

**Idaho Council on Developmental Disabilities**

**FALL QUARTERLY BOARD MEETING MINUTES – November 6-7, 2018**

**Tuesday, November 6, 2018**

9:01am Call to order by Vice Chair Ian Bott.

**Council Members Present**

Ian Bott

Jessica Rachels

Rebekah Forster-Casey

Colleen Sisk

Natali Pellens

Jim Baugh

Emily Petersen

DR (Danielle Reff)

Carly Saxe

Jacquie Watson

Holly Giglio

Nanna Hanchett

Kristie Oakes

Joe Raiden

Valerie Hurst

Korynne Donehey

Claudia Suastegui

Kevin Bittner

Julie Fodor

Jacob Head

Art Evans

**Staff**

Toni Brinegar

Laurie Lowe

Marieke Edwards

Tracy Warren

**Guests**

Stephanie Perry

Gary Sandusky

Griselda Camacho

Lilly Pellens

**Absent**

James Steed

Christine Pisani

Ian read the meeting ground rules and reminded members that cell phone use and texting during the meeting violates open meeting law.

Ian introduced new members: DR – a self-advocate, Valerie Hurst – a parent.

Ian announced that James Steed would be absent. Marsha Bracke, one of the Council contractors scheduled to present will not be able to attend because of illness.

**Discussion of Changes to Meeting Agenda**

- Holly moved that the Council hear the DRI SWITC report on Wednesday instead of the scheduled Member Reports. Rebekah Forster-Casey seconded. Motion carried.

## Consent Agenda

Draft meeting minutes from the July 26, 2018 Council meeting, Executive Director's report, and the Proposed ICDD Trauma Informed Care Position Statement, and the Council Chair report were in the packet and reviewed on the November 1, 2018 pre-Council meeting conference call.

- DR moved to accept the Consent Agenda as presented. Carly Saxe seconded. Motion carried.

## Financial Report

Toni Brinegar presented the quarterly financial report for 10/1/16-9/30/18.

Question about 2017 funds being encumbered.

Question about scope of Policy Coalition contract – report coming later today.

- Emily Peterson moved to approve the financial report as presented. Charlie Silva seconded. Motion carried.

## Member Conflict of Interest Disclosure

Tracy presented the Conflict of Interest policy and provided examples of potential conflict situations. Members asked questions. Forms to be completed and signed by the end of the meeting on Wednesday.

Kevin Bittner asked if there was time for everyone to introduce themselves.

Council Vice-Chair asked for members to introduce themselves and tell why there are serving on the Council. Members introduced themselves.

## Year End Project Report

Marieke Edwards presented the year-end report.

Art Evans reported that the Idaho Statewide Transition Plan was approved by the Center for Medicare and Medicaid Services (CMS). Idaho was the 10<sup>th</sup> state in the nation to be approved. CMS provided positive feedback on Idaho's plan.

Staff and Cultural Broker supported some Spanish-speaking families to provide comment on the Children's Developmental Disability Service program rules.

1.4 Dual Diagnosis Training - Nanna asked how other agencies could get a list of the mental health clinicians who have been trained so they can increase referrals to trained professionals.

Objective 2.1 was not included in the report but the statewide Supported Decision-Making workshops was mentioned.

Tracy described activities related to objective 2.2 Customized Employment – Division of Vocational Rehabilitation pilot; Social Security Income and Work animated videos completed in Spanish, Long Term Supports/Extended Employment Services working group.

Toni described activities under objective 3.1 including upcoming Partners in Policymaking graduate workshops in 7 locations. These include a half-day Supported Decision-Making training with Amy Cunningham at DRI.

## **Contractor Reports**

Gary Sandusky – Connexus, Statewide Policy Coalition contractor:

Gary provided a report of work completed this past year.

Members present at the regional legislative Community Conversations with legislators shared their impressions. Carly felt that there was a dialogue at the meetings that would not otherwise have happened. Provided opportunities for legislators to have discussions directly with self-advocates and family members. The setting made people feel comfortable to have those discussions. Emily had a different experience this time because she brought her daughter with her. Her daughter was able to share her story and experience. Valerie mentioned that a key to success was holding these outside the legislative session so folks had more time with legislators in a more relaxed atmosphere.

A consideration is that the Community Conversation format could be applied to other issues and projects.

Twin Falls Policy Education Event experienced poor turnout, but a positive outcome was a discussion with College of Southern Idaho to include information for their spring Parent College workshop.

Marsha Bracke – Community NOW! Facilitation contractor:

In Marsha's absence Tracy presented information about Community NOW! activities.

Members reviewed a visual of the Person Centered Planning model and discussed proposals. Members were invited to review the My Choice Matters website.

Griselda Camacho – Cultural Broker contractor:

Griselda presented a summary of activities over the past year. Guests that have been a part of Griselda's outreach and education included: Daniela Corona, Daniela Gomez, Aracely Gomez, Marilu Moreno. Each guest shared their

experiences over the past year.

### **Draft 2021 Work Plan**

Tracy presented a draft plan to be submitted this year with our annual Program Performance Report. The Administration on Disabilities requires submission of our draft annual work plans for fiscal years 2020 and 2021 with our 2018 PPR. The Council has already approved draft plans for FY2019 and FY2020.

- Rebekah Forster-Casey made a motion approve the 2021 Annual Work Plan as presented. Korynne Donehey seconded. Motion passed.

### **Presentation on Living Well Grant**

Julie presented an outline of the Living Well grant and work plan. The grant includes agreements with Disability Rights Idaho, Idaho Council on Developmental Disabilities and the Idaho Department of Health and Welfare.

Julie provided the grant abstract. She described in three parts:

1. Build a self-advocate led health and safety monitoring system designed to protect adults living in HCBS settings;
2. Create a career pathway to ensure that service providers support individuals in ways aligned with person-centered practices and self-determination; and
3. Provide training so individuals have the tools to advocate, protect, and guide their own lives.

### **Blessings of Liberty Film Review**

Council Members viewed the film “Blessings of Liberty” produced by the Council. The film features individuals with I/DD and families speaking to the value of Medicaid HCBS services. Members shared reactions to the film and the emotional impact of the strong message it holds. Many members expressed how proud they are that the Council has produced this film.

Jim Baugh asked, if after seeing the film, we understood the message that most of the public thinks of Medicaid as insurance for the poor not realizing it is about much more than medical insurance. Some members responded that they did not get that specific message but maybe it could be included in an introduction to the film.

Claudia shared about attending national Y training and the training they are rolling out around the country about diversity, disability and inclusion called “diversability.”

### **Winter Council Meeting Planning**

Discussion about the February 7-8 Council meeting and the event featuring the film. Members would meet with their district Legislators one on one in the early afternoon and accompanying them to the Lincoln Auditorium for the screening of the film with time for one on one conversation after the film to discuss how HCBS services are accessed in their own lives.

- Art Evans moved that the Council show the film to our policymakers at the legislature. Rebekah Forster-Casey seconded. Motion carried.

Suggestions to show to additional audiences: Art expressed interest in showing it to staff at the Department of Health and Welfare. Charlie would like to show it to the Special Education Advisory Panel.

Meeting adjourned for the day at 4:02pm.

## Wednesday, November 7, 2018

8:25am Call to order by Vice Chair Ian Bott.

### Council Members Present

Ian Bott  
Jessica Rachels  
Rebekah Forster-Casey  
Colleen Sisk  
Natali Pellens  
Jim Baugh  
Emily Petersen  
DR (Danielle Reff)  
Carly Saxe  
Jacquie Watson  
Holly Giglio  
Nanna Hanchett  
Kristie Oakes  
Joe Raiden  
Valerie Hurst  
Korynne Donehey  
Claudia Suastegui

Julie Fodor  
Jacob Head  
Art Evans  
**Staff**  
Laurie Lowe  
Marieke Edwards  
Toni Brinegar  
Tracy Warren

**Guests**  
Jill Matthews, for Charlie Silva  
Mike Witry  
Blake Brumfield  
Cameron Gilliland  
Lilly Pellens

**Absent**  
James Steed  
Kevin Bittner  
Charlie Silva  
Christine Pisani

Ian read the meeting ground rules and reminded members to ask questions of the presenters while they are here. They are the experts on the topics presented today.

### 2019 Policy Slate – Issue Presentations

Toni reviewed the policy slate that members for members to consider. She described the process the Council uses to determine priorities for Council involvement.

### Changes to Landlord Tenant Laws

Mike Witry – Intermountain Fair Housing Council presented on a possible bill about a process that would speed up the landlord eviction process. This proposed

legislation is being brought by Idaho Apartment Association. This proposal means that all evictions, no matter the reason, are expedited. All a landlord would have to say in the proceedings is “the tenant has violated the lease.” Renters often do not have specific information about reasons for the eviction before the proceedings. This makes it hard for renters to gather evidence. The Idaho Apartment Association states they are in favor of this legislation because it is their argument that landlords aren’t coming to Idaho because the state does not have effective eviction tools like in Utah.

A mandatory eviction is that a tenant has committed a crime – which can be that the landlord “believes” that somebody who lives on the property has committed a crime. When an eviction is expedited it is hard to defend because of the limited time to collect the evidence needed to present that you did not commit the alleged crime.

Domestic violence victims are effected if there is a vulnerable adult protection violation (a crime - even when it is the caregiver who has made the violation). The landlord is in a position to state: “You are both out!” There is a provision that if you are a victim we will not evict you, but there must have police involvement. You have only a couple of days to state gather evidence and state your case to prove your innocence, etc-

Currently, if there are conditions at your property that put your health and safety at risk you can ask the landlord to fix it and if they don’t, you can go to court. This bill says that if you are not in compliance with all material in the lease agreement, the landlord can refuse to make repairs (person leaving their bike out of the bike rack example). Currently, a landlord has a duty to return your security deposit within 30 days, if not, you can go to court. This proposed legislation states that a tenant must request their deposit back using specific language. If the specific language is not used, the landlord may not return the deposit and there would be no penalty to the landlord.

In summary, this bill makes it very difficult for tenants and their counsel to defend an eviction case.

Jim mentioned that the Consortium for Idahoans with Disabilities (CID) opposed this in last year’s legislature.

Wheelchair accessible housing – if you are evicted it is very difficult to find other accessible housing. People with disabilities have a difficult time defending case. Individuals on the DD Waiver who use supported living have less control over who

their roommates are and may have a roommate who does things that put them at risk of eviction.

Mr. Witry says the purpose of this proposed legislation is to expedite evictions and there are many things that are problematic for people with disabilities. Jim Baugh explained that it is likely that CID will oppose the final version of this proposal and suggests that the Council may want to inform policymakers how it could be detrimental to individual with I/DD.

Mike reported that Utah uses a process that includes incentives for landlords to hire attorneys for free to start the eviction process and send renters to collections. When successful, attorneys get paid partly through the 3 times damages and a 40% fee for it going to collections.

Prejudice against service animals is part of the process as well. A landlord can make a call directly to a doctor to confirm service animal. If doctor not available to confirm (directly) the landlord can claim the person is misrepresenting their animal as a service animal. This could be a violation of the lease.

Once a person is evicted it goes on their record. All complaints against a tenant go into database and internet apps where landlords can view all the data and may use the information to refuse to rent to people.

### **Amendment to Idaho Criminal Statute Related to the Evaluation of People with Disabilities Standing Trial for a Crime**

Blake Brumfield and Cameron Gilliland from the Idaho Department of Health and Welfare (IDHW) Family and Community Services Division presented this proposed legislation. If a person with a disability violates the law or is charged with a crime, the judge can say that they feel the person cannot understand the process and are not able to work with an attorney to defend themselves. IDHW Court and Crisis teams may be able to help in these situations with this proposed legislation.

Currently the court may decide who or what entity will conduct an evaluation of a person's ability to participate in court proceedings. It can be done by a single psychologist or the IDHW evaluation committee (a team of people who are trained and have experience in developmental disability and mental health). The team is made up of a psychologist, social worker, and physician. Many evaluators IDHW uses are board certified in forensic assessment. A concern that IDHW has is the use of a psychologist who may be informed about mental health issues but not informed about developmental disabilities.

The Court may decide that IDHW or the Department of Corrections must provide



restoration (needed treatment for a person determined to be unable to understand and participate). This means that a person would be committed to the State. IDHW feels that with a better evaluation, by knowledgeable folks, some people may avoid being committed to the state. There is a push for individuals with I/DD to retain their rights. This legislation proposes that the court defer individuals in this situation to the IDHW evaluation committee to do the assessment.

Member question – what happens if a person who has a guardian is charged with a crime? Response: If the crime is a felony, the person would still go through this evaluation/commitment process. Having a guardian does not protect someone from being charged and going through the court process.

Jim Baugh expressed concern that Idaho has an unclear and conflicting definition of DD in code and the only requirement is that a developmental disability be suspected for people to go through this process. This legislation proposes the removal of some of the flexibility on the part of the court to make a referral in the process. If someone is ‘suspected’ of having a developmental disability, the court would be locked into referral to the IDHW evaluation committee. The proposed legislation removes the courts discretion.

IDHW feels that this would provide better, more thorough evaluation done by a committee that has the expertise and resources to gather information about the individual versus a private psychologist that may have more difficulty getting information needed within the 30 day timeline.

IDHW wants to put the expertise ‘up front’ with the evaluation committee. Sometimes people with mental health needs may be referred to DD area where the competency proceeding takes a long time. Mental health determination can take just a few days. People are in custody until the evaluation process is done - either waiting in jail or other custody for a minimum of 90 days.

There was discussion regarding the difference between having a DD and an intellectual disability that causes a person to be considered ‘unfit.’ Art stated that he sees a lot of misunderstanding in the court system about DD. He sees that this legislation is intended to help folks get a better evaluation by a team who has the expertise needed.

Cameron asked if alternative language would be helpful such as the use of “intellectual” disability instead of “developmental” disability. Jim said it could be an improvement.

### **Walk and Talk – Team Building Activity**

Time was giving for Council members to spend one-on-one time with each other in answering a question.

### **Proposed Amendment to the Battery Against Healthcare Workers**

Jim Baugh said that this proposed amendment may not happen this session, as he was unsure who the sponsor of the bill would be.

Simple battery is unwanted physical touching that doesn't result in injury and is considered a misdemeanor that may result in a one year sentence. Aggravated battery results in injury and is considered a felony and minimum sentence of a five year sentence. The Idaho Hospital Association passed legislation that added language that a simple battery would become a felony and have a minimum sentence of three years.

If you are charge with a crime of battery, even due to a mental illness you may be found guilty of a felony in Idaho. Last year an amendment was proposed by Representative Christy Perry to make an exception if a person has a mental illness. Negotiated language developed last year could be brought forward this year. The Hospital Association opposes the exception as they do not want to reduce their protections.

Jim said they need to find a new sponsor (legislator) and determine if this is a DisAbility Rights Idaho amendment or a Consortium for Idahoans with Disabilities amendment.

### **Proposition 2 – Medicaid Expansion**

Jim Baugh shared that the ballot initiative for Medicaid Expansion was approved by voters on Nov 6. Medicaid coverage is not diagnosis driven – it is income driven – must be uninsured household with income below 138% of the Federal poverty level.

About 23,000 people with serious mental illness who receive treatment through IDHW for their illnesses each year will likely be covered under Medicaid expansion.

Direct Care Staff, because they earn low wages, may meet income eligibility and be covered under this provision.

Idaho Freedom Foundation is expressed opposition on the basis that it will be bad for people with disabilities because Idaho Medicaid may cut Home and Community Based Services to pay for this new provision to cover newly eligible people.

What's next: Legislature must do certain things to implement Medicaid Expansion:

- Must appropriate money to Medicaid to pay for the required 10% state match to federal funds. This is estimated to be about \$33 million.
- IDHW/Medicaid must amend their state plan to include this coverage.

The legislature can repeal a law created by voters, they have done so in the past. There have been some legislators who have said that they would vote to repeal this initiative if it passed. Some states have used Medicaid 1115 waivers to add work requirements for 'able-bodied' people eligible to be covered or in other ways creates limitations.

Required State match funds can be found. There is currently a surplus from 2017 state budget of around \$100 million. The needed funds might be balanced with reduction to the catastrophic health care fund and the county indigent fund.

**Award to Steve Millward**, IDHW Certified Family Home Program, CFH Program Manager Licensing and Certification for his work to support Spanish speaking families and individuals with intellectual and developmental disabilities.

Mr. Millward worked to make curriculum for required medications classes in Spanish to families seeking certified family certification to meet the qualifications required. He has suggested translating CFH rules into Spanish so Spanish speaking providers may understand the regulations they are expected to follow. Certified Family Home parent, Irma Moncada read a letter of appreciation to Steve and Griselda Camacho provided interpretation for Irma. Mr. Millward was presented with an award certificate.

## **Setting the 2018 ICDD Policy Priorities**

### Idaho Landlord Tenant Laws

- Rebekah Forster-Casey moved to set this as a Priority 2 – Lending Support, Korynne Donehey seconded. Art Evans and Kristie Oakes abstained. Motion passed.

### Evaluation of People with Disabilities Standing Trial for a Crime

Jim Baugh presented new information that Blake Brumfield sent during the lunch hour – the current statute and highlighted language in subsection 9 that was left out of the proposed legislation presented by FACS. Council members had many questions that could only be answered by FACS and wanted to get more information to clarify.

- Korynne Donehey moved to make this a Priority 3 – Monitor until we get more information. Joe Raiden seconded. Art Evans and Jacquie Watson abstained. Motion passed.

#### Battery Against Healthcare Workers

The Council's role could be to support entities opposing this legislation by informing policymakers on the impact of the proposed law to the disability community and people with I/DD.

- Emily Petersen moved that we set this issue as a Priority 3 - Monitor, Valerie Hurst seconded. Motion passed.

Discussion: We don't know if this legislation will move forward, but if it does, members feel the Council should support it.

- Emily Petersen made a motion to set this as a priority 3 and Val seconded. Emily withdrew her original motion and made substitute motion to set as Priority 2 – Lending Support, Korynne Doneney seconded. Art Evans, Nanna Hanchett, Jacquie Watson and Valerie Hurst abstained. Motion passed.

#### Medicaid Expansion

The Council's role could be to inform policymakers about the indirect benefit to the DD community in that direct support workers may be able to get health insurance coverage.

- Julie Fodor moved to set as Priority 2 – Lending Support, Joe Raiden seconded. Art Evans and Jacquie Watson abstained. Motion passed.

## Public Policy Ad hoc Committee

Toni asked who would like to serve on the Ad-Hoc public policy committee during this session. Volunteers are: Joe, DR, Rebekah, Korynne, Jim, Emily, Natali, Colleen and Jessica.

### **“No Place to Call Home” – DisAbility Rights Idaho SWITC Report**

Jim Baugh provided information about what was included in DisAbility Rights Idaho (DRI) Southwest Idaho Treatment Center (SWITC) investigation and report.

The full report is available on the DisAbility Rights Idaho website:

<https://disabilityrightsidaho.org/> Discussion and questions followed with Jim answering and providing clarification, however, most questions could be answered in reviewing the report.

Toni requested volunteers to serve on an Ad-Hoc Governance Committee to review Council By-Laws. Ian, Holly and DR.

## Meeting Evaluation

What went well:

- Lunches good.
- Everyone missed having Christine at the meeting
- Having more and longer breaks good – helped to socialize and make connections.
- Everything was educational
- Ian did a good job chairing the meeting

What could have been better:

- Cold in here – Hot in here.
- Better use of microphones by everyone.
- Some conversations seemed like there were only a few people talking

## Meeting Adjournment

- Rebekah Forster-Casey moved to adjourn the meeting at 3:02pm, Jacob Head seconded. Motion passed.