^{resulting in a GER} ~~resulting in a GER~~ to 2 to 3 a month. Aly selects tasks she wants to do weekly in the community. Aly's community events don't end there. Aly spends her evenings in the community as well because that is what Aly wants her life to look like. Aly also participates in parks and rec club and camps, people first, aktion club, capital crew, arc events, the penguin project, and spending time with family and other friends. Aly is fully immersed in the community she wants and needs. These

services are built for Aly, around Aly, and with Aly. The department also states that the reason for this change is due to burn out. You know what causes burn out is in our home? Being asked to do a job that others can't or won't do without pay. It's also handling crisis events that others aren't equipped to or wont handle or that are caused due the lack of skills and concern. I can guarantee that is exactly what will happen. Aly's team will not be able to located a skilled or reliable independent contractor to provide the supports Aly needs and a vocational site doesn't have the staffing, funding, or structure to support Alys wants, needs, and desires. Both options will end with the number of GERs increasing and Aly's level of satisfaction in her life going down. This too will result in our home to become unstable and cause chaos. Aly again will be asked to fire my husband as her independent contractor not due to his work performance but due to this policy change.

With all this being said we will do what we can for our family to best serve and support them. This will likely result in less oversight.

I appreciate you listening to my families concerns and how it will impact us. I want to end this with a quote from Tony Greene "Person-centered planning is really ensuring that the plan is developed with the person, for the person and by the person and so it really is a different way of thinking of how we create services and supports for people based on what the participant wants and not what the system has to offer."

Do these changes seem to reflect this quote?

Thank you for your time,

Mandi Wilson

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Mandiwilson.guardian@gmail.com

November 16, 2023

To Whom It May Concern,

Since 2020, DDD and the Nebraska Council on Developmental Disabilities have worked together on a Person-Centered Planning initiative to reinvigorate person-centered supports.

Person-centered planning is a process-oriented approach empowering people to plan their life, find their voice, and work toward reaching their goals.

The goal of person-center planning is to support participants to be the center of planning their supports and goals.

As Tony Green said in a Facebook Live on April of 2020, "Person-centered planning is really ensuring that the plan is developed with the person, for the person and by the person and so it really is a different way of thinking of how we create services and supports for people based on what the participant wants and not what the system has to offer."

On September 27, 2023 DHHS sent out a provider bulletin to all Medicaid HCBS DD Waiver Service Providers, which does not align with person-centered planning. They are making policy changes that does not allow for the participant to work toward their own goals, planning their own life, and finding their own voice.

These policy changes do not reflect what Director Green stated "what the participant wants and not what the system has to offer." The policy changes are taking away the wants of the participant. It is possibly moving them out of a home where they have been living based on the numbers of adults that live in the home. It is possibly moving them out of a home where they have been living based on children under the age of 13 living in the home. It is not allowing them to have their own voice for their day service staff member.

MY STORY

I have two individuals in my home, one for ten years who is a low level and one nine years on an advanced level. The latter became full time after being put into a CPS situation, no fault of her own, a change from mom to dad guardianship situation. This young lady was about twelve years old when I first started with her, she had been in a horrendous home situation, non-verbal and expressed herself through aggression towards others and herself. It took several years to gain her trust.

During her school years she was home more than school due to her aggression and causing injuries to the school staff/other students and expelled. The regular school system could not accommodate her behaviors and she finished the last few years at Brook Valley, where the aggression still happened including causing physical injury to others and herself but not as frequently. Although, I did have to take her to and from school as the school bus and cab service could not risk injury to others.

About five years ago, I was required to have an additional person on my contract and live with me. This additional SLP has been doing her day service since they built that relationship. This young lady may not ever be able to go to the traditional day service/workshop environment because of the aggressiveness risk to others.

We originally were extremely careful of where we would take her into the community as she tends to go after younger children or those who show fear (understandably that is more than one would expect since she constantly makes noises, bites her finger like a toddler who sucks their thumbs). In this last year, my co-SLP has ventured out into more areas including the malls, zoo, restaurants, and stores. Although we still plan when the areas are least busy, but less triggers.

The point being, if we are people-centered, and we can't use those who have been in her life and built that trust, then we lose the progress we have made. That trust has been built because the SLPS are part of her home environment that gives the extra ability to build the trust needed.

In order for my co-SLP to continue the day service with my young lady, the SLP has to move out of the house, losing that more personal family connection that this young lady needs to continue her progress of growth. She knows all our family members, including the younger children and they know her. I have grandchildren who have grown up around her and they have their own unique relationships. It would be beyond unforgivable to take away the warmth the extended family has given her over the last nine years for a cold blanket regulation.

My other young lady who has been with me ten plus years has thrived during her time with us. We are more of a family to her than she has ever experienced. She has grown to the point of getting a job in the community and may very well be able to be on her own in the future. I have always done whatever the State/Provider have requested so as not to disrupt either of the lives of my two participants. For this young lady, if she was told because of the new regulations, she would have to move would more

than devastate her, the abandonment issues she has been dealing with all these years would resurface to a point of no return after taking that risk of learning to trust and love.

In my not so humble opinion, those individuals who have been in the same home/SLP care for five or more years should be exempt from these new regulations that affect their lives so dramatically. That goes the extra mile in being people centered. It should be more on a case-to-case basis not a blanket rule for everyone that can cause so much harm to the participants overall mental wellbeing and the chances of repairing the damage done is very low, not because there is not another caring home, but more because most special needs individuals never reached the abstract thinking stage of growth and have no way of understanding the reason AKA new regulations.

I understand there are folks out there that are not doing the job they are being paid to do. No one wants them out more than a good SLP. I know there are a lot of Providers that are not doing their due diligence in placing participants in the right homes. I know there are folks in this line of work who focus on money over care. But there is a better way of weeding them out than disrupting the lives of participants who are thriving in their present placements, who have accepted being welcomed into the family they are with and feel safe enough to learn and explore all the possibilities given them. Not looking at these situations on a case-to-case basis is like throwing the baby out with the bath water.

My formal education is in human nature. Some of these new regulations are going against the grain of human nature, and the damage will not be repairable for some of these participants.

Thank you for taking them time to read this letter. If anyone wants to continue this conversation please feel free to reach out to me at melodystobbe@gmail.com or call (402) 212-4964.

Sincerely,

Melody Stobbe

15318 Hillsdale Ave

Omaha, NE 68137

November 16, 2023

To Whom It May Concern,

Thank you for the opportunity to express my voice and views regarding the 2024 changes for Developmental Disabilities program.

Since 2020, DDD and the Nebraska Council on Developmental Disabilities have worked together on a Person-Centered Planning initiative to reinvigorate person-centered supports.

Person-centered planning is a process-oriented approach, empowering people to plan their life, find their voice, and work towards reaching their goals.

As Tony Green, Nebraska Director of Developmental Disabilities, stated on Facebook Live, April 2020, "Person-Centered planning is really ensuring that the plan is developed with the person, for the person, and by the person. So, it really is a different way of thinking of how we create services and support for individuals based on what the participant wants and not what the system has to offer.

On September 27, 2023, DHHS sent out a provider bulletin to all Medicaid HCBS DD Waiver Service Providers, which does not align with person-centered planning. Policy changes are being made that do not allow for the participant to work toward their own goals, planning and living their own lives, and finding their own voice to initiate those goals.

These policy changes do not reflect what Director Green stated, "what the participant wants and not what the system has to offer." The policy changes are taking away the potential desires of the participant. It is possibly moving them out of a home where they have been living for a long time, where they are comfortable, safe, and content. To change the policy based on the number of adults living in the home or moving them out of a home because of children under the age of 12 living in the same household. In this scenario, the person has no voice and no choice.

The individual that lives with me has been in my home for a year and a half. She is a lively and vital young woman who enjoys the many things life has to offer. Since moving into our home, she has been on a great vacation, we moved to a new home where she was able to choose her own space and loves it. She has a social life with going to church, family events, and events the City of Lincoln has to offer.

It would be a shame if she wasn't able to make the choices she has been able to make over the last year and a half based on policy changes.

Thank you for your time and consideration.

Sincerely,

Debra Rademacker
2606 W. B Street Lincoln, ne 68522
deblexinc@yahoo.com

402-405-4397

11/16/23

To Whom It May Concern, Since 2020, DDD and the Nebraska Council on Developmental Disabilities have worked together on a Person-Centered Planning initiative to reinvigorate person-centered supports. Person-centered planning is a process-oriented approach empowering people to plan their life, find their voice, and work toward reaching their goals. The goal of person-center planning is to support participants to be the center of planning their supports and goals. As Tony Green said in a Facebook Live on April of 2020, "Person-centered planning is really ensuring that the plan is developed with the person, for the person and by the person and so it really is a different way of thinking of how we create services and supports for people based on what the participant wants and not what the system has to offer." On September 27, 2023 DHHS sent out a provider bulletin to all Medicaid HCBS DD Waiver Service Providers, which does not align with person-centered planning. They are making policy changes that does not allow for the participant to work toward their own goals, planning their own life, and finding their own voice. These policy changes do not reflect what Director Green stated "what the participant wants and not what the system has to offer." The policy changes are taking away the wants of the participant. It is possibly moving them out of a home where they have been living based on the numbers of adults that live in the home. It is possibly moving them out of a home where they have been living based on children under the age of 13 living in the home. It is not allowing them to have their own voice for their day service staff member. I, a shared living provider, have had a youth living in my home for 4 years now. First, as a foster mom, then when she was out of foster care (a guardian was chosen) as a shared living provider. My youth (16) has high medical needs, but when given the right supports, and when living in a safe, stable, home- is able to thrive. Unfortunately, the only home she has known for 4 years now, mine, has 2 children under the age of 13. Both whom have a substantial, quality relationship with her, and her with them. With the new policy changes that Tony has set, this means, that this youth would no longer be able to call our home-hers. She is advanced tier funding, and does require a watchful eye and support, but a group home, where it seems Tony Greene would like these individuals to live, would totally take away from what she wants and deserves. Group homes are largely understaffed as it is, and she and her needs would get "lost" in the hustle. Her quality of life would greatly diminish, and she would be forced to live in an environment that she did not choose for herself. We are told, "well, you can be grandfathered in...", but until when? If we choose to get a bigger, better home for her, we could lose our grandfathered status, and she could be forced to leave our home-correct? This youth is involved in quite a few extra curricular activities, that quite frankly she would be unable to participate in if living in a group home, due to the lack of staffing. She is involved in a special needs competition cheer team, in music classes, and dance classes. She

also attends school monday-friday outside of the home. She also enjoys frequent road trips to see our family, and out of state vacations- all of which she would lose out on, despite the "person-centered" initiative. On the outside looking in, one might see her file and think she would do well in a nursing home, but what 16 year old youth wants to live in a nursing home, especially when she is already thriving in a home, with a family she knows, loves, and trusts? This youth does have a large number of medical appointments each month, but her needs are being met, and she has improved a considerable amount in the social aspect. Her neurologist states that it's imperative for her health and well being that she continues to live in a stimulating home, that is willing to include her in all aspects despite the 'extra work' it might entail, just as we have been doing. This youth is a product of medical and educational neglect, before placed with us, she was bed bound and didn't have any social interaction (not even school)- if placed in a group home, she risks "shutting down" again, which she has a tendency to do if she is not being stimulated. She could/would become a shell of herself once again, and her health would rapidly decline. I urge anyone with the authority to stop these changes to actually listen to our story, meet our girl, and put her first as the "person centered initiative" says should happen. If you would, you would realize that the new proposals would greatly harm this youth in particular, but many more individuals across the state as well. Thank you for putting our youth first, Heather Kozak, SLP 12202 Deer Hollow Drive Omaha,Ne

11/17/23

My name is Mandi Wilson. I am here today as one of the organizers of Support Living Providers of Nebraska. We are a group composed of Shared Living Providers, Direct Support Professionals, and Independent Contractors.

Our group has met to discuss the Shared Living Provider changes to take place January 1st, 2024. We have also asked the department questions in regards to these changes and we have received responses to them. We still have concerns.

I will be reading off each policy our organization has concerns with and a few reasons for those concerns. I will start with the number corresponding to the provider bulletin.

Change 1 – When a participant receiving services from a certified agency wants to receive services from a Shared Living Provider (SLP):

a. A Home Study Survey must be completed by the Provider with any potential SLP contractors in the home and all adult members of the household.

i. Once a participant is identified, the Home Study Survey must be completed by the Provider at least 7 calendar days prior to a team meeting for all new SLP settings.

(1) Providers must upload a copy to Therap in a case note and submit it to the participant and/or guardian

Our concern mainly lays in the training to agencies in completing these studies. We would like to see a more comprehensive approach much like CFS where every agency should really be doing the studies the same with little room for error. We sat in on a agency provider training and felt like it wasn't very comprehensive. We also would like the studies to be available to shared living providers before being submitted for review. We are being told at this time it would be up to the agency to include the shared living provider.

Change 5 - If a Shared Living Provider is supporting a participant on the Advanced Risk Tier there must be two providers, living full-time in the home and available during residential service hours, on the contract. If the team feels only one SLP on the contract would be appropriate, an exception can be requested.

Our concern is that the state is requiring someone on call at the expense of the shared living provider even though that person is only funded for 1 staff. This is now requiring 2 people. 1 to be on call.

Change 6 - If a Shared Living Provider has children under the age of 13, another adult must live full-time in the home and be noted in the Home Study Survey, to provide care and supervision to the child in the event of an emergency.

Our concern is that this is not person centered. It also doesn't take into account the planning that takes place in order to provide care for waiver participants. Safety plans can be built for many to ensure that everyone is able to have supports in place during an emergency. This also eliminates many single parents from working in the field. It also creates concern for our organization that so much work has

been done to integrate people into all community settings. By having the children of support professionals watch their parents work in this field we were building another generation of future support professionals. We fear this is setting that work backwards. We have spoken to many shared living providers who are now fearful in growing their families because this policy would make them unemployed but more so break up the family they currently have.

Change 9 - Back-up staff chosen by the participant may be used in place of the Host Home employee or Shared Living contractor.

a. Back-up staff must deliver the same habilitative services to the participant in the participant's home, follow the participant's usual schedule, and meet all provider qualifications.

b. Use of backup staff must be documented in the participant's ISP.

c. A record of backup staff usage must be documented by the Agency and made available to the SC upon request.

d. The Host Home employee or Shared Living contractor cannot use backup staff for more than 360 hours per participant's ISP year.

i. One day (10-24 hours) of backup staff counts as just ten hours towards the cap of 360 hours per budget year.

ii. Unused backup staff hours cannot be carried over into the next ISP year

Our concern is that we want to keep this policy person centered. Sometimes waiver participants want to go to other environments while being with backstaff. For instance, going with backstaff to their homes, camping, etc. We do agree that a waiver participant should be able to stay in their home while back up staff is utilized but they shouldn't be limited to it due to a policy.

Change 11 - No SLP or adult living in the home can serve as day staff for any participant living in their home.

a. SLPs or adults living in the home may work for the agency which provides Day Supports to the participant but may not provide services to the participant living in their home.

b. No SLP or adult living in the home can become an Independent Provider in order to provide Day Supports to the participant living in their home.

c. SLPs or adults living in the home may provide services during the normal educational hours when schools are not in session or over school breaks

Our concern is that this is not a person-centered approach. We are often the first to be called during staffing shortages to keep the waiver participant home. We however are unable to bill for this service. Lack of agencies having staffing is not our concern or problem. We are also often called in to pick up participants or are called in to help assist in crisis situations. We are not being paid for these services. We would like to see the department implement policy changes to vocational settings to accompany their standards. This change is not being grandfathered in. We are told it effects 187 people. We are also hearing from guardians, shared living providers, and participants ^{that} this effects that service coordinators have not reached out to them to discuss the change or arrange for other services. The

state has told us it is the service coordinators job to inform the team and arrange for services. We are 45 days out from this change taking place.

Change 14 - Any SLP not in compliance with this policy at the time of policy publication, except for section 11, will be considered compliant based on prior approval until a change in the Shared Living setting including a change in staff, change in service location, change of residents, or change in the composition of the Shared Living home and may be rescinded at time to preserve the health, safety, and well-being of the participants served.

We are concerned that change 11 (SLPs providing both residential and vocational services) is not included in as a grandfathered in change. We are also concerned in what could cause someone to no longer be grandfathered in. Anything from a change in agency, a marriage, a divorce, the addition of a baby, the death of a spouse, or even a deployment of a spouse. We are also told that no exceptions will be made for the reason why someone is no longer grandfathered in regardless of their job performance. We feel that a grandfathered in state should not be retracted as long as job performance remains the same.

Change 15 - Failure to be in compliance with this policy either initially or anytime thereafter may result in agency sanctions or denial of SLP approval.

a. If a Shared Living Provider approval is denied, the agency provider may appeal the decision by requesting a fair hearing.

i. Fair Hearing policy is outlined in section 3.11 of the DD Policy Manual.

ii. A Shared Living Provider does not have the right as a sub-contractor to initiate an app

Our concern is that if the state feels so strongly in the actions they took against a shared living provider why not allow them to be part of the fair hearings act.

This is a very brief summary and explanation of our concerns. I would glad to speak with each of you individually.

Thank you,



Mandi Wilson
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November 12, 2023

Tony Green - Director of Division of Developmental Disabilities

Jenn Clark – Deputy Director of Community Services

Kristen Smith – Deputy Director of Eligibility, Policy & Quality

Dear Mr. Green,

Dear Ms. Clark,

Dear Ms. Smith,

As part of your Public Comment Session please accept this letter. It is submitted with all due respect and consideration.

I and my wife, Sally, are the parents of our 44-year-old special needs son, Conrad W. James, III...known to all as Jimmy. We are also his legal guardians and have been so since 1997.

Jimmy has been part of "the system" since birth. He has gone through the OPS Special Education Program from the age of 3 through the age of 21. He received funding and has been receiving Day Services since leaving school at the age of 21. He has been with Mosaic and Hands of Heartland. The first 20+ years with Mosaic and just over 1 year with Hands of Heartland before the COVID Pandemic changed everything.

Jimmy lived with us in Omaha for over 20+ years before moving into Residential Services in a group home run by Mosaic. While there he was subjected to an incidence of physical abuse that led us immediately leave that setting and to what was then called an Extended Family House (EFH) which was just coming into vogue as a viable and better alternative to

the group home settings. This has since been re-labeled as Shared Living Provider (SLP). Jimmy has been with Amy Ray in her Bellevue, Nebraska home as his SLP for over 8 years.

What follows is a history and plea for sanity from your Department as it relates to your Provider Bulletin 23-01, Clause 11.

History:

Jimmy is currently using Amy Ray through Home At Last (HAL) for residential services and has been with her for over 8 years. As mentioned, one time Jimmy was using Mosaic for day services. Due to what we thought was an inattentive staff and generally poor conditions we moved Jimmy to Hands of Heartland (HOH). While at HOH we were soon able to see the same problems existed there that were at Mosaic; lack of personal attention and an ever-changing staffing issue that is never good for Jimmy. In addition, while at HOH Jimmy was subjected to what we believe was a form of physical abuse based upon him coming home with pressure-point bruises on his upper arms, evidence of someone physically and forcibly grabbing him. When confronted, the staff of HOH denied anyone had done it. Not a surprise, knowing that Jimmy could not communicate what had happened.

When the COVID pandemic caused HOH to close, we were offered the option of Amy taking over the day services. This with the full support and blessing of the state. Over the course of the pandemic the end-date of this arrangement was extended numerous times and over that time both Amy, us and Jimmy became very comfortable with the dual service arrangement. **We and others noticed an almost immediate change in Jimmy's behavior and overall development.**

When HOH re-opened and HOH was calling to get Jimmy back into their services, we requested the possibility of Amy continuing as a dual service provider. We, and Amy, were told that it was possible if Amy became re-certified as an Independent Contractor, which she did to everyone's satisfaction.

It's important to note that the most important cog in the wheel, the most important person in this overall equation is Jimmy.

Person Centered Planning dictates the following questions be asked: What is best for Jimmy? Who should decide what is best for Jimmy? Those that know him best (parent/guardians, Amy) or someone in an office in Lincoln that has never met Jimmy...Let alone knows him? This cannot be overstated and is worth repeating!

As far as the question of accountability or any worry coming from the state as to the improper use or abuse of funds, I would remind all involved that HAL is the payee of Jimmy's federal benefits, and their accounting of those funds is impeccable. We have

complete trust in the checks and balances HAL has in place to ensure Jimmy's monies are properly spent and accounted for. This trust flows through to Amy as both residential and day services provider. We are provided timely statements and details regarding Jimmy's funds. This is not an issue in Jimmy's case.

In answers to questions posed by the DD Support Group, Jenn Clark offered the following statement:

Home and Community-Based Services are required to ensure waiver participants are fully integrated within the community in which they live, work, and play. Person-centered means getting them out where they meet new people, experience new things, and grow their natural supports. Waiver settings and services aim to prevent isolation, promote socialization, and reduce the risk of abuse, neglect, and exploitation. Being with the same person/people 24/7/365 can be detrimental to someone and potentially increase this risk.....Jenn Clark

Let's address the implied and stated concern that the dual provider (Amy) will be "burnt out" by being with the client (Jimmy) 24-7. And that being with one person 24/7 can be detrimental. Amy has never expressed this concern and in Jimmy's case the state should be made aware that she has outstanding support from both her adult son, Aaryn...who is certified by HAL to provide respite...as well as us (parents/guardians), who has him every other weekend, extended holiday stays, and whenever asked by Amy. Her backup is superior and never an issue. Again, not an issue in Jimmy's case. I would ask: Has anyone from the state ever asked Amy what her thoughts are on this issue? The answer is: NO!

Once again, the state is lumping together a group of people rather than examining each case separately and making an informed decision for the disabled individual and what is best for that person.

Let's examine this so-called Community Based approach and how it is accomplished in the real world. We have been associated with two Day Service agencies over the years. When the state went to the Community Based approach and demanded that the agencies take the individuals in their care out into the community on a daily basis the approach taken was individuals were loaded into an agency van and transported to malls where they sat or walked around, to parks where they sat, played or ate, or in some cases just driven around town or the countryside. We have first-hand knowledge of Jimmy being taken to Oakview Mall where he and the others with him sat in the food court for over 3 hours. We also know of instances where the same was done to a city park. In another instance, the driver of the van took the individuals to her house where she tended to her pet dogs. My question to you: Is this your idea of Community Based?

In Jimmy's case with Amy providing the dual services of Residential and Day Services, they are on the go all the time, doing entertaining things and out amongst the community and people. They have family passes to the Zoo, Fun-Plex, Fontenelle Forest, Vala's Pumpkin

Patch, and Safari Park. They do family outings including shopping and family dinners. This is Community Based at its finest.

Therefore, the state lumping all dual service providers together flies in the face of common sense (138 cases as advised by Jenn Clark). I would suggest a case-by-case assessment of each dual service provider to determine the circumstances of each and using the findings to make intelligent decisions for each individual case would better serve those affected by Clause 11 of the Provider Bulletin. A little common sense can go a long way!

The point being that every situation is different, and all should not be lumped into one category to the detriment of the one who is the most important. In our case, Jimmy.

Possible pitfalls of Clause 11 and the splitting of dual services (residential/day services):

The change to a different day service provider will ensure the one thing that most disabled individuals fear the most: change of routine! These changes of routines cause stress to all involved...providers...parents/guardians and most importantly, the disabled individual. In our case, Jimmy!

If Amy were to be removed as Jimmy's Day Services provider, it would mean she would have to go out and find additional employment to replace the lost day services income. Imagine the potential problems if the "new day services provider" were to be late in picking up Jimmy in the morning? Now Amy is in a bind with any new job she must be at. If the "new day services provider" were to be sick the same problems occur. What happens if the "new day services provider" needs to bring Jimmy home early before Amy is off work at her new job? The answers are simple: **Problems for all involved and, once again, the one put into the most turmoil is the one who is the most important, the disabled individual. In our case, Jimmy!**

In Jimmy's case it is important to be aware of Jimmy's very individual and well documented eating disorders. These disorders have resulted in two major surgeries over his lifetime. This would be a real jeopardy and concern with a "new day services provider". Additionally, any new arrangement would probably mean eating out almost every day, resulting in an unhealthy diet. Jimmy has a high cholesterol count, and this would only exacerbate that concern. His syndrome is rife with heart disorders. He has severe food intake restrictions due to past gastrointestinal problems and resulting surgeries. Amy, Jimmy's current dual provider, knows of these concerns and knows how to deal with them. We trust her in this role.

In Jimmy's case it is important to note to all involved in making these inane and potentially harmful decisions, that all involved in the care of Jimmy are happy with the current arrangements. Ever hear of the old adage: *if it ain't broke don't fix it!*

Most importantly...it would behoove those contemplating this change as outlined in Clause 11 to keep in mind that the most important thing is the wellbeing of the individual (Jimmy)! Over the course of his entire life and all the years (well over 40+ years) we have been involved with the various agencies...both state and local...the one thing that has been stated repeatedly by all involved is that Jimmy is the most important, and all decisions should be made to ensure that his wellbeing is number one! Clause 11 of the Provider Bulletin is not in the best interests of all.

Let me quote Tony Green: *"Person-centered planning is really ensuring that the plan is developed with the person, for the person and by the person and so it really is a different way of thinking of how we create services and supports for people based on what the participant wants and not what the system has to offer."*

Let's break this statement down, keeping in mind it is Mr. Green's statement:

With the person: At every ISP meeting the Service Coordinator asks Jimmy if he is happy living with Amy. He resoundingly answers in the affirmative.

For the person: If the plan is for the person, then it should be "for the person" and not group together 138 individuals as if they were one.

By the person: Has anyone asked Jimmy if he would like to continue with Amy providing both Day Services and Residential Service? Of course not! When asked by the Service Coordinator if he is happy being with Amy, he states he is. He is happy, we are happy and Amy is happy! What more can one ask for?

...Is a different way of thinking of how we create services and supports for people based on what the participant wants and not what the system has to offer: What the "system" is offering is NOT what the participant may want. In our case it is NOT what Jimmy wants!

Since we became aware of this issue, I have tried to better educate myself as to exactly what was being proposed and who was being affected. To that end, I was involved in a Zoom call with approximately 77 other individuals plus representatives of DHHS. This was Monday, October 2, 2023, just a few days after first hearing of these life-altering changes. Many on that call were upset with these proposed changes. I have also begun monitoring the DD Research and Support Facebook Group Page where there have been many comments posted as to the unreasonableness of some of the new requirements. It was there I found out that while many of the clauses presented on the Bulletin were being given "Grandfather Status", the one clause (Clause 11) that affects Jimmy was NOT being granted "Grandfather Status".

Granting these "grandfather status" exceptions to your own policies/rules/regulations to one class of individuals over another flies in the face of the fairness doctrine of treating

all people equally. If you are going to grant "grandfather status" to one group of individuals, then you MUST grant it to all groups. These are things that lawsuits are made for and expensive litigation through the courts will be forced to deal with.

In closing, we, (Jimmy's parents and guardians) his team, and support staff, would beseech you to reconsider and rescind Clause 11 to allow for the continuation of dual providers in cases where it is in the best interests of the individual. In the absence of that, you must be fair to all and grant "grandfather status" to all individuals, including those that fall under Clause 11. It's the right thing to do...for the individual!

I also reached out to David Talbert at Abled, Inc who was also on the October Zoom call and he expressed interest in pursuing these issues. It was he that passed along my name to David Rowe, an attorney he thought may be open to listening to our concerns and those of others who may also be affected by Clause 11.

Respectfully submitted,



C. W. James



Sally A. James

Parents and Guardians of Conrad W. "Jimmy" James III

November 17, 2023 To Whom It May Concern, Since 2020, DDD and the Nebraska Council on Developmental Disabilities have worked together on a Person-Centered Planning initiative to reinvigorate person-centered supports. Person-centered planning is a process-oriented approach empowering people to plan their life, find their voice, and work toward reaching their goals. The goal of person-center planning is to support participants to be the center of planning their supports and goals. As Tony Green said in a Facebook Live on April of 2020, "Person-centered planning is really ensuring that the plan is developed with the person, for the person and by the person and so it really is a different way of thinking of how we create services and supports for people based on what the participant wants and not what the system has to offer." On September 27, 2023 DHHS sent out a provider bulletin to all Medicaid HCBS DD Waiver Service Providers, which does not align with person-centered planning. They are making policy changes that does not allow for the participant to work toward their own goals, planning their own life, and finding their own voice. These policy changes do not reflect what Director Green stated "what the participant wants and not what the system has to offer." The policy changes are taking away the wants of the participant. It is possibly moving them out of a home where they have been living based on the numbers of adults that live in the home. It is possibly moving them out of a home where they have been living based on children under the age of 13 living in the home. It is not allowing them to have their own voice for their day service staff member. I have been providing care for a ward of the state who has been funded for over a year at this point. He has not been able to utilize that funding due to the changes that DD is making. I am single. I do have multiple children. This child has thrived in our environment and has enjoyed facilitated relationships with his family, normalized experiences along with my other children, and has grown to be able to give and receive love. He has been in my care for almost 8 years, but DD will not allow him to utilize his funding to continue living in my home unless I find someone else to move in, which will be disruptive to our entire household. I have tried to meet this demand, but have been unable to find an appropriate solution. Single parents often have extensive networks to help when there are conflicting needs. As there has not been an issue with our current arrangement, I am highly disappointed that they are not even offering an option to grandfather our situation in. Currently, all of my children are over the age of 13, but for the majority of this placement, they have been in that category. By not allowing a normal family living experience, DD is taking away personal choice and person centered care. They are moving to a more institutionalized level of care, taking us back so many years in the progress we have made. I am exploring DD to follow their own policies in their own manual and return to person-centered planning. They are saying that these changes are person centered. They are not. They are meant to deal with problems that they have had with policies that affect everyone. That isn't person centered. Thank you for taking them time to read this letter. I invite anyone

to continue this conversation to reach to me at crossfire_52@hotmail.com or call 402-672-2506. Sincerely, Tori Sorensen 3517 S 96th St Omaha, NE. 68124