

Memorandum of Understanding

Between

The Colorado Department of Human Services and the Colorado
Developmental Disabilities Council

- I This agreement is drawn this fifteenth day of March, 2013, by and between the Colorado Developmental Disabilities Council (hereinafter referred to as "Council") and the Executive Director of the Colorado Department of Human Services, (identified in federal law: 42 USC 15001 et seq. as "designated state agency" and hereinafter referred to as "Department").
- II Purpose
- A. The purposes of this Memorandum are to:
1. Outline the functions and responsibilities of the Department and the Council in implementing the Developmental Disabilities Assistance and Bill of Rights Act (42 USC 15025 (d) (3) (G)) in accordance with federal law to create a memorandum of understanding.
 2. Maintain a positive working relationship between the Council and the Department that will enable and support the successful implementation of the Developmental Disabilities Assistance and Bill of Rights Act (hereinafter referred to as "the Act") and the goals and objectives of the Colorado State Plan for Developmental Disabilities.
- B. The purpose of the Act is to provide for allotments to support state developmental disabilities councils to engage in advocacy, capacity building, and systemic change activities that contribute to a coordinated, consumer- and family-centered, 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.
- III Legal Basis
- A. State developmental disabilities councils are established in the Act (42 USC 15001 et seq.).
- B. The Council was established in statute during the 1979 Colorado General Assembly (27-10.5-201 C.R.S.).
- C. The state statute recognizing the need for functional autonomy established the Council as a Type 1 Transfer agency as defined by the "Administrative Organization Act of 1968" (24-1-105 C.R.S.) This covers all administrative functions that are not specifically addressed in federal or state statute.

IV Statements of Understanding

A. The term of the Memorandum of Understanding shall be from March 15, 2013-
March 15, 2016.

B. Personnel Administration

1. The Department shall:

- (a) Provide timely personnel support to the Council in the same manner as is considered normal for the Department to be providing other management level agencies within the Department including but not limited to communicating state personnel rule changes, providing personnel action consultation and service, and communicating state personnel information.
- (b) Pursuant to state law, accept the recommendations of the Council regarding recruitment, hiring, and termination of the Council Executive Director consistent with state law and state policies.
- (c) Maintain copies of the Council's performance reviews of the Council's Executive Director and advise the Council on meeting personnel requirements and goals regarding Peak Performance criteria for the Executive Director.
- (d) Designate the Executive Director of the Council as the Supervisor for staff of the Council. The Deputy Executive Director of the Office of Enterprise Partnerships will serve as the Appointing Authority.
- (e) Recruit and hire Council personnel consistent with Federal and State laws. Dismissal of personnel shall be consistent with State law and personnel policies.
- (f) Ensure that staff, while working for the Council, shall be responsible solely for assisting the Council in carrying out its duties designated by the Act.
- (g) Allow the Council through its Executive Director, under its Type 1 Transfer authority, to request waiver from State Personnel rules through the Chief State Personnel Officer or Designated Agency Personnel Officer, as appropriate, when the State or Designated Agency Personnel Rules or policy present a barrier for the Council to carry out its functions as designated in the Act.

2. The Council shall:

- (a) Make recommendations to the Executive Director of Human Services regarding recruitment, hiring and termination of the Executive Director of the Council with the understanding that those recommendations will be accepted consistent with state law.
- (b) Supervise the Council Executive Director consistent with state law and state policies. The Council shall have bylaws that specify the manner in which the Executive Director is supervised, annual performance is evaluated and personnel actions are conducted.
- (c) Hire and maintain sufficient numbers and types of staff (qualified by training and experience) and obtain the services of such professional, consulting, technical, and clerical personnel (qualified by training and experience,) consistent with State law, as the Council determines to be necessary to carry out its functions.
- (d) The Council may request an exemption regarding hiring freezes, reductions in force, furlough days, prohibitions on staff travel, or other policies to the extent such policies and personnel actions taken by the Colorado legislature would impact staff or functions funded with Federal funds and would prevent the Council from carrying out its functions under the Act. The exemption would be at the discretion of the Executive Director of the Council and the Department of Human Services.

C. Fiscal Administration

1. The Department shall:

- (a) Receive, account for, and disperse funds as determined by the State Plan (see attachment).
- (b) Provide for such fiscal control and fund accounting procedures as may be necessary to ensure the proper dispersion of, and accounting for, funds paid to the State under the State Plan.
- (c) Provide the required non-federal share of \$25,000 as identified in the Act (42 USC 15026 (c)).
- (d) Provide timely and accurate accounting services to include payroll, payment of grantee billings, payment of operating and travel expenses and other bills approved by the Council and submitted according to established procedures and protocols
- (e) Provide timely and accurate procurement services to include contract, purchase order, or interagency transfer processing of purchasing requests approved by the Council and submitted according to established procedures and protocols.

- (f) Obtain prior verbal approval from the Council Executive Director or his/her designee if the Department charges a particular bill against a grant budget line account that differs from the account designated by the Council or modifies the amount to be charged.
- (g) Not pay any bill or voucher that is not in compliance with the Fiscal Rules of the State of Colorado and federal fiscal rules unless a fiscal rule waiver is in existence.
- (h) Allow the Council through its Executive Director, under its Type 1 Transfer authority, to request waiver from State Fiscal rules through the State Controller or Designated Agency Controller, as appropriate, when the State or Designated Agency Fiscal Rules or policy present a barrier for the Council to carry out its functions as designated in the Act. Issues will be determined on a case-by-case basis.
- (i) Provide the Council fiscal officer access to COFRS to control and report on the Council's financial status.
- (j) Allow the Council through its Executive Director, under its Type 1 Transfer authority to request waiver from State or Designated Agency Procurement rules through the State or Designated Agency Procurement Officer, as appropriate, when the State or Designated Procurement rules or policy present a barrier for the Council to carry out its functions as designated in the Act.
- (k) Participate in any audits or performance reviews required by the US Department of Health and Human Services.

2. The Council shall:

- (a) Be responsible for all decisions pertaining to the expenditure of funds under the Act and in compliance with state and federal fiscal rules.
- (b) Prepare, approve and implement the Council's budget using amounts paid to the state by the Act.
- (c) Process bills for payment, initiate data input into COFRS, provide first level COFRS approvals, and otherwise ensure that Council staff complies with State fiscal rules, unless waived.
- (d) Direct the expenditure of funds for grants, contracts, interagency agreements that are binding contracts and other activities authorized by the approved State Plan.
- (e) As a Type I Transfer Agency, the Council will follow as applicable any and all state and designated state agency rules, regulations, and policy around the use of property and staff time to educate and inform policy makers. The Council is charged with the responsibility of informing and educating policy makers via the Developmental Disabilities Assistance and Bill of Rights Act of 2000 PL 106-402.

- (f) Ensure that billings are in compliance with the terms of any contracts.
- (g) Approve contracts through the Council Executive Director and forward approved contracts to the appropriate Department staff for review and processing. The Council will provide any documentation or other information needed by the Department in order to adequately review and process all contracts.
- (h) The Council is bound to follow the state personnel, fiscal, and procurement rules and policies. When and if there is a difference between federal and state policies, an exemption from such policies would be at the discretion of the Executive Director of the Council with the agreement by the Executive Director of the Department of Human Services or his/her designee. Consideration of the exemption will be based on the ability of the Council to implement the Five Year Plan.

D. Other Administrative Understandings

1. The Department shall:

- (a) Be known as the “Designated State Agency” for the purposes of the Act.
- (b) Not interfere with the powers and duties of the Council for systemic change, capacity building, advocacy activities, budget, personnel, State Plan development, or State Plan implementation as long as these actions are in compliance with state law and operating procedures.
- (c) Support the appointment to the Council of representatives of the principal state agencies that administer funds provided under the Rehabilitation Act of 1973, as amended, and the Older Americans Act of 1965. Such representatives must have sufficient authority to engage in public policy planning and implementation on behalf of their respective agencies. Nothing in this Memorandum of Understanding shall be construed to authorize the Council to direct, control or exercise any policymaking or administrative authority over any program assisted under the Rehabilitation Act of 1973, as amended.
- (d) Cover personnel and lease costs in the event that federal funds are delayed with the understanding that the federal funds are forthcoming and will repay the State.

2. The Council shall:

- (a) Consult with the Department prior to submitting the State Plan to the Secretary of the Department of Health and Human Services. Such consultation shall be solely for informational purposes and to obtain State assurances and ensure consistency of the State Plan.
- (b) Submit to the Governor's Office through the Department of Human Services, applications for appointments to the Council.
- (c) Assist the Department in preparing necessary information for incorporation of the Council's budget into the Department's budget request.

V Collaborative Work Agreement

- A. The Council and Department of Human Services will work collaboratively to:
 - 1. Provide subject matter expertise to the Community Living Advisory Group.
 - 2. Ensure to the best of their abilities that individuals are supported to live in their communities.
 - 3. Comply with the Act in carrying out its duties and responsibilities.

VI Termination or Amendment of Agreement

- A. The terms and conditions set forth herein are binding on both parties to this agreement, and may be amended, altered, or waived only by mutual written agreement between the Council and the Department.
- B. The agreement may be canceled or terminated by either party hereto, but the party desiring to terminate the contract must give written notice by mail of its intention ninety (90) days prior to the date of termination.
- C. The Memorandum of Understanding continues to bind both parties during the scheduled period despite changes to the signatory authorities unless Section V.B. (above) is activated.

Reggie Bicha

Chris Herron

Executive Director
Colorado Department of Human Services

Chairperson
Colorado Developmental Disabilities Council

Date signed _____

Date signed _____

