Texas Governor’s Committee on People with Disabilities

**WORK SESSION SUMMARY MINUTES**

June 11, 2020

Videoconference/Teleconference Meeting via ZOOM

Registration Required: <https://zoom.us/webinar/register/WN_T11x-nNOROKvYsTViP--SQ>

Meeting Materials Available at: <https://gov.texas.gov/organization/disabilities/committee-meetings>

Chair Bangor called the work session to order at 8:05 a.m. after a motion by Dylan Rafaty. Members, exofficios and presenters introduced themselves. Evelyn Cano submitted a request for an excused absence. Dylan Rafaty motioned approval; Members voted by roll call and accepted her absence as excused. The focus of the Work Session was development of future policy recommendations.

Members Present: Aaron Bangor, PhD, Chair; Richard Martinez; Ellen Bauman; Dylan Rafaty; Emma Faye Rudkin; Kristi Orr, PhD; Kori Allen; Elyse Lieberman, PhD; Eric Lindsay

Members Absent: Evelyn Cano, Archer Hadley, Amy Scott

Exofficio Representatives Present: Justin Porter, PhD, Texas Education Agency; Robert Schuller, Department of Family and Protective Services; Claudia Peden, Texas Workforce Commission; Dana Williamson, Health and Human Services Commission; Sandra Breitengross Bitter, Texas State Independent Living Council

Zoom Participants: Steven Aleman, Disability Rights Texas; Melinda Paninski, Texas Workforce Commission; Jeff Kline, Department of Information Resources; Patricia Murphy, Texas Dept. of Housing and Community Affairs; Angela Standridge; Jolene Sanders-Foster; Aisa Showery; Jeannette Escalera; Jennifer Ledford; Nancy Crowther; Robert Ferguson, FEMA; Lyndal Waddy; David Nochlin, M.D.; Aaron Gregg; D. Danks; Angela Bauman; Paul Rivera; Nancy Hernandez; Jennifer Christman; Stephanie Rawlins; Rachel Cyrus; Tanya Lavelle; Laura Marquez; Rebecca Japco; Adriana Martinez; Tonji Joiner; Lorissa Luna; Polly Fife; Amy Laine; Kenny Conley; Kimberly Berry; Maria Roussett; Sheridth Abro; Vanessa Vera; Gabe Cazares; Deborah Cates; Michelle Flores

**Policy Development based on the Committee’s Issue Areas**

**Presentation: Educational Representative for Adult Students with Disabilities – Steven Aleman, Disability Rights Texas (DRTX)**

Mr. Aleman summarized DRTX’s recommendation. The Individuals with Disabilities Education Act (IDEA) includes a provision for students with disabilities, over the age of 18 and attending public school, and who do not have a legal guardian. The statute and regulations say if an adult student does not have the ability to provide informed consent to his or her educational program, then the state may develop a procedure and have in place an appointment process. The representative would effectively serve in the role of a guardian to protect the student’s rights, and navigate the student’s education. DRTX believes Texas should take advantage of this provision and Texas Education Agency should develop an appointment process to name an educational representative with regard to special education issues. IDEA states a parent is the default but another appropriate individual can be selected if the parent can’t fulfill the duties. This is not a role of a school district staff member. DRTX estimates approximately 20,000 adult students with disabilities in Texas and not every adult student would need an educational representative. A determination process would involve a certification by a physician. DRTX requested the Committee include in their report to the 87th Texas Legislature a recommendation adopting legislation amending Texas Education Code to authorize school districts to determine if a student receiving special education services needs an educational representative. Ellen Bauman noted this solution offers families an opportunity to represent their adult child legally if the cost of obtaining guardianship is prohibitive. Dr. Porter, TEA’s Special Education Director supported the measure but added the agency’s legal team declined DRTX’s proposed 2019 rule-making regulation saying the agency didn’t have statutory authority.

Dylan Rafaty motioned to move DRTX’s policy proposal forward, as presented to the Committee: Texas Legislature should enact an amendment to Education Code to create a procedure for school districts to determine whether an adult student with a disability does not have the ability to provide informed consent for his or her educational program. Members voted by roll call; the motion was approved.

**Accessibility and Multi-Family Housing**

Archer Hadley submitted a draft policy proposal, based on his need to find accessible, affordable housing. Patricia Murphy, Texas Department of Housing and Community Affairs was available as a resource expert. The Fair Housing Act and TDHCA require multi-family complexes to meet accessibility standards. Multi-family dwellings that receive funding from TDHCA must have 5% of units, built or reconstructed after 2001, be accessible for people with disabilities, in compliance with the 2010 ADA standards or the Uniform Federal Accessibility Standards under Section 504 of the Rehabilitation Act. All properties funded after 2001 must make accommodations to meet the needs of a persons with disabilities. If someone is low income the property owner needs to make modifications to address their needs. TDHCA’s website directs individuals to a clearinghouse to search for vacant, accessible rental properties funded through TDHCA. Property owners provide information included on the search engine but not verified by TDHCA. General Land Office properties are not included. Municipalities could also voluntarily provide information. An additional component for the recommendation would be to explore collaboration with other state agencies, as applicable, to include their data. A public awareness campaign targeting the real estate market would promote the web tool’s availability. Mr. Lucey suggested revising the proposal to say that the agency shall perform an accessibility evaluation of the search engine and remediate any accessibility errors found by formal testing before claiming the web tool does not meet accessibility standards.

Ellen Bauman motioned new language: TDHCA should research and review how information about accessible multi‑family rental housing managed by the General Land Office might be integrated into TDHCA’s vacancy clearinghouse tool for people with disabilities looking for accessible housing to able to find what they need, including individuals that assist the public in locating housing, eg, permanent locator services, real estate agents, etc. Members voted by roll call; the motion was approved.

**Monitoring Accessibility of State Agency Websites**

Aaron Bangor provided a draft policy proposal. Jeff Kline, Statewide EIR Accessibility Coordinator, Department of Information Resources (DIR) commented as a resource expert. Website accessibility continues to be a challenge for both public and private entities. Lawsuits in federal court over inaccessible websites have increased significantly. A recent study from WebAIM of the top million Internet home pages found 98.1% had detectable defects. Automated scanning tools typically find 30% of potential defects. Texas Administrative Code, Chapter 206, requires DIR to adopt rules to monitor accessibility of state agency websites. Texas Government Code 2054, Sub Chapter M, directs DIR to promulgate rules. DIR conducts a survey of accessibility of state agencies and state‑funded institutions of higher education (IHEs) websites through a self‑reported evaluation tool called the Information Resources Deployment Review offering measurable goals. DIR does not have an enforcement role. State agencies and IHEs can use a DIR licensed tool from Site Improve to scan up to 150 pages of their website, a cost effective way to monitor websites. Periodic scanning should correspond to Web page modifications and results be made available quarterly. DIR has rolled out free training that allows anyone with a state government or state-funded IHE identification to take classes trying to facilitate better accessibility. The learning management system is available to web developers, communications staff, purchasers, and contract managers because accessibility is a shared responsibility across most agencies. Some agencies hire vendors to build their websites, without skills to incorporate accessibility. The GCPD, in conjunction with DIR, could use this scorecard to track progress toward accessible resources for employees of the agency or IHE who have a disability and members of the public that are seeking information from the agencies. The recommendation would need a fiscal note to cover agency costs. A potential risk is that published data would be subject to the Open Records Act. The recommendation needs to focus on auditing public-facing websites.

Dylan Rafaty motioned to accept the policy proposal, as amended: to create a key risk indicator or other type of quantitative scorecard that aggregates and summarizes data regarding the accessibility of IHE and state agency websites, at least to include the agency's home page. Members voted by roll call; the motion was approved.

**Employment Policies on the State as a Model Employer**

Aaron Bangor provided a draft policy proposal and Melinda Paninski, Texas Workforce Commission (TWC), commented as a resource expert. States are an employer and can be a model for the private and non‑profit industries in increasing participation and having persons with disabilities obtain and retain employment – entry-level and more advanced-level jobs - in the most integrated possible setting. Dr. Bangor suggested implementing the following: on a quarterly basis, verify job application processes are accessible; adopt a civil service apprenticeship program, in conjunction with TWC, primarily for individuals with disabilities; and establish a voluntary self-identification reporting program to help organizations understand the composition of their workforce. Members discussed the following topics:

A study in the Council of State Governments’ 2016 Work Matters report indicated 40% of people with disabilities found it impossible to complete an online job application. US Department of Labor funds the Employee Assistance Resource Network helping employers with best practices. The non-profit organization of businesses, Disability:IN, focuses on disability inclusion. Apprenticeship models have been successful. There usually is an implication that an apprenticeship is going to be a paid position within a state agency, versus internships where individuals gain experience but are not paid. A temporary employee does receive pay, out of a program’s budget. It may be possible to convert a vacancy into a paid apprenticeship that creates a pipeline for future employment. State agencies with demanding positions and thousands of employees have high turnover. The Texas State Auditor’s Office defines the classification system. WorkQuest focuses on making sure that people with disabilities have more long‑term formal training programs that also provide work and pay. A pre-apprenticeship program prepares or guides someone into career apprenticeship opportunities. TWC’s registered apprenticeship program, funded by grants, must have an educational component. TWC offers opportunities through the Summer Earn and Learn program for transition-aged youth, and manages the Texas Internship Challenge that could be a more inclusive program of persons with disabilities. Offer an array of options for state agencies to participate in, such as work‑based learning opportunities, paid or unpaid internships, or apprenticeships for more education‑related jobs associated with an institution of higher education or vocational technical school. Consider revising the proposal to focus on the largest 15-20 state agencies. Members directed staff to research targeted agencies for guidance on choosing which type of work-based learning program the Committee wants to recommend from the second item of the draft recommendation.

**Deaf Education Teacher Certification**

A student brought this issue to the Committee’s attention last April describing how her itinerant deaf education teacher could not communicate in American Sign Language (ASL). Parents cannot identify if a teacher is credentialed to teach kids that use sign language. Randi Turner developed this recommendation to make teacher credentials visible on either TEA or State Board for Educator Certification’s (SBEC) website. Deaf education teachers obtain certification by passing university-level course work and testing. After a certification to teach special education, a teacher takes a Deaf and Hard of Hearing certification exam. To teach deaf students in ASL, a teacher is required to take an additional test, the Texas Assessment of Sign Communication (TASC) or TASC/ASL. Many teachers attend classes at the School for the Deaf to gain a minimum skill level for signing and some deaf culture. Dr. Porter said SBEC’s website includes teacher certification, with a notation the teacher is bilingual, such as in Spanish or Chinese language. There could be an addition of ASL. He was unsure if the change would be administrative or would need legislation.

Dylan Rafaty motioned to move the recommendation forward with an additional amendment: … to an already known location referencing bilingual certifications where users can obtain information about a teacher’s certification or credentials. Members voted by roll call; the motion was approved.

**Monitoring Deaf Education Teacher Certification**

Hundreds of teachers in Texas work with children who use American Sign Language as their primary means of communication. Randi Turner submitted a draft proposal asking TEA to monitor teachers’ credentials based on certification to work with deaf students. TEA’s State Board for Educator Certification (SBEC) provides guidance, Teacher of Students with Auditory Impairments, under Rule §231.619, however, SBEC indicates there is no monitoring related to deaf education teacher certification. Texas already has a shortage of teachers appropriately credentialed to work with the deaf education population. Would there be penalties associated with corrective action by the school districts for noncompliance? Dr. Porter replied that TEA could offer grants, contingent upon a student’s mode of communication, that would reimburse districts for teachers’ test taking or training that would not cause an undue fiscal strain. Providing effective communication is the bottom line. TEA’s Region 11 Network holds a sensory support grant for both Texas School for the Deaf and Texas School for the Blind and Visually Impaired regional day schools. Dr. Porter offered to ask TEA grantees and stakeholders who work with this population about a good path going forward and provide feedback to the GCPD. Members requested more information from staff regarding a mechanism or data source that defines a particular set of conditions for a deaf or hard of hearing student and whether their itinerant teacher would meet the requirement.

**Testing Options for Deaf Education Teacher Certification**

Testing options are limited for Deaf education teachers who need credentialed by TEA/SBEC to work with students who use sign language. Randi Turner submitted a draft proposal asking that TEA allow teachers options for credentialing by passing one of the following tests: Texas Assessment of Sign Communications (TASC); TASC American Sign Language; HHSC’s Texas Board for Evaluation of Interpreter (BEI) certification at Basic, Advanced, Master level or Sign Communication Proficiency Inventory, Advanced level or higher. TEA administers the current (2001) version of TASC and TASC-ASL tests, which are available in a limited number of times each year. Wait lists exist. BEI offers a rigorous test with many components. Sometimes a referral from a teacher preparatory program is necessary to gain permission to take a language test to make sure a person has a level of minimum preparation and needs it. Members considered removing the referral component from this proposal.

Dylan Rafaty motioned to move forward with this policy recommendation, as amended: expanding the options that define a teacher’s competence to communicate in sign language with the student. Members voted by roll call; the motion was approved.

**Transportation Network Companies (TNCs) in Texas**

Nancy Crowther gave a presentation to the Committee last April generating the formation of a Governor’s Committee TNC task force, facilitated by Monica Villarreal. The vehicles used by TNCs are commonly personal sedans owned by the drivers or are leased from the TNC. There are very few wheelchair accessible vehicles available to transport customers who use fixed-framed wheelchairs. Stakeholders compiled a list of recommendations, including amending Texas Transportation Code, Chapter 643. The task force suggests a requirement that all TNCs that provide services within 50 miles of a commercial airport should contain a percentage of wheelchair accessible vehicles in their fleet. Secondly, if a TNC purchases, leases, or owns and leases vehicles to their drivers, a certain percentage must be wheelchair accessible vehicles. Potentially, TNCs might charge a nominal fee to riders, earmarked toward purchasing accessible vehicles across the State. Texas’ Universal Telecommunications Services Fund was the model. Future discussions with ride-sharing companies, Lyft and Uber, will provide understanding of the market’s scope and further refine the recommendations. Ultimately, the workgroup will publish a whitepaper defining key highlights for incorporation into the Committee’s policy recommendations.

Emma Faye Rudkin motioned to approve this policy proposal. Members voted by roll call; the motion was approved.

**Development of Public Transportation Subcommittee**

Richard Martinez and Dylan Rafaty request formation of a GCPD subcommittee to address the lack of adequate accessible transportation options of people with disabilities in rural regions and suburban communities. The Committee frequently receives public comments, worthy of an exclusive review on this topic. A subcommittee could provide suggestions for local government transportation initiatives or funding policies. The University of Texas at Arlington’s Center for Transportation Equity‘s “Decisions and Dollars” report includes a person with disability subset. Ron Lucey replied the Committee has a Transportation Subcommittee that is currently focusing efforts on TNCs. Members and stakeholders can participate. Local transportation is primarily a function of local government. If you build a road, the connectivity between cities is seamless, but if you fund public transportation, the connectivity ends at the city borders. Sandra Breitengross Bitter, State Independent Living Council, shared the SILC is working with advisory committee members and consumer advocates on a policy recommendation for local and regional transportation coordination. SILC encourages people with disabilities to serve on transportation boards and commissions. The Committee will support the SILC’s efforts.

**Development of Apprenticeship Subcommittee**

Individuals with disabilities need awareness of apprenticeship opportunities. Dylan Rafaty authored a proposal to establish an Apprenticeship Subcommittee to research and propose a plan to diversify apprenticeships into new industries in untapped areas based on current and predicted state workforce needs. Partners could be TWC, TEA and community members. Collin County Community College will open a new campus to educate and train students in technical fields such as HVAC, welding, manufacturing, construction and automotive that lead to job opportunities. Melinda Paninski, shared TWC’s Registered Apprenticeship division provides grants to fund training opportunities across the state. TWC released an announcement of their intention to provide $5 million next fiscal year for registered apprenticeship programs. TEA Region 11 hosted the Department of Labor to present information to teachers and special education departments. Meaningful transition planning should begin for students in special education with the IEP in which they turn age 14. Opportunities for students with real work-based opportunities are lacking in the school environment. Districts are more than willing to provide the services to the students but need some definition and some options because they don't necessarily have staff that are trained in all of the transition nuances. Mr. Rafaty hears the term “intentional inclusion” and hopes people with disabilities are included in apprenticeship programs.

**Future Meeting**

Members did not discuss a few draft policy proposals because of time constraints. Staff will add these to the next meeting’s agenda. The next business meeting will be scheduled to occur virtually on July 30, 2020 and morning of July 21, 2020. Mr. Lucey anticipates no permission to travel for this Committee meeting because of the ongoing coronavirus pandemic.

**Adjournment**

Dylan Rafaty motioned to adjourn the meeting; members voted by roll call. Chair Bangor adjourned the meeting at 1:04 p.m.

Respectfully submitted,

Nancy Van Loan

Executive Assistant, Governor’s Committee on People with Disabilities

Follow Up Item

* TEA: query grantees and stakeholders on monitoring deaf education teacher certification