

NM DEVELOPMENTAL DISABILITIES PLANNING COUNCIL (NMDDPC)

BYLAWS

I. DESIGNATION

The organization referred to in this document shall be known as the New Mexico Developmental Disabilities Planning Council (NMDDPC), hereinafter referred to as the "Council."

II. AUTHORIZATION

The Council is authorized by Public Law 103-230 and established by the Developmental Disabilities Assistance and Bill of Rights Act, Laws 1993, Chapter 50 as amended P.L.106-402, 1999. Any conflict with the constitution or laws of the State of New Mexico or the United States of America is not intended and State and Federal laws shall prevail.

The federal authorizing statute prohibits state officials from interfering with the independent operation of the Council:

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

III. MISSION & VISION

MISSION

The New Mexico Developmental Disabilities Planning Council will promote advocacy, capacity building, and systemic change to improve the quality of life for individuals with developmental disabilities and their families.

VISION

New Mexicans with developmental disabilities and their families will have a culturally competent and coordinated individual and family-centered and-directed, comprehensive system of community services, individualized supports and other forms of assistance that will enable New Mexicans with developmental disabilities to exercise self-determination, be independent, productive, and integrated, and included in all facets of community life.

IV. DUTIES OF THE COUNCIL

A. By engaging in advocacy, capacity building and systemic change activities, the Council will contribute to a coordinated, consumer and family-directed, comprehensive system that includes needed community services, individualized supports, and other forms of assistance that promote self-determination for individuals with developmental disabilities and their families.

B. In accordance with current public law, the Council shall:

1. Serve as an advocate for individuals with developmental disabilities and conduct or support programs, projects, and activities that carry out the purpose of the Developmental Disabilities Assistance and Bill of Rights Act of 2000.
2. Develop and submit a Five-year State Plan, which will provide that not less than seventy percent (70%) of Federal allocation shall be utilized for grants and activities of the plan.
3. Implement the State Plan by conducting and supporting advocacy, capacity building, and systemic change activities.
4. Monitor, review, and evaluate the implementation of such State Plan annually at the end of each grant year to include the following activities:
 - (a) Examine the extent to which each goal of the plan has been achieved and identify barriers that impeded the achievement of any goal.
 - (b) Determine the need, if any, to amend the Five-year plan.
 - (c) Determine, on a separate basis, the information on the self-advocacy goal.
 - (d) Determine customer satisfaction with the Council activities.
5. Report to the Secretary of the United States Health and Human Services Department on an annual basis, in the format prescribed by the Secretary.
6. Prepare, approve, and implement a budget using amounts paid to the state to fund and implement Council programs, projects, and activities.
7. Adopt positions of support, neutrality, or opposition for proposed legislation and regulations affecting persons with developmental disabilities in New Mexico.
8. Perform all duties required by State and Federal law.

V. MEMBERSHIP

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

- A. Council membership shall be geographically representative of New Mexico and reflect the diversity of the state with respect to race and ethnicity.
- B. At least sixty percent (60%) of the membership of the Council shall include persons with developmental disabilities, or parents or guardians of children with developmental disabilities, or immediate relatives or guardians of persons with mentally impairing developmental disabilities who cannot advocate for themselves. Of the sixty percent (60%), one-third (1/3) of the members shall be individuals with developmental disabilities, one-third (1/3) shall be parents or guardians

of children with developmental disabilities or immediate relatives or guardians of adults with developmental disabilities who cannot advocate for themselves and one-third (1/3) shall be any combination of the above. One member of the sixty percent (60%) shall be an individual with a developmental disability who previously lived in an institution or the immediate relative or guardian of an individual who previously lived in an institution.

- C. Council membership shall include representatives of relevant state agencies including State agencies that administer funds provided under Federal laws related to individuals with disabilities such as the Rehabilitation Act, the Individuals with Disabilities Education Act, the Older Americans Act of 1965, and Titles V and XIX of the Social Security Act, as well as University Centers, and Protection and Advocacy. Membership shall also include representation from local agencies, tribal entities, non-governmental agencies, and private non-profit groups concerned with services to persons with developmental disabilities in New Mexico.
- D. The following are ex-officio members of the Council in accordance with State and Federal laws:
 - (a) The Secretary of Health or designee
 - (b) The Secretary of Human Services or designee
 - (c) The Secretary of Children, Youth and Families or designee
 - (d) The Secretary of Aging and Long Term Services or designee
 - (e) Two Directors from the Public Education Department, including the Director for the Vocational Rehabilitation Division or designee, and the Director of the Special Education Bureau or designee
 - (f) The Director of the Protection and Advocacy System
 - (g) The Director of the New Mexico University Center for Excellence

Each ex-officio member shall serve as a bona fide member of the Council, unless he or she identifies and appoints a designee to serve in his or her place. Such designation must be made to the Council Chairperson and shall remain in effect until revoked or superseded by a new designation by the ex-officio member, the Governor or statutory change. An ex-officio member may not name as his or her designee an individual who is already a member of the Council appointed by the Governor under a different membership category, such as a person with a disability, family member, guardian or representative of a tribal or non-governmental agency.

Agency designees should have a significant level of responsibility within their agency. It is the expectation of the Council that a designee should be consistent in attendance rather than having a series of different designees representing an agency from meeting to meeting.

- E. Except for ex officio members listed under paragraph D above, members shall not include employees of a State Agency that receives funds or provides services under the Developmental Disabilities Assistance and Bill of Rights Act 2000, individuals who are managing employees of any other entity that receives funds or provides services under the Act, or persons with an ownership or controlling interest with respect to such an entity.

VI. TERMS OF APPOINTMENT

- A. All members of the Council, except the ex-officio members, are appointed by the Governor of New Mexico. Members, appointed by the governor, shall be appointed to three-year terms not to exceed

two (2) consecutive terms with terms staggered such that the terms of approximately one-third of the appointed members expire each year. Members, whose terms have expired, shall be considered bona fide voting members until such time as they are re-appointed or replaced by the Governor.

- B. If a Council member misses one meeting without adequate justification submitted within seven (7) days after the Council meeting, the Chairperson will notify the member that missing the next meeting will result in a request to the Governor to remove the member from the Council and appoint a new member.
- C. The Council will notify the Governor of membership requirements and when vacancies remain unfilled for a significant period of time.

VII. COUNCIL OFFICERS

- A. The Council shall have three (3) regular officers elected from the general membership for concurrent two-year terms. These officers shall be designated Chairperson, Vice-Chairperson, and Secretary-Treasurer respectively. At least two of the officers must be a person with a developmental disability, *or* a parent, guardian or immediate relative of an adult with a developmental disability who cannot advocate for him or herself, *or* a parent, guardian or immediate relative of a child with a developmental disability. In addition, the immediate past Chairperson will hold the office of Past Chairperson to assist and mentor the newly elected Chairperson.
- B. In the absence of the Chairperson, the Vice-Chairperson shall assume all rights and responsibilities of the higher office. In the event of a vacancy in the office of the Chairperson, the Vice-Chairperson shall succeed to the office of the Chairperson for the remainder of the term, except when such vacancy would exist for one-half or more of the elected Chairperson's term, in which case the Membership Committee will arrange for a special election at the next full Council meeting. The Vice-Chairperson may call for such special election if he or she chooses not to succeed to the office of Chairperson. The new Chairperson may appoint an Interim Vice-Chair until the next meeting. In the absence of both Chairperson and Vice-Chairperson, the Secretary-Treasurer will assume the duties of the Chairperson and Vice-Chairperson.
- C. All officers shall be members of the Executive Committee.
- D. Election of new officers shall take place during the first regular meeting of the Federal fiscal year. The election shall be carried out after an individual has been presented by the Membership Committee and nominations have been heard from the floor. Each Council member is entitled to one (1) vote and a simple majority vote of the members shall carry the election. The term of office of the newly elected officers begins upon the adjournment of the meeting in which the election was held. Members shall retain office for a two (2) year term; an officer may succeed himself or herself at the pleasure of the Council for a maximum of two (2) terms after which a member must wait one (1) full year before being eligible to run for office.

VIII. APPROVED COUNCIL COMMITTEES, TASK FORCES AND STUDY GROUPS

- A. The following committees are designated as standing committees of the Council. The members of each standing committee shall be appointed by the Council Chairperson. Each standing committee shall elect a chairperson. Ex-officio members of the Council or their designees, as listed in Article V-D above, are eligible to serve as a committee chairperson. Except as provided below, standing committees may include non-Council members; however, Council members must constitute a

majority of each standing committee. The number of Council members appointed to any standing committee shall be less than the number that would constitute a quorum of the Council. Council members are encouraged to volunteer to serve on committees but appointments or assignments to committees are done by the Chairperson. Each committee is to meet at least once each quarter before the full Council meeting.

- 1) The Executive Committee shall consist of five (5) Council members, who include the Council Chairperson, Vice Chairperson, Member at Large, Secretary-Treasurer and Past Chairperson. It shall have the following functions:
 - policy and information review body for the Council,
 - provide major direction to the Executive Director,
 - review performance of the Director, and make recommendations to the Council for action of the Council, including:
 - the obligation and/or expenditure of funds, which arise between Council meetings.
 - The Executive Committee shall approve justification of notification to the Governor regarding Council members who have missed two (2) consecutive meetings. Executive Committee members must all be Council members.
 - The Executive Committee shall meet a minimum of six (6) times a year.
 - In the event of a resignation or vacancy of a member of the Executive Committee, the Chairperson shall appoint a Council Member to fill the vacancy.
 - Monitor the finances of the NMDDPC in a fiscally responsible manner;
 - Propose for Council approval a budget that reflects the organization's goals and policies;
 - Present quarterly financial statements to the Council;
 - Review and recommend financial policies of the Council;
 - Review proposed funding contracts for financial implications and recommend approval or disapproval to the Council;
 - Assure the Council is well informed about NMDDPC finances.
- 2) The Policy/Bylaws_Committee shall consist of no fewer than five (5) members, but shall not constitute a quorum of the full Council. The charge of the Policy/Bylaws Committee is to:
 - Identify and make recommendations on legislative issues that the Council might choose to support, oppose or remain neutral;
 - Provide regular updates to the full Council regarding current and/or emerging policy issues affecting persons with disabilities;
 - Develop strategies for informing the Governor, the Legislature, state agencies and members of Congress on the needs of persons with developmental disabilities;
 - Act as liaison with other organizations concerning matters related to By-Laws and Council Policies and Procedures Manual;
 - Report to the Council during quarterly meetings recommendations for updates or changes to the Council By-Laws and/or Policies and Procedures Manual;
 - Make written recommendations to the Council annually.
- 3) The Program Committee shall consist of no fewer than five (5) members, but shall not constitute a quorum of the full Council. The charge of the Program Committee is to:
 - Advise the Council on projects that go with the Five-year Plan;
 - Determine Project Scopes of Work re: Requests for Proposals; and Requests for Information
 - Appoint panels that review proposals;
 - Assist Council staff with visiting projects /monitoring of contracts.

4) The Membership Committee shall be composed of Council members only. The charge of the Membership Committee is to:

- Develop a succession plan for Council leadership and recommend candidates for Chairperson, Vice-Chairperson, Treasurer, and Secretary;
- Organize the election of officers process bi-annually;
- Organize new member orientation;
- Recruit potential new members of the Council consistent with the membership goals and requirements established in these Bylaws and with state and Federal requirements and make recommendations of appointments to the office of the governor;
- Review meeting attendance by all members;
- Make recommendations to the Council that the Chairperson send out letters to members who have unexcused absences, as provided in Article XII Attendance; and
- Make recommendations to the Council that the Chairperson make a request to the governor to replace a member, as provided in Article XII Attendance.

B. Other committees, task forces and study groups shall be formed at the direction of the Council or at the discretion of the Chairperson, with the advice of the Executive Committee and the Executive Director. These committees, task forces and study groups shall reflect the Council's planning cycle; shall be ad hoc, unless otherwise specified; shall be empowered to make recommendations to the Council; and may include non-Council members.

C. No committee, task force or study groups shall be empowered to expend funds without consent of the Full Council.

D. Committee Chairpersons may vote on all committee business, subject to the provisions of the Council's Conflict of Interest Policy.

E. One or more Council staff shall provide assistance to all committees, task forces and study groups. Staff members will be non-voting.

F. Committees can meet in person, or by teleconference, and may allow written submission from committee members.

G. The committees shall report at each Council meeting on the status of Council activities and projects.

IX. REIMBURSEMENT

- A. Council members shall be reimbursed, as provided in the Mileage and Per Diem Act, for official Council meetings.
- B. With advance notice, reasonable accommodations shall be provided to permit full participation in Council activities by its members, including personal care assistance to members with disabilities.

X. COUNCIL MEETINGS

- A. A minimum of four (4) Council meetings will be held annually. Notification of such meetings and draft agendas will be given at least two (2) weeks in advance. The final agenda will be available to the public at least 72 hours in advance.

- B. All meetings shall be conducted in accordance with the Open Meetings Act: (10-15-1 et. see NMSA 1978). The Council will adopt annually, at the first meeting of the calendar year, an open meetings resolution that describes what notice for a public meeting is reasonable when applied to the Developmental Disabilities Planning Council.
- C. A quorum shall consist of at least one-half (1/2) of the current members serving on the Council. In the event that one (1) or more Council members are participating through teleconferencing arrangements, as provided in paragraph H of this section, such members shall be included in determining the quorum; provided at least one-third (1/3) of the Council membership is physically present at the meeting site.
- D. Meetings shall be held at the call of the Chairperson and will be conducted in accordance with the Americans with Disabilities Act, the Open Meetings Act and other laws governing the Council.
- E. The most current edition of Robert's Rules of Order shall govern the conduct of business in all cases in which they are applicable and not in conflict with Bylaws.
- F. Subject to full consideration of other agenda items and available times, Council meetings should include a scheduled time for public input. Ample seating shall be provided during each Council meeting for persons who are not members of the Council, in an area sufficiently close to the area reserved for Council members and staff that such non-members may observe and listen to the proceedings. When recognized by the Council Chairperson, non-members may provide testimony to the Council.
- G. All meetings of the Council will take place in a facility that is architecturally accessible for persons with disabilities. As necessary to accommodate Council meeting attendees, an interpreter for deaf persons and alternative format materials for blind persons, will be provided. Other assistance will also be provided as needed for Council members or for other scheduled participants in Council meetings.
- H. In the event that one or more Council members are unable to attend in person, due to emergencies or unforeseen circumstances, the Council may provide for the participation of such member(s) through audio or audio-video teleconferencing arrangements, which allow direct and interactive participation, provided the Council members present can communicate and interact with members attending by phone. All Council meetings shall be convened in a location available to the public.

XI. VOTING

- A. All Council members present or participating through audio or audio-video teleconferencing arrangements shall be entitled to vote on all matters before the Council, except as prohibited under the provisions of The Council's Conflict of Interest policy, and State and Federal Law.
- B. All votes shall be recorded.
- C. Agency designees may vote on all matters before the Council.

XII. ATTENDANCE

- A. An unexcused absence from a full Council meeting is an absence without advance notice and/or without provision of a reasonable explanation of the absence within 7 days of the meeting that was missed.

- B. The Council shall take action to request the removal and replacement of a Council member who is appointed by the Governor or an Agency Designee when the Council member/Designee has two (2) consecutive unexcused absences from Council meetings or has excessive unexcused absences that are not consecutive during his or her term of appointment. After the first unexcused absence, the Council member/Designee will receive a warning from the Council Chairperson that a further unexcused absence will result in a request to the Governor to remove the member and appoint a new member to the Council or a request to the State Agency Secretary to identify a new Designee. The Membership Committee shall be responsible for tracking and reporting members' absences, as set forth in Subsection B below.
- C. If a Council member is absent from a Council meeting, the following process shall occur to track and report such absence:
 - 1. The NMDDPC staff shall notify the Membership Committee of such absence;
 - 2. The absentee member shall have seven (7) days from the date of the Council meeting to notify the NM DDPC staff of the reason(s) for such absence;
 - 3. The NMDDPC staff shall forward this information to the Membership Committee for consideration.
 - 4. As soon as possible after the seven-day time period has elapsed, the Membership Committee will discuss the absence and any reason(s) submitted by the absentee member. The Membership Committee shall determine if circumstances exist to grant the absentee member an approved, excused absence from the Council meeting.
 - 5. As provided under Article VIII, Section A.4., the Membership Committee will make recommendations to the Chairperson regarding warning letters and requests for replacement of members with unexcused absences.

XIII. COUNCIL STAFF

- A. In accordance with Federal Law, adequate staff will be employed to insure that the Council is capable of fulfilling all required responsibilities.
- B. Staff duties shall include, but not be limited to, provisions set forth by State and Federal Law and the Articles of these Bylaws.
- C. In accordance with the Federal Developmental Disabilities Act of 2000, 42 USCS § 15024(L), ("Noninterference. The plan shall provide assurances that the designated State agency, and any other agency, office, or entity of the State, will not interfere with the advocacy, capacity building, and systemic change activities, budget, personnel, State plan development, or plan implementation of the Council, except that the designated State agency shall have the authority necessary to carry out the responsibilities described in section 125(d) (3) [42 USCS § 15025(d) (3)].") and NMSA 1978, Section 28-16A-10, the Council shall appoint an Executive Director to serve as the administrative officer of the Council. The Executive Director serves at the pleasure of the Council and shall follow the policies and procedures outlined in the *Policies for Governor Exempt Employees* except where superseded by Policies and Procedures of the Council. Between meetings, the Executive Director shall communicate with the Council Chair on pertinent issues as needed.

- D. Performance review of the Executive Director is the responsibility of the Executive Committee and shall occur no less than annually. Performance review of the Council Staff positions will be conducted by the Executive Director or assigned supervisor in accordance with rules and regulations of the State Personnel Board.
- E. Council staff shall be employed by, and are responsible to the Executive Director.
- F. The Council staff, except the Executive Director, shall be subject to the rules and regulations of the State Personnel (Office) Board.

XIV. ADMINISTERING AGENCY

The Council serves as its own administering agency.

- A. Council shall set priorities for the distribution of funds and implement sub-grant/contracts to public and private agencies within the framework of the approved State Plan and in accordance with State and Federal laws and regulations and an approved Grants Management Manual.
- B. The Program Committee shall review proposals/stipends and recommend funding of specific projects in the areas prioritized by Council, in accordance with the Standards and Procedures approved by the Council.
- C. The Council shall establish and review (annually), a grant proposal process available to applicants and sub-grantees. Procedures shall be in accordance with prevailing State of New Mexico Procurement Code: Section 145-148 [13-1-172...13-1-175] and Federal laws and regulations.

XV. EXPENDITURE OF FUNDS

- A. All expenditure of funds shall be subject to applicable State and Federal laws, rules and regulations and the approved State Plan, in accordance with the approved/revised budget.

XVI. BYLAW REVISIONS

- A. The adoption of these Bylaws, and any revisions thereto, shall be executed on the basis of a favorable vote by at least two-thirds (2/3) of Council members, present and voting with at least thirty (30) days prior written notice. When acting on proposed amendments to these bylaws, the Council may consider and adopt changes to the proposed amendments so long as such changes are in the same sections of the bylaws as the proposed amendments for which 30-day notice was provided.

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