

MINUTES OF MEETING
BOARD OF DEVELOPMENTAL DISABILITIES SERVICES
March 12, 2014
Conway Human Development Center
Conway, Arkansas

A regular meeting of the Board of Developmental Disabilities Services (DDS) was held on March 12, 2014 at the Conway Human Development Center in Conway, Arkansas. The meeting convened at 1:30 p.m. pursuant to the call of the Vice Board Chair.

MEMBERS PRESENT: Mr. David Rosegrant, Ms. Artie Jones, Ms. Sally Hardin, Dr. Linda Selman and Mr. Darrell Pickney. Absent was Ms. Suzann McCommon. By letter to the Governor dated January 23, 2014, Mr. Robert James resigned from the DDS Board.

STAFF PRESENT: Dr. Charlie Green, Mr. Jeff Gonyea, Ms. Judy Adams, Mr. Calvin Price, Ms. Debbie Eddington, Mr. Steve Farmer, Mr. James Brader, Ms. Tammy Benbrook, Mr. Dale Woodall, Ms. Sarah Murphy, Dr. Terry Yamauchi, Ms. Angela Green and Ms. Shelley Lee.

OTHERS PRESENT: Mr. Wes Eddington, Ms. Jan Fortney, Ms. Rita Hoover, Mr. Paul Rainwater, Mr. Doug Freeman, Ms. Deborah Rainwater, Ms. Carol Sherman, Dr. Frank Selman, Director Tom Masseur, Ms. Mary Pearson and Ms. Susan Pierce from Disability Rights Center and Mr. Brandon Robinson, Attorney General's Office.

Mr. David Rosegrant, Board Chair, called the meeting to order and welcomed everyone in attendance.

Mr. Rosegrant called for a motion to approve the minutes from the November 6, 2013 regular meeting of the DDS Board.

Mr. Darrell Pickney stated he found four minor discrepancies in the minutes that he would like corrected before approval.

Following Mr. Pickney's discussion of those items, Dr. Linda Selman made a motion the minutes from the November 6, 2013 regular meeting of the Board of DDS be approved after corrections/additions are made. Mr. Darrell Pickney seconded the motion which passed unanimously.

There were no subcommittee meetings so no subcommittee reports were given.

Mr. Rosegrant invited consumers, advocates and guests to address the Board. Mr. Paul Rainwater, parent of a school aged client residing at the Conway Human Development Center (CHDC), stated he would like the Developmental Disabilities Services (DDS) Board to clarify the policies for continuance of services to school age children currently served at the center. He stated the parents were under the impression that CHDC was getting out of the school aged

children's business but at the last meeting were told they would not be asked to transfer their children to other providers. These statements have left parents confused and the group would like DDS and the Board to define what the Centers' future plans are regarding children's services.

Mr. Pickney stated he agreed that the DDS Board needs to let parents know in writing what the plans are for children served at CHDC. Dr. Green stated that the DDS Task Force will be meeting April 2nd and this will be an item that will be reviewed. Dr. Selman asked if the Task Force will override the board with decisions and Dr. Green stated that Task Force will only be making recommendations.

Mr. Darrell Pickney made a motion for Developmental Disabilities Services send a letter to the parents of school aged children at the Conway Human Development Center clarifying their children's future at the facility. Ms. Sally Hardin seconded the motion. Motion passed unanimously.

At this time, Mr. Darrell Pickney stated that this brings up again the *DDS Plan for Systems Change 2011* regarding the part about not admitting children under the age of eighteen. (See attachment 1:1)

Sally Hardin asked when the last admission of a child occurred and Mr. Price stated he had just admitted a child six weeks ago. Dr. Green stated the *DDS Plan for Systems Change 2011* does not tie the Division's hands for children to stay in the facilities or to take emergency respites as discussed in the minutes from the last meeting.

Mr. Darrell Pickney made a motion for DDS Board to amend its approval of the "DDS Plan for Systems Change 2011". Dr. Linda Selman seconded the motion. Motion passed unanimously.

Ms. Jan Fortney, parent of a client who resides at Conway HDC, addressed the Board with a presentation pamphlet "*ALC - Hospital & Medicaid Study Sub-Committee, January 8, 2014*, compiled by Families & Friends of Care Facility Residents (FF/CFR). Ms. Fortney stated she was proud to say that after the meeting and tour at Booneville HDC, FF/CFR, other concerned citizens and legislators called the first meeting of this kind. Representatives from the HDCs, Disability Rights Center (DRC), Mr. Selig and Dr. Green's offices and many others spoke regarding the facilities, services and concerns of our loved ones and their homes. Ms. Fortney just wanted to say thank you to everyone that helped to make this happen. (See attachment 1:2)

Next, Ms. Carole Sherman thanked the Superintendents, Board and guests for their attendance and their work for the clients served in DDS. Ms. Sherman requested the DDS Board review two issues:

- 1) First, a letter addressed to Senator Tom Harkin from DHS Director John Selig regarding a DHS report on *Health, Education, Labor and Pensions Summary Report (preferably the bullet points on page 7)* and the Olmstead Plan and DHS DDS/Alternative Community Services (ACS) services. Ms. Sherman stated this information was provided without public debate or important information from our facilities. (See attachment 1:3)

- 2) Second, Ms. Sherman referenced a recent meeting of the National Association State Directors of Developmental Disabilities Services Presentation of States in Washington, D.C. She expressed concern that Dr. Green was a member of the organization even though it encouraged states to deflect admissions away from facilities such as the HDCs with funding through federal grants such as Money Follows the Person (MFP) and Balancing Improvement Payment Plan (BIPP).

Ms. Sherman requested that the board and Dr. Green give the families a list of federally funded grants received by DDS.

Mr. Tom Masseur from the Disability Rights Center (DRC) of Arkansas addressed the Board and stated he wanted to clarify some comments made during the last board meeting regarding the closure of the Alexander Human Development Center. Mr. Masseur stated that the closing and transfer of clients to community placements and other facilities had been successful, and the number of alleged deaths reported due to those transfers was a false accounting. The monitoring of the clients demonstrates the success of the clients in the community. Secondly, Mr. Masseur stated his office would like to see Policy 1086 applied more frequently in the facilities. Mr. Masseur stated there are dozens of clients eligible to receive community placements but due to guardians making choices, they are not being transitioned into the community.

Mr. Masseur also stated that his office wants to ensure that all individuals with disabilities have the right to vote if competent and if registered to vote, and that they have access to voting because it's their constitutional right.

Many of the board members and parents voiced their opinions in opposition to Mr. Masseur's statements regarding guardian choices, defining competent voters and the difference of having and making choices to live in the community or a facility.

Mr. Darrell Pickney reminded the board of Mr. Masseur's comments from the last Board Meeting and the special meeting of the Legislative Hospital and Medicaid Subcommittee regarding his opinion of there being "no value" in human development centers and how they offer no positive contributions to our communities. Mr. Pickney stated that there was correspondence sent to Governor Beebe and others from Senator Rapert regarding Mr. Masseur's testimony. Mr. Pickney stated he wants to go on record to say that if any representative from the Disability Rights Organization ever requests to speak to his daughter at the Jonesboro Human Development Center, he requests to be present during the interview.

Ms. Carole Sherman asked to remind the board and Mr. Masseur that "the choice" of a facility or community placement was upheld by the U.S. Supreme Court in the Olmstead Plan.

Ms. Rita Hoover also asked Mr. Masseur to clarify whether several dozen in the HDCs as he stated meant 60 or more, or a specific number of clients who were eligible to be moved into the community.

Mr. Tom Masseur stated he could probably have the specific number by the end of the meeting.

Mr. Calvin Price, Superintendent at Conway HDC, presented the report for the human development centers (HDCs) and reminded the Board that monthly reports for the HDCs were

included in the Board packets. Mr. Price presented items of interest about each HDC along with recent survey results provided to him by each Superintendent. Mr. Price invited everyone to tour the new parent house that has been built adjacent to the visitation center on the Conway grounds. This house was built with funds raised by the CHDC Volunteer Council over the past few years and will be a place where parents can stay overnight while visiting their loved ones.

After the reports, Sally Hardin asked for an update on the recreation building at Booneville HDC. Jeff Gonyea, Superintendent at BHDC and Dale Woodall, DDS Facilities Manager, stated the plans have been submitted to the Arkansas Building Authority.

Dr. Green thanked Calvin Price and Conway HDC for hosting the DDS Board Meeting and the Superintendent's Meeting earlier this morning. Dr. Green also welcomed and introduced Steve Farmer, Interim Superintendent, at the Arkadelphia Human Development Center. Dr. Green reported that Steve was most recently the Quality Assurance Coordinator at the Jonesboro HDC and has been doing a great job in Arkadelphia for the past few months. Dr. Green also stated that a decision on a permanent Superintendent for Arkadelphia HDC will be coming in the near future and Steve has shown great interest in the position and has helped out tremendously.

Dr. Green also introduced and welcomed Brandon Robinson from the Attorney General's office, who replaced Ms. Amy Ford. Dr. Green and the Board thanked Mr. Robinson for attending and also for all the legal help during Department of Justice litigation a few years ago.

Dr. Green thanked everyone who helped to support the unsuccessful amendment to Senate Bill 112 that would have provided funds for capital improvements and maintenance projects at the human development centers. He explained that the amendment was withdrawn due to lack of funding during the final consideration of the bill at the Joint Budget Committee. Dr. Green expressed hope that funding can again be requested for the facilities during the next regular legislative session. He reminded everyone that DDS will start working on budget requests this summer but that preliminary requests are subject to change with the election of a new Governor this fall.

Dr. Green said several letters of concerns had been received by his office, the Governor, and legislators regarding a representative from the Disability Rights Center (DRC) being a member of the DDS Task Force. He stated that after discussion and review, it was decided that the DRC should not be excluded just because of a difference of opinion or disagreement with the agency position. Dr. Green reminded everyone that the DRC is a state and federally recognized organization that has the mission of protecting and advocating for people with disabilities and that they need a voice on the task force.

Dr. Green addressed the issue of the mortality rate of the former Alexander HDC residents mentioned by Mr. Tom Masseau earlier in the meeting. Dr. Green reported that the mortality rate of the former residents during the period since the facility has been closed has been less than the 2.2 percent national average for residents of Intermediate Care Facilities.

Dr. Green also addressed Mr. Masseau's comments regarding the application of DDS Policy 1086. Dr. Green informed the board that the policy is being implemented in the HDCs but that consent of the guardians is an important consideration with regards to arranging for successful transitions from the HDCs.

Dr. Green distributed two handouts to the Board for review and discussion:

- 1) Senate Bill 112 -Regular salaries/operations, appropriation of grants and compliance with other laws. (See attachment 1:4)
- 2) Arkansas Building Authority's HDC Facility Assessment Outline, dated March 6, 2014 (See attachment 1:5)

Dr. Green explained that Senate Bill 112 was the DDS Appropriations Bill for State Fiscal Year 2015 and offered to answer any questions regarding its contents.

Dr. Green reported that in order to assist the agency as it develops plans for future services at the HDCs; Governor Beebe has offered the services of Arkansas Building Authority to complete assessments of all HDC buildings. Dr. Green reported that this process should be completed by June 2015. With that, Dr. Green concluded the Director's Office Report.

Mr. David Rosegrant asked if there was any other discussion or business:

Mr. Darrell Pickney requested that information be given to the board regarding the beginning of timber sales on facility land and an account of how the money was spent over the years. Dr. Green will request that Deborah Tenner, Assistant Director of Financial Services, run a report on all timber sales.

Mr. Darrell Pickney asked Mr. Brandon Robinson from the Attorney General's office to review a copy of a memo he was given of past procedures of the DDS Board from the Attorney General's office dated April 29, 2002. He would like to know if these policies and procedures are still in effect or if new roles have been given to the board. Mr. Robinson agreed to review the copy and report back to the Board.

Mr. Darrell Pickney stated he feels the position of transition coordinator in the HDCs has caused concerns. Mr. Pickney stated that some parents and guardians feel it's a position to manipulate parents/guardians/clients into choosing community placements. Mr. Pickney stated he wanted to make a motion to ask that Developmental Disabilities Services (DDS) eliminate the position of Transition Coordinator from the human development centers and/or have those staff members reassigned to other tasks.

Dr. Green responded he did not agree with Mr. Pickney's characterization and wanted to address the issue before the board voted. Several Superintendents offered that the Transition Coordinator/Social Worker/Social Service Worker position not only assisted clients in transitioning out of the facilities but also assisted clients to transition into the facilities. Dr. Green explained that development of the positions was a result of advice from consultants retained as part of the defense of CHDC during the Department of Justice lawsuit. He stated that it is important to ensure that parents/guardians/residents are making an informed choice regarding where services are provided and that they do so with full knowledge of all the options available. These positions were not intended to pressure anyone to move from our facilities.

Dr. Green clarified that he did not believe the Board had the authority to change official job titles/descriptions created by the Office of Personnel Management at the Arkansas Department of Finance and Administration (DFA) but that functional job titles and descriptions could be changed by DDS.

Ms. Sally Hardin stated she thought this was not really an issue but just a wording of a job title. She felt like Transition Coordinator was basically the same as a Social Service Worker or Social Worker.

At this time, Mr. Darrell Pickney made a motion for Developmental Disabilities Services eliminate the position of Transition Coordinator from the HDCs. Linda Selman seconded the motion. Mr. Pickney and Ms. Selman voted to support the motion, Mr. Rosegrant, Ms. Hardin and Ms. Jones voted against it. The motion did not pass.

After the motion did not pass and other discussion, Mr. Pickney encouraged Superintendents to ask their Transition Coordinators/Social Workers not to pressure clients to be transferred into the community.

Rita Hoover, parent of a client who resides at Conway HDC, was recognized by the Chair and stated in the past she had always looked to the Disability Rights Center (DRC) for the protection and advocacy for her child but now after hearing Mr. Masseau in the past few meetings, she does not feel comfortable with that level of protection. Ms. Hoover stated she looks to Dr. Green, DDS and the DDS Board for her protection and advocacy (P & A) because they are her P & A. She feels it's unfortunate that DRC has let so many people down for the protection from predators that prey upon people with disabilities. Ms. Hoover thanked the DDS Board, Dr. Green and the HDCs for their service.

Dr. Terry Yamauchi, UAMS consultant for the five HDCs, was recognized by the Chair and complimented center staff for proper infection control procedures this year because the number of clients infected with influenza has been low compared to the average numbers this season.

Darrell Pickney stated he had a few more comments and information to present to the board:

- He felt like Superintendents and DDS staff needed to be honest and forthcoming with board members about concerns. He encouraged them to speak up even if it was in front of their Director.
- He shared information of how the Arkansas Legislative Council Hospital & Medicaid Study Subcommittee meeting came to be organized and scheduled.
- He discussed discrepancies in previous budget requests and how future budget requests need to be handled.
- He read over past emails/questions to Dr. Green and Mr. John Selig and how he felt questions were answered unsatisfactory.
- He shared information about meeting with DFA and how their representative's view of procedure of the previous DDS budget request and others was totally different from the answers he had been given previously.

- He questioned information reportedly included in a capital requests form submitted by DDS as a part of the previous FY 14 budget request.

Mr. Pickney asked Dr. Green to comment about the emails and answers to the discrepancies in the budget requests. Dr. Green stated he was uncomfortable providing comment about documents or conversations to which he was not privy. Mr. Pickney asked Dr. Green if he thought Mr. Selig was the person who was responsible for not ranking the BHDC new construction project a higher priority on the DHS budget request for FY 14 and for not getting it taken care of in a timely manner. Dr. Green stated that as DDS Director, he was responsible for DDS budget and requests and that he turned in the request as a number one priority with regard to capital improvement.

Mr. Rosegrant addressed the board and audience. He stated the BHDC capital improvement budget request has been denied and the budgeting process for FY 14 is over. He also stated that Dr. Green had given all the information before regarding the requests and it's time to move on to next year's budget.

Mr. Pickney stated that we should be concerned with what happened, where it went wrong so it doesn't happen again and that he intends to get to the bottom of it so it does not happen again.

Then Mr. Pickney requested that he would like someone to do a report on the clients from Alexander Human Development Center since the closing in 2011. The last report was completed by the Legislative Joint Auditing Committee in 2012 before all the monitoring visits conducted by DDS had been completed. Dr. Green agreed that DDS staff could gather this data and generate a report on the former residents.

Before closing, Mr. Rosegrant asked Mr. Tom Masseau for the definite number of clients ready for transitioning into the community that have not been allowed to from the human development centers. Mr. Masseau stated he would like to get with his office staff to give an accurate number then he would forward that number to him. Mr. Rosegrant agreed.

Mr. Rosegrant called for a motion for the meeting be adjourned. Ms. Hardin made a motion the meeting be adjourned. Ms. Jones seconded the motion. Motion passed unanimously.

Meeting adjourned at 3:40 p.m.

ATTEST:



Executive Secretary



Mr. David Rosegrant, Chair
Board of Developmental Disabilities Services