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Approval of January Minutes, **Reading 20-05**

- Council members will look at the minutes (notes) from the last meeting in January to make sure everything is correct.
- If something needs to be changed, a Council member can ask a staff member to make the change.
- After reviewing, Council members can approve the minutes.

Developmental Disabilities Council Minutes Radisson Hotel, SeaTac January 23, 2020

Members

Shamra Baez, Andrea Belcourt, Julia Bell, TK Brasted, Kelly Hill, Danny Holmes, Thanh Kirkpatrick, Anthony Nash, Cami Nelson, Mike Raymond, Ronnie San Nicolas, Pat Shivers, Donna Tiffan, Sherri Brown (UCEDD), Shannon Manion (DDA), Katie Mirkovich (DVR), Alexandra Toney (OSPI), Paige Lewis for Mark Westenhaver (HCA), Tavares Terry (ALTSA)

Staff and Support

Jeremy Norden-Paul, Donna Patrick, Linda West, Brian Dahl, Aziz Aladin, Emily Rogers, Adrienne Stuart, Kathy Easton, Suliana Tii

Guests

Peter Tassoni

Call to Order and Introductions

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Julia Bell, Council Chair, called the meeting to order and Council members introduced themselves.

Approve Agenda

Council members approved the agenda as written.

October 2019 Council Minutes

Mike Raymond made the motion to approve the Council minutes from October 2019. Andrea Belcourt seconded.

The following changes were made during the discussion after the motion was made:

- On page three, change the Spokane outreach from “Network of people” to “agencies and others”;
- On page six, change “candidates” to “vacancies” under the topic of “Agenda Adjustments”;
- On page six, under the topic “Financial Report and Proposed Budget Amendments” include a comma in the second bullet point and replace “expectation” with “plans to” in the third bullet point;
- On page eight, strike the last sentence under attendance policy 406; and
- On page ten, under the topic “State Plan Committee Report” change the wording to indicate the Committee had finished the review of this policy and was forwarding it to the full Council for approval.

Mike Raymond amended the motion to approve the October 2019 minutes with changes. Andrea Belcourt seconded. The motion carried.

Council Chair Report

Julia Bell took some time to update the Council members on several things:

- A sub-committee of Council members conducted interviews with prospective new Council members. There were many great candidates from which to choose. The sub-committee

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recommendations have been forwarded to the Governor's Office and we are waiting for decisions.

- This is the last meeting before Donna Patrick retires. Her faithful work over decades was acknowledged and she was thanked for her service. Julia presented Donna with the gift of a corsage.
- The Council is in the fourth year of the current 5-year State Plan. It is past time to begin the process to create the next Plan that will cover October 1, 2021 to September 30, 2026. This is a primary duty of Council members and gives them the opportunity to set the agenda for the next 5 years. Staff will work with Council members and the State Plan Committee to complete this process in way that meaningfully empowers Council members.
- The Membership Committee will be sending out a survey giving everyone several meeting options to include times/set-up. The Council is always looking for ways to make the Council meetings more welcoming, inclusive and participatory. The information gathered will help to do this. Additionally, answers will be compared to a similar survey given in 2018.

Executive Director and Staff Reports

Jeremy Norden-Paul and some of the Council staff gave a brief update on the activities and news from the last three months. Some of the highlights are:

- Adrienne Stuart has accepted the position of Public Policy Director.
- The Council is making a promotional video to explain what the Council does and use as a recruitment tool. Council members who wish to participate are encouraged to do so.
- Federal funding for all Councils was increased by 2 million in the 2020 federal budget. We are waiting on what this means in terms of the increase for our Council.

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- During the winter, budget staff will draft a budget for consideration and approval in April to begin July 1, 2020.
- Council staff are paying attention to many public policy issues during this legislative session, including:
 - Appropriations for developmental disabilities in the budget
 - Implementation of the recommendations of the Ruckleshaus task force
 - Secondary education transition
- Staff have been continuing their work on
 - Membership recruitment
 - Collaborating with Adult Protective Services
 - Refining the Informing Families reporting process
 - Supporting the work of Self-Advocates in Leadership (SAIL) and Allies in Advocacy; and
 - The Legislative Reception

Budget Update

General Update

Aziz Aladin updated the Council on the current budget. The Council has received a portion of its federal award. Because Congress has been using the process of continuing resolutions to meet funding deadlines as they continue to negotiate a final budget, Councils receive only partial payments. This payment is for the Federal Fiscal Year 2020 budget and is not reflected in the current budget covering federal fiscal year 2019.

The Council is mandated by federal law to spend at least 70% of the grant funds on addressing the goals and objectives of the State Plan. No more than 30% may be used on administrative costs. Additionally, the Council reimburses no more than \$50,000.00 annually to the Designated State Agency (the Department of Commerce) for indirect costs. Monies for indirect costs cover such things as human resources, technical assistance, processing invoices and payroll support. Additionally, the legislature designates another \$57,000.00 annually to cover the Council related expenses of the DSA.

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Informing Families

The Informing Families Project is accomplished through a contract funded by the Developmental Disabilities Administration. Spending for this contract is in line with the time of the year and the requirements of the Developmental Disabilities Administration. For certain aspects of the project, the Council subcontracts to individuals to provide outreach across the state. They bill for their time and are reimbursed from the funds designated for the Informing Families Project. The numbers reported reflect the most up-to-date expenditures on outreach, however, there is often a lag-time between the billings of the subcontractors and the ultimate budget reporting to the Council. Historically, even with this gap, the project is spent down and there is not a surplus at the end.

Highlights from the Informing Families Project and other Council efforts will be reported at future Council meetings.

State Plan Update

Program Performance Report (PPR)

The PPR was completed in December 2019 and submitted on time. It will be reviewed by the Program Officer responsible for this Council in the Administration on Community Living (ACL). After the review, it will either be approved or sent back for changes. Because there are only two Program Officers for all of the states and territories and the PPR is a complex and very long document, it may take a while for the review to be completed. The approved PPR will be posted on the Council's webpage. The process for completing the PPR has been refined over each year of this current State Plan. We are currently in a phase of strengthening our data collection efforts pertaining to the Council's activities, efforts, contracts and staff activities.

State Plan Update

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Between now and August 2020, staff will complete a State Plan update that will include a minor amendment to one of the objectives under the Systems Advocacy Goal. The Council will be voting on this in April.

State Plan Development

The other State Plan activity that is ramping up is development of the next State Plan. Staff will be working with Council members and the State Plan Committee to create a robust plan that meets the needs of people with developmental disabilities in Washington State. Council member participation and power to determine the details of the Plan is very important. Over the next year, staff will bring information and activities to the members in order to empower them in the decision-making process and final product.

Overview of Ruckelshaus Workgroup

Donna, Julia and Jeremy gave an overview of the RHC Task Force convened by the Ruckelshaus Center in 2018/2019. The Task Force was designed to bring consensus among the families, unions, DSHS, providers and advocates on a future vision for providing services in the community and repurposing the existing institutions. The recommendations strengthen community-based services and provide for the construction of a new nursing facility on the grounds of Fircrest Residential Habilitation Center (Fircrest School). The report was provided to the Governor and legislature. The initial ask of the legislature will be to provide funding for a planning work group and to create a plan for the construction of a new nursing facility over the next few fiscal years. Funding has been provided in the Governor's budget that came out in December 2019.

The full report may be found here:

https://s3.wp.wsu.edu/uploads/sites/2180/2019/12/2019-Ruckelshaus-Workgroup-Report-to-Legislature_Intellectual-Developmental-Disabilities-Policy-1.pdf

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Jeremy provided a PowerPoint presentation summarizing key aspects of the report and the recommendations. Copies are available upon request and are part of the appendices for this document.

Report on Legislative Reception and Current Public Policy Issues

Donna and Adrienne presented about a variety of public policy issues/bills and addressed Council member questions (The hand out provided at the January 2020 meeting is available in the packet for the April 2020 meeting.)

SB 6205- Senate Bill 6205 is supported by SEIU and sponsored by Senator Cleveland. This bill addresses incidents of abuse toward caregivers. However, in its current form, the bill could have the effect of labeling people with disabilities as abusers and potentially result in civil and criminal penalties. It could also potentially impact the provision of services. The Council and other advocates have great concerns about the bill. However, there is work being done with SEIU to address the issues. The Council is not in support of the bill in its current form.

Julia Bell asked about Council members sending emails/calls to legislators. Council members are encouraged to share their concerns with their legislators about SB 6205.

Guardianship-The Uniform Guardianship Act (UGA) passed last session and is scheduled to go into effect in January 2021. However, the current version, if implemented, may result in people losing some of their rights. The Council is very concerned about this. David Lord of Disability Rights-Washington is using his expertise and time on the hill to work on changes. Council members are strongly encouraged to contact their own legislators about this issue. At the very least, the Council is hoping to delay implementation of the UGA until the needed changes are made.

Restraint/Seclusion in Schools (HB 2436)-This bill supports the expansion of practices around the use of restraints and seclusion in public schools. Proponents argue the bill would increase protection of students. Available evidence indicates the detrimental effects of using restraint and seclusion practices on individual students. It also does not contribute to

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making the education environment for stable and safe. The Office of the Superintendent of Public Instruction (OSPI) opposes this bill.

The Council has a long history of supporting legislation and best practices that limit or eliminate to use of restraints and seclusion. Council members are encouraged to contact their legislators on this issue.

Respectful Language- (HB 23980)-Several years ago, Self-Advocates in Leadership took the lead on getting a bill passed to ensure respectful language on disabilities be used in the writing of laws and the associated rules in the Washington Administrative Code. The bill had no fiscal note and required:

- 1) New laws are introduced be written in a person-first manner and remove offensive terms; and
- 2) Changes to older laws would be made when they are periodically reviewed or updated.

This has not been happening consistently. Current legislation has been introduced to address this gap. Emily testified in support of the bill on January 22nd.

Rights of people who receive DDA services- (HB 1651) This bill is designed to make sure people know and understand their rights and know where to locate them. It is supported by the self-advocacy/civil rights community of people with developmental disabilities in Washington State and the DD Network Partners. The bill is simple and aims to make sure people who receive services understand:

- (1) The right to personal power and choice;
- (2) The right to participate in the department's service planning;
- (3) The right to access information about services and health care;
- (4) The right to file complaints and grievances and to request appeals;
- (5) The right to privacy and confidentiality;
- (6) Rights during discharge, transfer, and termination of services; and
- (7) The right to access advocates.

Behavioral Health Ombudsman- The Council is in support of the creating a Behavioral Health Ombudsman. Ombudsmen are responsible for

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investigating cases, finding out what is happening, addressing concerns/complaints, and highlighting and writing reports about systemic issues.

HB 2581- Current policy states that if a school district has more than 13.5% percent of students who need special education services, the school district would have to pay the difference out of their own money. This bill attempts to address this cap, but it has a high fiscal note.

SB 5395- This bill requires public schools to provide sexual health education as an integral part of the curriculum that is evidence-informed, medically and scientifically accurate, age-appropriate, and inclusive for all students regardless of their protected class status under the state civil rights act.

Questions from Council Members

Danny Holmes asked about HB 2511 regarding protection for workers. Donna explained it would cover domestic workers (e.g. home cleaners). This is one of several bills addressing safety/protection of workers.

Ronnie San Nicolas asked about any bills relating to diversion (e.g. training for law enforcement). Staff explained there is not money to pay for people to take training. Law enforcement has training curricula available, but it is not required. Diana Stadden (The Arc) does trainings at the Criminal Justice Training Center.

Katie Mirkovich asked about bills related to sub-minimum wage. Staff explained, during last session, a bill passed to eliminate sub-minimum wages for state employees. The Senate bill this year is leftover from last year, but nothing has being scheduled. Next year the goal could be to introduce a bill to expand the bill to all business, not just state operations.

Council members are encouraged to be contacting their legislators about passing the operating and capital budgets.

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Pat Shivers gave a federal policy update about Money Follows the Person. This project provides needed resources for people to move from institutions to successful lives in the community. The funding has been sporadic and not certain over the last several years. Continued advocacy is being done to secure funding for this valuable program over the long-term.

Legislative Reception

The 39th Annual Legislative Reception was held on Wednesday, January 22nd. A legislative briefing was held at United Churches prior to the event. Both events were successful but attendance was smaller due mostly to the inclement weather.

State Agency Updates

Aging and Long-Term Support Administration (AL TSA)-Tavares Terry

AL TSA is following three bills of interest:

Nursing Facility Medicaid Rate Rebasing

In order for these facilities to continue providing care in the most economic and efficient manner possible, the schedule of economic rate adjustments needs to be amended. Nurse staffing regulations adopted in 2016 allow for a one year exception to the 24/7 RN requirement that is renewable up to three consecutive years. The current language is not clear in how the Department can proceed with the exception process past three years.

This legislation is needed to:

- Clarify how the Department can lawfully proceed with the exception process; and
- Help nursing facilities understand staffing requirements, particularly in relation to the ongoing shortage of RNs.

Technical correction will align state and federal survey standards for timing and frequency of oversight surveys.

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Changes to the Home Care Agency Vendor Rate – Department Conversion and Repeal of Electronic Time Keeping

The current RCW 74.39A.310 language limits the homecare agency vendor rate parity calculation to the actual tax amounts experienced and bargained for in the Individual Provider collective bargaining agreement.

This puts pressure on agencies as employers who must pay a higher tax rate, which is taken from funding intended to improve compensation for direct care workers.

The new federal statute for Electronic Visit Verification (EVV) makes having the lesser standard of Electronic Time Keeping (ETK) in RCW unnecessary. Operating under two similar, but different standards would be confusing, introduce redundancies, and pose an audit risk.

Concerning the protection of vulnerable adults, chapter 74.34 RCW

A person with a final finding is placed on the APS registry and is precluded from working in the long-term care system. Currently, names are on the registry permanently. The definition of abuse needs clarification about when an individual's conduct rises to the level of abuse.

In 2018, the Children's Administration moved from under DSHS to a new state agency, the Department of Children, Youth, and Families (DCYF): This removed DCYF employees as mandated reporters and disrupted the cooperative partnership of sharing information. Current APS confidentiality law prohibits the department from acknowledging the existence of a report. Current language only addresses fatality reviews, which is a subset of the quality review process; and law does not protect quality assurance conclusions from use in litigation.

Office of Superintendent of Public Instruction (OSPI)-Alexandra Toney

Some of the current legislative priorities of OSPI as it relates to special education are:

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- The passing of ESHB 1109 has provided \$25,000,000 to OSPI over fiscal years 2020 (\$10M) and 2021 (\$15M) to implement professional development in support of inclusionary practices, with an emphasis on coaching and mentoring;
- Beginning with the 2020-20221 school year, the special education funding multiplier will be tiered to provide additional funding for students who are enrolled in the general education setting for more than 80% of the school day; and
- The passage of HB1599 will provide all students with multiple pathways to graduation. This new graduation system builds off a robust plan (High School and Beyond Plan) and quality instruction to expand the way that all Washington students show their readiness for their next step after high school.

Division of Vocational Rehabilitation (DVR)-Katie Mirkovich

DVR is preparing its State Plan covering 2020-2023. Like the Council, The state plan describes DVR's goals, priorities, partnerships, and activities for the next four years.

DVR and the Washington State Rehabilitation Council (WSRC) are inviting customers and stakeholders to comment on the new plan and participate in a public forum on Feb. 5, 2020. The forum will be held by webinar and public viewings will be available in four DVR offices Spokane, Seattle, Tacoma and Lacey.

Deactivation of Policy 408

The Governance Committee of the Council is taking the lead in reviewing and updating the public and internal policies of the Council. Policy 408 explains the use of discretionary funds. The policy was developed at a time when the Council had discretionary funds. The State Plan and the budget development process are now responsible for setting the funding for the activities and priorities of the Council. Staff explained the Council has not been in a position for many years to provide the availability of such funds. It is proposed that the Council "deactivate" this policy. The policy could be reactivated and revised in the future, if necessary.

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Motion: To deactivate Policy 408. Pat Shivers made a motion to deactivate Policy 408. Andrea Belcourt seconded. The motion carried.

Public Comment

No members of the public were present to comment.

Items for April Council Meeting

- Approval of State Plan Development Policy
- Approval of an Amendment to the State Plan
- Allies in Advocacy Proposal
- Reports from contractors
- Update on Informing Families

Adjourn Council Meeting

Appendix A: Staff Activities

Appendix B: Ruckleshaus Task Force PowerPoint

Appendix C: Public Policy Handout