**Summary Minutes**

**Texas Governor’s Committee on People with Disabilities**

**August 21 - 22, 2019**

Region 17 Education Service Center

South Conference Center, Conference Room B

1111 W Loop 289, Lubbock, Texas 79416

Zoom webinar link: <https://zoom.us/j/410274129>

**Call to Order**

Motion by Dylan Rafaty to call the meeting to order; seconded and approved. Chair Aaron Bangor began the meeting at 1:00 p.m.

**Welcome by Host**

Kyle Wargo, Executive Director, Region 17 Education Service Center (ESC), welcomed the Committee to Lubbock. Region 17 ESC serves individuals within a geographic area of almost 20,000 square miles. He appreciated the opportunity to host the meeting and introduced a few of his staff members.

**Committee Members Present**

Aaron Bangor, Ellen Bauman, Evelyn Cano, Andrew Cohen (Via Zoom), Richard Martinez, Linda Millstone, Dylan Rafaty, Emma Faye Rudkin

**Committee Members Absent**

Elizabeth Dickey, Archer Hadley, Amy Scott, Marco Trevino

Amy Scott submitted a request for an excused absence. Motion by Evelyn Cano to accept her absence as excused; seconded; unanimously approved.

**Exofficio Representatives Present**

Joe Perez, Health and Human Services Commission; Justin Porter, Texas Education Agency; Jonas Schwartz, Texas Workforce Commission; Norman Kieke, Texas Department of Licensing and Regulation; Josiah Biggs, Department of Family and Protective Services; April Pollriesz, Texas State Independent Living Council

**Committee Staff** **Present**

Ron Lucey, Randi Turner and Nancy Van Loan

**Visitors**

Brian Shannon, Texas Tech University; Kyle Piccola, The Arc of Texas (via ZOOM); Sammie Sheppard, TSID Interpreter Educators; Michele Crain and Nancy Penland, LIFE-RUN Center for Independent Living; Kandace Decker, Workforce Solutions VRS; Diane Gatlin, Workforce Solutions South Plains Board; Gene Valentini, Office of Disability Rights, Lubbock County; Joe Rogers, Panhandle ILC; Donald Gatlin, Workforce Solutions VRS; Kyle Wargo, Wayne Blount, Anna Phillips, Deanna Logan, Debbie Weaks and Elizabeth Archer, Region 17 Education Service Center; Shelly Tyler, Marie Dunham and Audrey Sendejo ASL Interpreters

**Approval of June 11-12, 2019 Meeting Minutes**

There were no amendments to June 11-12, 2019 Summary Minutes as submitted to the Committee. Motion by Dylan Rafaty to accept the Minutes as presented; seconded and unanimously approved.

**Election of Committee Vice Chair**

Outlined in the Committee’s enabling statute, the governor designates a presiding officer. The Committee may elect other officers as the Committee considers necessary. Members indicated their preferences and Dylan Rafaty received the majority of votes. Motion by Richard Martinez to accept Mr. Rafaty as vice chair; seconded, and unanimously approved.

**Public Comment**

Analynn Bartlett’s family has members who are deaf and prefer open captions at movies. CaptiView is used at Sherman Cinemark but equipment is not reliable most times.

Christine Gaston is a teacher of deaf and hard of hearing students advocating for vocational rehabilitation services. She questioned TWC’s policy to keep students in Pre-Employment Transition Service status until their senior year, preventing them from applying for appropriate vocational rehabilitation services.

John Woodley complained about lack of state funding that would repair his personal vehicle. Persons with mobility disabilities are denied transportation to many places because of insufficient paratransit routes or services.

Michael Swoboda, Texas Association of the Deaf, provided a list of topics for the Committee to research including detail of vocational and educational services provided to deaf consumers by TWC, and specific data requests.

Wess Smith, Texas School for the Deaf, said TSD trains roughly 600 interpreters annually. They face testing delays, a reduced number of tests offered, delayed processing and scoring, and inconsistent practices in the BEI testing process. A teacher is not required to take a proficiency exam until placed in a class with a student that uses sign language.

Gene Valentini, Office of Disability Rights, said people are not fully utilizing the U.S. Department of Justice’s complaint process for alleged ADA violations. DOJ can provide mediation services with no cost to the complainant. He asked if the Committee might provide guidance to state agencies on effectively utilizing Alternative Dispute Resolution under Texas Government Code, Chapter 2009.

Motion by Aaron Bangor directing staff to review guidance on the Committee’s website about ADA complaint mediation procedures, to distribute a GovDelivery notice on the rights under the ADA and ability and availability of complaint and mediation processes managed by DOJ, and begin outlining resource options available to state agencies. The motion was seconded and unanimously approved.

Motion by Richard Martinez directing staff to seek a media advisory in partnership with the Office of the Governor’s communication office targeting local elected officials who may have worthwhile contributions. The motion was seconded and unanimously approved.

**Executive Director’s Report – Ron Lucey**

* Discussed the next GCPD meeting targeting October 1st in El Paso in combination with the Lex Frieden Employment Awards, hosted in partnership with Workforce Solutions Borderplex on October 2nd. TWC is organizing a HireAbility symposium followed by an awards luncheon.
* Proud to announce artist for the 2019 NDEAM poster: Maegan Bacigalupo
* Participated in a statewide press conference with TxDPS, TxDMV, and Aspergers101 highlighting the Driving with Autism Initiative, registering a vehicle, and giving law enforcement officers advanced notification on their TLETS of “communication impediment with a peace officer”
* Edited a parking FAQ for Texas Department of Motor Vehicles based upon continued implementation and education after the passage of HB 3163
* Texas Facilities Commission will break ground later this year to build a new Capitol Transit amenity center; the goal is to have it built by July 26.
* TxDOT is taking the lead in planning the 30th Anniversary of the ADA celebration in Austin.
* Discussed closing the loop with constituents when the GCPD receives public comment
* Staff attended the national ADA conference, learned new information and met with other state partners to share ideas
* Worked on restoration of deaf resource services to 66 unserved counties
* Worked with the Support Service Professionals (SSP) Coalition on the process to get an Exceptional Item added to Legislative Appropriation Request; and identifying the target population
* Continued partnership with Knowbility on OpenAIR, the accessibility internet rally for state agencies
* Texas Emergency Management Advisory Committee held meetings on legislation creating a new task force
* Scheduling upcoming accessibility and disability policy webinars; one will feature VIA transportation in San Antonio

**Presentation: Lifetime Independence for Everyone, Inc., LIFE/RUN Independent Living Center**

Michelle Crain, Executive Director and Nancy Penland, Director of Programs spoke. LIFE has operated since 1988. Spin-offs include the Independent Living Center in Amarillo, Disability In Action (Abilene) and Disability Connections (San Angelo). LIFE offers services in the following areas: self-advocacy, peer support and information, independent living skills training, nursing home relocation, and transition. They have an Ombudsman for nursing and assisted living facilities, and health and fitness programs. LIFE became a coordinator of interpreting services to contract with reliable interpreters in Lubbock, Midland, Odessa, and Amarillo. The Independent Living Services program can purchase equipment so people can remain independent if they have a qualifying significant disability. They work with a Department of Deaf and Hard of Hearing Services’ Access Specialist to ensure effective communication, rights and responsibilities. A youth transition group targets parents of deaf or hard of hearing to promote better communication skills. LIFE schedules activities at the center such as money management, cooking, opportunities for peer support, computer and assistive technology presentations, and American Sign Language classes. LIFE built a new building that exceeds accessibility guidelines, and voting machines are set up to encourage participating in the voting process.

**Board for Evaluation of Interpreters (BEI) and the Administrative Barriers for Interpreter Testing, and Reimbursement for Interpreter Services for Client No-Shows**

Sammie Sheppard and Whitney Gissell spoke as representatives of Texas Society of Interpreters for the Deaf’s (TSID) Interpreter Educator Special Interest Group. TSID is a state level professional organization to support interpreters as they work to serve deaf and hard of hearing communities. BEI administers all testing in Austin, including basic level performance tests. The testing process includes measuring proficiency in multiple languages (English, American Sign Language and sometimes Spanish) plus a written test. BEI gives six tests weekly then brings in raters to score the tests. Interpreters and candidates cannot complete this certification process in a reasonable timeframe and their skills deteriorate. Interpreter training programs across Texas report extensive wait times. An average wait time is four to six months, two to three months to hear results, and six months to retake the test. TSID recently learned about an eight-month back up. As of early August, there were 100 unfilled full-time interpreting positions in the K-12 and post-secondary fields, and several part-time positions. The HHSC Deaf and Hard of Hearing office posts the application on a broken web-link. Only four people work in the BEI office and do what is humanly possible to process requests but also handle workshops and certification maintenance.

An online method for payment would greatly reduce processing time. BEI could automate the testing process and conduct and grade the tests in an electronic format, thus making it less labor intensive, more cost efficient and much faster. One solution might be to provide testing at a location right after the students graduate, instead of being required to test in Austin. Texas Higher Education Coordinating Board requires mandatory annual reports about passing rates to decide if programs are viable and sustainable. TSID is concerned with transparency because they learn from the students about passing or failing. BEI should increase workers in the office so basic level tests can be offered more frequently. National Association of the Deaf recommended BEI and other states come to Texas to test. There is a state level certification for general medical interpreting, but not a certification for mental health interpreting.

**Texas Workforce Commission (TWC) Vocational Rehabilitation Services for Former Texas Department of Criminal Justice Offenders with Disabilities**

Jonas Schwartz said TWC follows the same process for all customers who apply for services, including individuals who disclose about falling into the criminal justice system. Eligibility to receive vocational rehabilitation services is determined by: the person having a disability, the disability must be a barrier to becoming employed, and a reasonable expectation exists that the person will be successful in their employment goal with the provision of receiving VR services. Counselors look at the job description, recruitment process in taking applications, and possible accommodation supports to remove barriers. TWC has received 285 referrals from correctional institutions or local, state or federal courts, as of July 31. A background check and criminal history from Texas Department of Public Safety occurs when licensure or certification may prevent a person from obtaining a license from an accrediting body. TWC does not keep criminal history reports in someone’s case file. During the last legislative session, there was support for the reinstatement of Project Rio, a pilot reintegration project for offenders in Cameron, Willacy, and Hidalgo Counties. The pilot begins Nov. 1, 2019 and will end Sept. 30, 2022.

**Diversion for Offenders with Mental Illness in the Texas Criminal Justice System**

Brian D. Shannon, JD, is a law professor at Texas Tech University. Criminal justice has become the treatment-type solution for many people with serious mental illness or intellectual disability. In Texas and nationally, we have seen a greater incidence of offenders within jails and prisons instead of receiving medical treatment. The largest mental health facilities in Texas are Harris and Dallas County Jails. There is significant backlog of availability at state mental hospitals. In the 60s and 70s, state hospitals were overcrowded and lacked appropriate services. As state hospitals closed, funding did not shift into the community. Not many resources were available when Shannon co-wrote the first edition of “Texas Criminal Procedure and the Offender with Mental Illness”. NAMI Texas supports distribution of the fifth edition of the book to Texas judges, prosecutors, and criminal defense lawyers. There will be a free web version.

Shannon has seen legal issues questioned such as competency to stand trial. Recent legislation addressed diversion for persons with serious mental illness or intellectual disabilities to receive treatment safely in the community on an outpatient basis. Article 1623 from Texas Criminal Procedure says law enforcement should try to divert where they can, depending on available resources. Article 1622 requires notification to a magistrate within 12 hours for a quick evaluation. Other legislation from 2017 created a default on competency first as outpatient, secondly jail based, and thirdly, the state hospital restoration. Senate Bill 22 offered grant funding and matching opportunities. In 2018, Texas Supreme Court and Court of Criminal Appeals jointly created the Judicial Commission on Mental Health that made recommendations enhancing offenders. Senate Bill 562 from 2019 requires counties with a population greater than 250,000 to have a mental health court, and allows smaller counties to have a dual county mental health court. Senate Bill 362 clarifies requirements for outpatient commitment. After the court adjudicates, a better short-term solution would be to allow a person services rather than sitting in jail for 6 to 12 months until a bed becomes available. Some might do better in a more structured environment. Texas needs more resources for increased availability of community-based outpatient services. County judges need more education; they have some judicial authority but do not have to be lawyers. A good reference is “Responding to the Mental Health Community, a Guide to Texas Peace Officers” (2018). Texas Association of Counties has a “bench book” for counties. Shannon hopes the state’s Judicial Commission on Mental Health will standardize the forms used by lawyers and judges to guide people through the process. Texas Correctional Office on Offenders with Medical or Mental Impairments is a good resource regarding the treatment aspect.

Motion by Aaron Bangor directing staff to create a policy recommendation making available some training for lawyers and judges to get information on people with disabilities, including people with serious mental illness. The motion was seconded and unanimously approved.

Motion by Aaron Bangor directing staff to arrange a meeting with TWC and Texas Correctional Office on Offenders with Medical or Mental Impairments discussing employment options and referrals for vocational rehabilitation services. The motion was seconded and unanimously approved.

**Criminal Justice Update for Persons with Intellectual and Developmental Disabilities (IDD)**

Kyle Piccola, The Arc of Texas, highlighted legislative accomplishments from the 86th session. House Bill 3116 creates a task force to research and create guidelines that detention facilities may implement when an individual with IDD is detained so they can receive fair and reasonable accommodations and access to justice. House Bill 3540 allows peace officers to use discretion when called to group homes for minor incidents; officers are not required to make an arrest. House Bill 4531 gives individuals with IDD or their guardians the ability to consent or refuse a forensic medical (sexual assault) exam thus increasing the amount of investigations and prosecutions. Rider 42 studies how Texas can provide waivers to folks on the waitlist to avoid entrance into the criminal justice system. House Bill 3630 abolishes restraints on students in public education, and prohibits students locked in a room for long periods without support or supervision. The Arc offers training geared to school resource officers.

**Reports from Invited Exofficio Agency Representatives**

**Department of Family and Protective Services (DFPS)**

Josiah Biggs gave key points from the report. Trevor Woodruff is the new Acting Commissioner. DFPS implemented internal and external policies for accessibility compliance. The workgroup, led by Kathy Keller, represents 17 different program areas and meets monthly. Staff are receiving disability awareness training, and pamphlets now include information on the rights to make a complaint. DFPS is expected to brief the Committee in October of 2019 on the results of an investigation on concerns of children who are deaf or hard of hearing who are served by Child Protective Services.

**Department of Licensing & Regulation, Architectural Barriers (TDLR)**

Norman Kieke said TDLR processes 26,000 licenses that need to be issued and renewed correctly, including disability specialists and construction projects. Architectural Barriers technical information has bumped to over 100 daily inquiries with the new online registration program. House Bill 2847 covers many programs under TDLR’s purview. Implementation of House Bill 3163 is expected by mid-2020 and includes a range of penalties posted on parking signage and striping on the access aisle. Texas currently has nine Transportation Network Companies (TNCs) although 14 have applied. Two years after an initial license, the TNCs are supposed to report data on what actually happened during the pilot phase. Most TNCs depend on cab companies because the drivers’ vehicles do not accommodate wheelchairs. Uber and Lyft are destroying the original taxicab industry and people with disabilities are finding less access to transportation options.

**Health and Human Services Commission (HHSC)**

Joe Perez presented the agency’s report highlighting performance measures, legislative appropriation requests, and legislation from the 86th Session. (Follow up items appear at the end of the Minutes.)

**Texas Education Agency (TEA)**

Justin Porter said TEA is committed to high expectations and strong systems that achieve equitable outcomes for every student with disability. Some students may be served under Section 504, while others might need special education and still others can be served in different ways, for example, depending on the degree of dyslexia that impacts a student.

Senate Bill 500 appropriates $50 million intended to reimburse districts for expenditures related to serving and identifying students with disabilities. TEA has an $8 million grant program with Region 20. Federal discretionary funds are available through IDEA for reimbursing local educational agencies (LEA) experiencing a surge in the number of evaluations requested. He noted 37 Texas counties do not have one licensed specialist to perform evaluations. The school is required to follow the Child Find process although the ARD committee may take into account a family’s outside evaluation. House Bill 3 increases funding by about $970 for each student with a disability served in special education, in the general education classroom, and $1,600 per student identified with dyslexia to receive services. The district receives a $2,000 bonus for every student that graduates with the college, career and military readiness standard. A report around special education funding is due to the Legislative Budget Board by May of 2020. Senate Bill 712 requires TEA to create guidance on student restraints and aversive techniques. Senate Bill 139 requires LEAs to notify parents if a child needs special education. House Bill 548 requires an annual assessment in language acquisition for every child ages zero through eight. This will require an MOU with Health and Human Services and Texas School for the Deaf, the creation of a committee of experts to identify assessments, and data collection.

The U.S. Department of Education’s Office of Special Education Programs met with TEA and six different LEAs in May. The federal agency has not removed TEA from corrective action of non-compliant status. DOE expressed interest in the monitoring system’s multi-tiered technical support.

**Texas State Independent Living Council (SILC)**

April Pollriesz said the Council received new gubernatorial appointees. HHSC sent a letter removing themselves as the designated state entity for Texas’ independent living program, but then reversed the decision. SILC submitted the State Plan for Independent Living for fiscal year 2020. SILC and the centers for independent living will begin drafting the state plan for fiscal years 2021-2023, due July 2020. The next accessible transportation summit will be in Galveston in 2020.

**Texas Workforce Commission (TWC)**

A three-member commission governs TWC, all appointed by the governor. Jonas Schwartz shared recent changes in leadership: Governor Greg Abbott appointed Bryan Daniel Chair and Commissioner Representing the Public, and Aaron Demerson Commissioner Representing Employers. A new service delivery model called Employment Supports for Brain Injury focuses on the employment outcome of individuals, and includes new resources, tools and services. It replaces the post-acute brain injury model. TWC will publish new policy and standards for providers on October 1, 2019. TWC will host a statewide capacity building conference September 23-24 in Austin to finalize the process of developing an infrastructure between TEA and TWC. Texas A&M University partnered on this initiative and brought together focus groups and heard from education professionals and community providers during regional forums. TWC is planning a HireAbility Forum in El Paso on October 2. (Follow up items appear at the end of the Minutes.)

**Exofficio Agency Follow-Up to June GCPD Meeting**

Vocational Rehabilitation Support for Deaf Students Attending Out-of-State Colleges and Universities. TWC’s vocational rehabilitation division may purchase out of state training, based on policy and the customer’s plan for employment. Customers choose a specific degree. After an internal audit, TWC added some controls to ensure quality comparable benefits for customers and academic training measuring employment success rate. Members encouraged TWC to look further than the cost, to ensure integration of deaf students into an effective learning environment. Rehabilitation Services Administration (RSA) does not allow TWC to pay for a service that wasn’t received. TWC leadership made an inquiry of the Council of State Agency Vocational Rehabilitation.

Motion by Ellen Bauman directing staff to work with TWC on an analysis regarding the relative cost and benefits of students receiving accommodations and attending out of state colleges versus remaining in state colleges. The motion was seconded and unanimously approved.

Audiological Impairment Certification Training -no update from TEA

Access Curriculum Advisory Committee. Dr. Porter will contact individuals that GCPD’s director provided and schedule a first meeting for October.

Use of Rider Funds for Captioning of Curriculum. TEA does not have authority. Maybe a GCPD policy recommendation could move this forward. TEA does not get many requests because technology is available.

Review of HHSC “Denial Letter for Approval” in Medically Dependent Children’s Program. MDCP letters were shared with GCPD staff, however denial letters for IDD waivers are being revised. Joe Perez, HHSC, will see if the agency is responding with appropriate referrals and making the language in the letters more plain.

Medicaid Reimbursement Rates for Audiological Services and Devices. HHSC reviewed the medical policy for Otology and Audiometry Services to ensure alignment between reimbursement limitation and policy language. Many ancillary procedure codes had low utilization, such as revisits and hearing aid checks. Service providers will be reminded to accurately bill for these procedure codes.

**Policy Development topics for inclusion in 2021-2022 Biennium**

Deaf Education Teacher Certification

Teachers working with students who have auditory impairment hold Deaf or Hard of Hearing Education Teacher Certification but some have not tested for sign language competency. TEA’s State Board of Education Certification (SBEC) certifies teachers for Texas - Texas Assessment of Sign Communications (TASC) or the TASC American Sign Language. One solution might be to require all teachers to test within a three-year period if they use sign language. SBEC would have authority to make changes.

Motion by Dylan Rafaty to accept the policy development proposal as offered by staff. The motion was seconded and unanimously approved.

Support Service Professionals (SSP) Coalition of Texas Proposed Interim Charge Submission

The original intent was for Deaf and Hard of Hearing Services, under HHSC to administer an SSP program. Andrew Cohen led the coalition composed of individuals who are deaf-blind that suggested legislation that ultimately failed because the fiscal note was too high.

Motion Aaron Bangor: In furtherance of existing policy recommendations, the GCPD supports an interim study by the Texas Legislature and HHSC to assess the need for an SSP program including the estimated population to be served, related costs, and income eligibility guidelines. The motion was seconded and unanimously approved.

Captioning Student Materials in K-12

The proposal describes the Digital Accessibility Advisory Committee and educational curriculum and technology. Education Service Centers may develop a process to address demands at local school districts. OOG’s attorneys may review references in TEA’s budget Rider 8 language.

Motion by Dylan Rafaty directing staff to consult with OOG’s legal team on whether or not language from TEA’s Instructional Materials Technology Fund supports the use of those funds for digital closed captioning of digital media. The motion was seconded and unanimously approved.

**Adjournment**

Dylan Rafaty moved to adjourn the meeting. Seconded. Approved. Meeting adjourned at 12:15 p.m.

Respectfully Submitted,

Nancy Van Loan, Recorder

**Follow Up Items**

* TDLR: is TNC ride sharing data available to GCPD?
* HHSC: information on Glenda Dawson Kidney Disease Task Force (recent legislation)
* HHSC: Is the new complaint process initiative pushing everything first to the Ombudsman effective to a consumer?
* HHSC: is the $4M for crisis intervention and crisis respite services an addition to LAR All Funds?
* HHSC: Is data available on the delay of BEI certifications, and would the agency consider TSID’s proposed solutions?
* TWC: has agency leadership met with the Texas Department of Criminal Justice to see if more formal linkages are needed regarding high quality employment, as offenders are released?
* TWC: request a copy of TWC’s training module regarding offenders with mental illness
* TWC: is data available about the outcomes of customers receiving vocational rehabilitation services with criminal background?
* TWC: Does vocational rehabilitation view CRS as a comparable benefit? Are there changes in policy?
* TWC: What is tuition at Gallaudet?
* Staff: share link to archived webinar discussing restraint
* Staff: collaborate with TDLR to distribute a govdelivery article highlighting Architectural Barrier complaint process; verify on GC KeyLaws webpage a link to filing a complaint
* Staff: review guidance on the Committee’s website about ADA complaint mediation procedures, to distribute a govdelivery notice on the rights under the ADA and ability and availability of complaint and mediation processes managed by DOJ, and begin outlining resource options available to state agencies (motion)
* Staff: seek a media advisory in partnership with the Office of the Governor’s communication (Press) office targeting local elected officials who may have worthwhile contributions. (motion)
* Staff: share Texas Academy of Audiology June presentation by Matthew Lyon with Joe Perez (HHSC)
* Staff: share planning updates of ADA 30th Anniversary celebration with members