



# Advisory Council on Quality Supports for Individuals with Intellectual/Developmental Disabilities

## FEBRUARY 13, 2020 MEETING MINUTES

### MEMBERS PRESENT

Virginia Lynch, Gabriela Ramos, Lily Martinez, Mark Taylor, April Spaulding, Angelique Tafoya, Patrick Anaya, Kathleen Cates, Stevie Bass, Dan De Paula, Joyce Munoz, Cathy Salazar, Sandy Skarr, Mark Taylor, Tracy Perry, Sandra Woodward, Stevie Bass, June Montoya, Lori Steward

### PROXIES PRESENT

Tim Gardner for Lily Martinez

### State Employees

Marc Kolman, Chris Futey, Deb Vering, NM Office of the Attorney (Brad Hill & Amira Rasheed), Evangeline Yanez, Iris Clevenger, Marie Velasco, Cassandra DeCamp, Melanie Buenviaje, Christina Hill

### GUESTS

Daniel Eckman, Lisa Blue, Veronica Chavez Newman, Christina Barden, Deborah Dominguez-Clark, Marie Velasco, Allyson Rhatigan, Wendy Corry

### WELCOME, INTRODUCTIONS, MEETING PROTOCOL, PARTNER FORMS

Patrick Anaya and Marc Kolman facilitated the meeting as new appointments are still in process. Marc asked for a motion to approve the meeting minutes from December. There was a correction made to the December Meeting Summary regarding Wendy Corry's presentation to the Executive Committee. ***MOTION: Mark Taylor made a motion to approve the December meeting minutes as amended. April Spaulding seconded the motion. There were no objections or abstentions. The motion passed.***

No Partner forms were submitted for review.

### NEW MEMBER VETTING STATUS/CO-CHAIR NOMINATION STATUS

Marc Kolman – New appointments are still pending. The Governor's Office of Boards and Commissions is working on the appointments. Patrick Anaya said there are two co-chair nominations in the new appointments. The ACQ will vote to elect the co-chairs once they are appointed by the Governor.

### COMMUNITY PROGRAMS BUREAU UPDATE

Jason Cornwell will present a comprehensive report. Christina Hill was not able to attend the morning session.

Marie Velasco, Program Manager for DD Waiver, reported. The steering committee met yesterday and discussed the DD Waiver renewal process. The process will include town hall meetings in August and September, tribal notification in October, and public

comment in November. There is ample time to submit the renewal. The ACQ will be informed of progress.

**SPECIAL EDUCATION SERVICES FOR CHILDREN & YOUTH**

Deborah Dominguez-Clark – State Special Education Director at the Public Education Department presented. Deborah has been in the field of special education for 20 years. She is a co-guardian for her 56-year-old sister who has multiple disabilities. There are 54,000 students with IEPs in New Mexico (this number does not include gifted students on IEPs). A variety of data on students in special education is collected and monitored. This data includes graduation rates, dropout rates, mediation, suspensions/expulsions, parental involvement, and resolution sessions. New Mexico has a State Systematic Improvement Plan.

Martinez/Yazzie vs. State of NM – Judge Sarah Stapleton ruled that “the education system in New Mexico violates the New Mexico Constitution by failing to provide at risk students with a uniform statewide system of free public schools sufficient for their education”. Governor Lujan Grisham did not appeal the ruling. At risk student include: Native American children, children with a disability, children who come from economically disadvantaged homes, and children who are English language learners. Deborah joined the team working on Martinez/Yazzie in October 2019. She is attending all meetings and presenting with the Transformation team. Last week, Special Education was made a Division, and is no longer a bureau. Changes in IDEA applications have to include assurances from Superintendents that their schools are following federal guidelines.

The NM TEAM Technical Evaluation and Assessment Manual was updated in 2019 and 2020. There are TEAM trainings statewide for evaluators. Several districts have been targeted for IDEA training. Training includes how to write goals and Prior Written Notices. Key question: what can we do to improve Special Education in NM? There have been meetings with advocates, Special Education Directors, state government groups, and Charter schools. A parent survey will be sent out soon. General education is the big piece and special education is the smaller piece. General education dollars are to be used for all children, including children in special education. Special education dollars are to be used to support additional needs of students in special education.

Project Search is preparing young people with significant disabilities for success in competitive integrated employment. Best Buddies uses volunteers to create opportunities for one-to-one friendships, integrated employment, leadership development, and inclusive living for individuals with intellectual and developmental disabilities. The 2020 Autism Project training is on conducting comprehensive multidisciplinary evaluations in an education setting for the eligibility category of Autism Spectrum Disorder in New Mexico. The Autism portal was launched in fall of 2019.

Special Education guidance documents are being updated to provide clear guidance for districts. Four new manuals will be out by the end of February. Leading Educators through Alternative Pathways (LEAP) helps prepare teachers to be successful in NM’s

diverse classrooms. LEAP currently sponsors 20 teachers who work in special education. They teachers receive ongoing support through blogs, in-person visits, and partnerships.

Head Start partners in Preschool are receiving training. NM Preschool is aligned with Pre-K in all areas and follow the FOCUS criteria. Coaches with special education licenses and backgrounds are supporting evidenced based practice. Every school is to offer inclusion.

Corrective Action Plans (CAPs) are issued when there are issues of non-compliance. There are currently 11 CAPs open and 5 are pending. CAPs are tracked for trends. There has been a decrease in Due Process hearings and an increase in Mediations. More mediators are being hired. The Special Education division has attorneys who work on issues of non-compliance.

We are working on a Balanced Assessment System using classroom assessments and other local practices along with state assessments as multiple measures to obtain a full picture of student performance. The Student Success Task Force recommended minimizing testing to increase learning time. Coursework requirements plus demonstration of competency requirements equal a NM diploma of excellence. Students in special education can walk with their graduating class and still stay in school until 21.

Questions, Comments & Responses

*Do you provide oversight of Educational Diagnosticians?*

Response: No, but we let them know our expectations for evaluations. We are not always a strengths-based system. There should be documentation in the IEP where the student is and where the student needs to be. We are working with DVR to bring more resources to rural districts.

*Some districts are telling parents they do not have a choice to have their child walk with their graduating class and then stay until age 21.*

Response: This is a district decision. Students can walk with their co-hart and stay until 21 if they have an alternative diploma.

*What has NM done in response to Martinez-Yazzie case?*

Response: We have increased our work with Native American children in child find. We have updated guidance documents. We address student language through diagnosticians. Pre-K is mandated and FOCUS criteria must be followed. We work with DVR. We served over 4,000 students last year and had DVR present at transition. IDEA funds can be used to customize some items such as a modification to a desk but basic items (the desk) must be purchased using general education funds.

*PED does good job of identifying problems but not enforcing the solutions.*

Response: We have hired a full time corrective action plan manager. We don't close a CAP unless a certain threshold has been met. We look at CAP patterns. I have a new

legal counsel and I meet with her every Tuesday. We use outside investigators who are all attorneys and who can cite regulations. A one-year CAP follow-up is coming.

*When we moved to NM, the administration made no effort to work with teachers to have them raise student awareness about people with differences. My daughter was made fun of.*

Response: I live this everyday with my sister. Our students in special education are general education students first. A CAP goes to the superintendent, the site administrator, the principal, and the classroom teachers. All are cited in the Corrective Action Plan (CAP).

*Need clarification regarding the statement that students in special education are students in general education first.*

Response: All students are funded as general education students. Special education funding is used for additional needed supports for students in special education.

*Transition from elementary to mid-school is difficult. We can lose a student from fifth grade to six grade.*

Response: The right level of services and supports has to begin in preschool. We don't want students to be pulled out too much and miss their general education course work. When that happens, students in special education are not successful in 6<sup>th</sup> grade.

*My grandson had difficulty going from elementary to mid-school and transferred to a Charter School. When he transferred to his regular high school, during his IEP meeting, he was told he was not an 11<sup>th</sup> grader as he had sufficient credits to be a 12<sup>th</sup> grader and he would have to walk for graduation.*

*Attorney general is a strong advocate for persons with disabilities. There is restraint and isolation legislation going through the legislature. Governor wants PED to take action with school districts.*

Response: This legislation did not come through us. Restraint and seclusion data is collected by districts through the office of civil rights in Denver. We will make some recommendations for data reporting and require the use of the federal definition.

*How are we doing with special education being included in general education?*

Response: We always look at what is least restrictive first. We are providing statewide training on this. Keeping our students in general education is a priority.

*Do all schools provide the opportunity for general education students to work with special education students?*

Response: When my sister was in school, her best friends were her therapists. We want students to have friends who are their peers. The Best Buddies Program is helping with this. We want our students in special education to be involved in all school activities. We are working with our special education directors in our districts. We are seeing some positive changes. If you have data, see patterns, or have suggestions, for Deborah, email her at D@state.nm.us.

The parent survey will go to all parents of children with an IEP. It will go out by March 1<sup>st</sup>. Survey results will help us determine what we need to improve on. The IEP Project will go statewide this year. Districts have been told that their budgets will be on the dashboard next year. It is important to attend school board meetings.

**AM PUBLIC COMMENT**

There was no am public comment.

**STANDING COMMITTEE REPORTS**

*Mi Via Advisory Committee (MVAC)* – Stevie Bass reported. Copies of the report were distributed. The committee met on January 23. Mi Via Bylaws are being updated and input was provided. A Mi Via Community Calendar was discussed. The Mi Via Handbook/EOR Guidebook is being worked on is close to completion. Three Mi Via members have had more than three unexcused absences and will be notified that their membership is terminated. The 2020 Mi Via Waiver renewal was discussed. A CMS contractor is doing a systematic assessment of the Mi Via program.

Brad Hill stated public comment on the renewal is almost complete. The CMS contractor’s work will help make the Mi Via program stronger. Work on the Mi Via Bylaws will make them more consistent with ACQ Bylaws. We want to be aligned philosophically and functionally with the ACQ.

*Policy & Quality Committee*

Chris Futey reported the committee has not met.

**SUBCOMMITTEE REPORTS**

*Wait List Subcommittee* – Cassandra DeCamp reported. A handout was distributed. All FY19 regular slots have been filled and services have started. We have filled all FY20 allocation slots. We are still working on filling the nutrition slots. We are not as far along in the current allocation dates.

Supports Waiver Offer Process –The Supports Waiver is called an Offer; it is not called an allocation. The Supports Waiver offer letter will be printed on yellow paper. The number of offers are based on legislative funding. The Supports Waiver is scheduled to start on July 1, 2020. We are waiting on CMS approval. Individuals who access the Supports Waiver will keep their place on the DD Waiver Wait List, for the DD Waiver or the Mi Via Waiver. There is an annual \$10,000 budget per participant. Access is based on the registration date not where the individual lives.

Comments/Questions/Responses:

*Concern that there may not be enough resources in an area. Likes the first come, first served. What are the advantages?*

Response: It would not change distribution very much. Some people will be moved from Metro to other regions. The Supports Waiver is only for individuals on the wait list for services. The advantage is that people who have waited the longest will receive the offer first and the offer is not based on the region where they live. We obtain decrease

information from vital records yearly and take deceased individuals off the wait list. We want to find the people who have moved and engage them. We do home visits, talk to neighbors, and contact schools. We follow a standard process to find people.

Melanie Buenviaje – The intention of the Supports Waiver is to make an offer to everyone on the wait list within a tight time line.

*Are expedited slots available?*

Response: No, not at present. There is \$6,000,000 dollars in HB 2 for the Supports Waiver.

*The submission for public comment went out yesterday. If you make \$2,000 offers, not all will be accepted. Will you be able to roll the funding not used to the next ones on the wait list?*

Response: Not yet. This has not been decided. We don't know how many offers will be accepted. We have four contractors calling everyone on the wait list to verify current contact information. Questions will be referred to the right individuals. Calls are starting in Metro and they began two weeks ago. We check other systems if can't an individual by phone. No letters have been sent yet. We are calling in groups of 100.

*Could agencies could send out a paragraph to alert people to answer the call? A newspaper article in the Journal could alert people to expect a phone call and it would also provide good publicity.*

Response: We will consider this.

Marc Kolman – We have a distribution list that could be used.

Patrick Anaya announced that Danny Palma has resigned from the ACQ.

## **ADVOCATE**

Wendy Corry shared input from the listening sessions as part of the DD Waiver Steering Committee. 130 People First participants that included 60% self-advocates were asked questions such as: Do you know your rights? What do you want to do that you are not allowed to do? Does your team listen to you? Some of their responses to the questions were:

- Want to be heard by my team. Don't need to be agreed with but want to be heard.
- Want to do what I want at my house.
- Want to achieve goals and dream.
- Want to make my own decisions.
- Staff need to understand different medical issues.
- Staff to understand my diagnosis.

People First meetings are on the first Wednesday of every month.

**DDSD DIVISION DIRECTOR UPDATE**

Jason Cornwell – Legislative funding requests include \$5,000,000 for the Supports Waiver, \$1,400,000 for acuity assessments for folks on the wait list, \$7,500,000 for growth for comprehensive waivers. Funding for rates is \$5,961,000 (38% of original ask). There will be an ACQ Rate Study Work Group in March to make recommendations on where to spend the funding. Family Support & Reimbursement Program will provide relief for folks on the waiting list who do not have Medicaid. The application was mailed to 1,500 individuals. A FAQ sheet will be developed to answer questions. We are already receiving applications. The application is on the website under state general funded programs. The Supports Waiver Application is open for public comment. We want feedback. The CMS submission deadline is April 1. There are ten Supports Waiver Services to mix and match within the annual \$10,000 budget per participant. We are on track to implement on July 1, 2020. There will be a call for individual and agency providers starting March 1<sup>st</sup>. Provider training will be available. Training will be online. Provider rates are not in the application. Rates are in Appendix 1. Rates are the same as the Mi Via Waiver.

Questions/Comments/Responses

*How does guardianship and special needs trust work? Do we go through an attorney?*

Response: You have to establish guardianship. Fees for guardianship are reimbursable.

*How will vehicle modifications be implemented?*

Melanie Buenviaje – Funds can't be used to purchase a vehicle. There will be criteria on using funds to modify a vehicle. 3<sup>rd</sup> party assessors will review the request. The age and condition of the vehicle will be considered. There are certain body shops that specialize in these types of modifications.

Jason Cornwell – There are fair hearing rights for any decisions.

Jason discussed the settlement agreement & provider accountability. Anytime DDSD staff go to an agency, it is to support the individual and the agency serving the individual. We had a backlog of incident management but the backlog has been handled. We view every class member's living arrangement. We do a timely review of deaths in our system and the backlog has been handled. We have hired four nurses to visit class members. The nurses use a survey tool. Case management coordinators use a tool to review individual charts. Generalist staff visit to collect data. Since July 1, we have completed 545 site visits to individuals, staff and providers. The process is developmental and we want to provide the support needed. We try to remediate issues during the site visit. The biggest concern is the failure to provide documentation. We set new targets for DDSD for next fiscal year.

*These safeguards are for Jackson clients. Will they roll over to all DD Waiver participants? This is hot topic. A Request for Regional Office Assistance (RROA) is initiated by providers. Individuals in bad situations don't have any place to go. An A&E can be filled but it might go to the individual they want to report. We need to talk about*

*how to protect individuals in family living and supported living situations. They need access to a generalist. We need to take proactive measures now.*

Response – When the lawsuit is over, we can expand the processes to other individuals. Call any regional office and ask who the generalist is at a particular agency. Generalist see class members and non-class members. We don't have two tiers of oversight. All deserve the highest level. We have six generalists in Metro and nineteen generalists statewide. Generalist visits are unannounced and they occur around 3:00 or 4:00 pm. Individuals can go to the regional offices. Guardians can call us. As per national data, individuals may not realize they are being abused. We are moving to close our Requests for Regional Office Assistance quickly. These are not a paper chase but actions to address needs.

*We need to hear from the individuals, not just the staff at the agency. We have talked about a button on the phone to help the individual call for help without having to go through a staff member.*

*An individual could report while at Day Hab, at their place of employment, at the People's First Program, etc. Providers have to file paperwork on the report so there will be an investigation.*

### **HSD UPDATE/CENTENNIAL CARE WAIT LIST**

Melanie Buenviaje – We update the wait list on a regular basis. We have a benefits comparison table so people can make an informed decision as to the best waiver for their needs. The table is at a 6<sup>th</sup> grade readability and it is translated into Spanish. HSD is hiring staff and hoping to have positions filled in the next couple of weeks. The Centennial Care Wait List is a wait list for community care benefits. Care coordinators can provide information. Most of the 1500 slots have been filled. We are working with the MCOs.

### **ACQ BYLAWS**

Marc Kolman – The updated Bylaws were approved at the December meeting. They have been posted in the ACQ section of the DDS website. Bylaws are how the ACQ operates. The Bylaws will be reviewed on a regular basis and updated as needed.

Questions/Comments/Responses:

*The ACQ needs a conflict of interest form.*

*If an ACQ member identifies if they have a conflict of interest and signs the form, can they remain a member?*

Response – Yes, they can remain a member.

### **SUBCOMMITTEE REPORTS (cont'd)**

*Living Care Supports – Virginia Lynch reported the committee has not met in a long time. It has been on hiatus until there is a state person.*

Wendy Corry – Living Care Supports has been rolled into the DD Waiver Steering Committee.

Employment & Community Inclusion – Kathy Baker reported that another agency visit was completed.

*DD Waiver Steering Committee* – Wendy Corry reported. The committee submitted recommendations to the ACQ Executive Committee. DDS is working through the recommendations. The Supports Waiver is the priority right now. The committee has monthly conference calls and provides feedback to DDS on what people in the community are hearing. It has a broad coalition. Issues and questions can be brought to the committee. EPICS is on the committee and we are working to obtain tribal input. Committee documents are on the website. The committee does not provide paper reports to the ACQ.

*Interagency Coordinating Council (ICC)* – April Spaulding reported. The ICC completed the Annual Performance Report (APR) to the Office of Special Education Programs (OSEP) as required. Some performance targets are set by OSEP and some are set by the ICC. There was slippage in the percent of children functioning within age expectation when they exited the FIT Program. The FIT Program has to provide an explanation of why there was slippage. The ICC recommended that some performance targets remain the same and that some be increased.

*Medical Fragile Waiver* – Iris Clevenger & Laurie (on phone) reported. Families, providers and MCOs met on Monday, February 10, to discuss the renewal process. There is a slight delay in renewal. The Supports Waiver was discussed. Legislative updates were provided including tax forgiveness for rural nurses. Input on several medically fragile documents used with parents was obtained. Plans for the upcoming family survey were discussed. On behalf of parents, Laurie thanked DOH and HSD for the amendments to the Medically Fragile Waiver. Marc Kolman was thanked for the ACQ presentation to the Family Advisory Board.

Melanie Buenviaje – The Medically Fragile amendment for a rate increase is out for tribal input and other public comment tomorrow.

**PM PUBLIC COMMENT** – Veronica Chavez Neuman – The federal government gives \$8,900 to New Mexico for every person who completes the 2020 Census.

Daniel Ekman – The DDPC has an *Opinion Survey to Determine Our Five-year Plan and Actions*. Copies were distributed. Anyone can complete the survey. Provider agencies could distribute the surveys. Marc Kolman offered to disseminate the surveys.

Marc Kolman asked for a motion to adjourn the meeting. ***MOTION: Mark Taylor made a motion to adjourn the meeting. Angelique Tafoya seconded the motion. There were no objections or abstentions. The motion passed and the meeting was adjourned at 3:04 pm.***