

# **Executive Director Orientation and Leadership Academy**

## **Section II**

### **Developmental Disabilities Act Overview**

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## **Disability Policy Framework: A Review**

### **Historically**

- We have tried to “fix” people with disabilities
- If we could not “fix” the person, we supported exclusion, segregation, and denied services and supports
- Sometimes we made laws to ban people with disabilities from being seen in public
- Sometimes we forced people with disabilities into institutions and sterilized them
- People with disabilities were perceived as vulnerable/dependent people

### **Today**

- Disability is a natural and normal part of the human experience and in no way diminishes a person’s right to fully participate in all aspects of society
- Focus is to “fix” the physical and social environment to provide effective and meaningful opportunity to people with disabilities.

### **Goals of Disability Policy**

- Equality of Opportunity
- Full Participation
- Independent Living
- Economic Self-Sufficiency
- Equality of Opportunity

### **Individualization**

- Decisions based on facts, objective, evidence, person’s needs and preferences, state-of-the art science

### **Effective and Meaningful Opportunity**

- Focus on meeting the needs of all individuals, provide reasonable accommodations and reasonable modifications to policies, practices and procedures

### **Inclusion and Integration**

- Provide services in the most integrated setting appropriate for the person, avoid unnecessary and unjustified segregation and isolation

### **Full Participation**

- Involve people with disabilities and their families in decisions affecting them
- Involve people with disabilities and their families in developing policies at the systems/institutional level

### **Independent Living**

- Recognize as a legitimate outcome of public policy
- Skills development, long-term services and supports, cash assistance
- Economic Self-Sufficiency
- Recognize as a legitimate outcome of public policy
- Support systems providing employment related services/supports, cash assistance with work incentives.

### **Why do we need to know this?**

- The disability policy framework is a guide to assess social policy from a disability policy perspective.
- This framework provides guidance and insight to effectively develop, implement and support systems change initiatives and consumer-driven alternatives.

### **Connecting with the DD Act**

- The DD Act embodies the core policies of the disability policy framework
- The DD Act includes demonstration of methods of administration consistent with the disability policy framework

### **Using the framework**

- Councils can use the framework to guide their work as they assess social policy from a disability perspective and effectively develop and implement home and community based systems change initiatives and consumer-controlled and driven alternatives.

### **Reference**

Silverstein, R. (2000). Emerging disability policy framework: A guidepost for analyzing public policy. *Iowa Law Review*, Vol. 85(5).

## The DD Act Areas of Emphasis

### DD Act Areas of Emphasis include the following:

- Quality Assurance
- Child-care
- Education and early intervention
- Employment
- Health
- Housing
- Recreation
- Transportation
- Other Services available and offered to individuals in the community including formal and informal supports that affect quality of life

*DD Council, P&A, and UCEDD goals each must address at least one area of emphasis*

### Quality Assurance Activities

- Advocacy, capacity building and systemic change activities that result in improved consumer and family centered quality assurance and that result in system of quality assurance and consumer protection that –
  - Include monitoring of services, supports and assistance provided to an individual with developmental disability that ensures the individual
  - Will not experience abuse, neglect, sexual or financial exploitation, or violation of legal or human rights; and
  - Will not be subject to the inappropriate use of restraints or seclusion.
- Include training in leadership, self-advocacy, and self-determination for individuals with developmental disabilities, their families, and their guardians to ensure that those individuals –
  - Will not experience abuse, neglect, sexual or financial exploitation, or violation of legal or human rights; and
  - Will not be subject to the inappropriate use of restraints or seclusion;
  - Include activities related to interagency coordination and systems integration that result in improved and enhanced services, supports, and other assistance that contribute to and protect the self-determination, independence, productivity, and integration, and inclusion in all facets of community life, of individuals with developmental disabilities

### **Childcare related activities**

- Advocacy, capacity building, and systemic-change activities that result in families of children with developmental disabilities having access to and use of child-care services, including before-school, after-school, and out-of-school services, in their communities.

### **Education and Early Intervention related activities**

- Advocacy, capacity building, and system change activities that result in individuals with DD being able to access appropriate supports and modifications when necessary, to maximize their educational potential, to benefit from lifelong educational activities, and to be integrated and included in all facets of student life.
- Advocacy, capacity building, and systemic change activities provided to individuals (birth to 9) and their families to enhance the development of their potential; and the capacity of families to meet the special needs of the individuals.

### **Employment related activities**

- Advocacy, capacity building, and systemic change activities that result in individuals with DD acquiring, retaining, or advancing in paid employment, including supported employment or self-employment in integrated settings in a community.

### **Health related activities**

- Advocacy, capacity building, and systemic change activities that result in individuals with DD having access to and use of coordinated health, dental, mental health, and other human and social services, including prevention activities, in their communities.

### **Housing related activities**

- Advocacy, capacity building, and systemic change activities that result in individuals have access to and use of housing and housing supports and services in their communities, including assistance related to renting, owning, or modifying an apartment or home.

### **Recreation related activities**

- Advocacy, capacity building, and systemic change activities that result in individuals with DD having access to and use of recreational, leisure, and social activities in their communities.

### **Transportation related activities**

- Advocacy, capacity building, and systemic change activities that result in individuals with developmental disabilities having access to and use of transportation

### **Formal and Informal Community Supports**

- Advocacy, capacity building, and systemic change activities that result in individuals with DD having access to and use of other services available and offered to individuals in a community, including formal and informal community supports that affect their quality of life.

## **Council Responsibilities**

- Serve as an advocate for individuals with developmental disabilities
- Conduct or support programs, projects and activities that improve the quality of life of individuals with disabilities
- Develop a state plan
- Implement the state plan
- Monitor progress of the state plan and adapt it as necessary and appropriate
- More Council Responsibilities
- Periodically review the designated state agency
- Report activities to ADD
- Prepare, approve and implement a budget using the amount provided to it
- Recruit and hire a Director consistent with state law
- Have staff who assist the Council in carrying out its responsibilities
- Annually evaluate the Director
- More Council Responsibilities
- Establish or strengthen a program for the direct funding of a State self-advocacy organization led by individuals with developmental disabilities; support opportunities for individuals with developmental disabilities who are considered leaders to provide leadership training to individuals with developmental disabilities who may become leaders; and support and expand participation of individuals with developmental disabilities in cross-disability and culturally diverse leadership coalitions.

# **Yearly activities required by the DD Act**

## ***Councils on Developmental Disabilities***

### **Annual evaluation of the Executive Director**

The DD Act requires the Council to conduct an annual evaluation of the Director. Evaluation should be conducted in accordance with applicable personnel policies and follow State laws and regulations. The Council will determine date of annual evaluation; most often, this date coincides with the ED's hire date.

### **Council Budget**

The DD Act requires the Council to prepare, approve and implement the budget. Budget approval should be reflected in official meeting minutes. Budget should be approved in a timeframe prior to the beginning of the State or Federal Fiscal year.

### **Examination of Plan Goals**

The DD Act requires the Council to review the progress made toward plan goals annually. This includes a required component of measuring customer satisfaction with Council supported or Council conducted activities. The information is reported on the annual Program Performance Report due January 1 of each year.

### **Consumer Satisfaction**

The DD Act requires Councils to collect and report consumer satisfaction with Council support or conducted projects. The information is a required component of the Annual Program Performance Report due Jan 1 of each year.

### **Review of Designated State Agency\***

The DD Act requires the Council to periodically review the Designated State Agency (DSA) and activities carried out under Title B by the DSA and make recommendations for change to the Governor. The Council will determine date of periodic review.

### **State Plan**

The State Plan is the 'big picture' of how services and programs for individuals with developmental disabilities and their families should be five years from now within a particular State or territory. Additionally, the plan includes long term goals to be accomplished within five years and provides guidance to the Council regarding how it spends its resources. Required components of the State plan are found in PL 106-402, The DD Act, and can be accessed in Subtitle B Section 124.State Plan located at <http://www.acf.hhs.gov/programs/add/ddact/DDACT2.html>

The Plan is submitted to ADD through DD Suite, a web based reporting system. Each Executive Director is given a pass code from DD Suite to access the system.

The State Plan Development Guide is a resource provided to assist in the development of your 5 Year Plan. You will find the guide at [http://www.itacchelp.org/uploads/2011\\_State\\_Plan\\_Development\\_Resource\\_Updated\\_2\\_2011.pdf](http://www.itacchelp.org/uploads/2011_State_Plan_Development_Resource_Updated_2_2011.pdf)

**The next 5 year planning cycle is from FY 2012 through FY 2016**

**Due date: August 15, 2011**

**State Plan Update**

Each year, Councils are required to review and update or amend their plan if necessary. The State Plan needs to be updated if there are changes in the following areas: Council Identification, Council Membership, Council Staff, Designated State Agency information, Substantial changes or necessary updates in State Service System and Trends, Changes in Goals/Objectives, Budget projections, update on public input and review (remember if there are substantive changes in the State Plan there has to be public review of those changes). State plan updates are due to ADD no later than August 15 of each year.

**Due date: August 15<sup>th</sup> of each year**

**Program Performance Report**

Developmental Disabilities Councils (DD Councils) are required to submit annual performance reports to the Administration on Developmental Disabilities (ADD). The purpose of the Program Performance Reports (PPRs) is to document DD Council activities that occurred during the previous fiscal year for government reporting purposes. Reporting on activity-specific outcomes is intended to capture, on an annual basis, the results of initiatives funded by ADD and administered by DD Councils including those initiatives conducted by grantees, Councils, members and policy and program staff.

**Due date: January 1<sup>st</sup> of each year**

**Financial Reports - ADD-02B**

This federal financial form was introduced in 2007 and is designed to capture information on obligation and liquidation of federal funds, matching funds and program income. The report captures financial information for three years of federal allotment and require Councils' to report on cumulative federal dollars expended to date; amount of federal fiscal year dollars obligated, but not yet liquidated; and amount of federal fiscal year dollars that have not been obligated.

This report is due within 90 days after the end of the federal fiscal year. (The report is due no later than December 31 of each year).

**Federal Financial Report and Federal Cash Transaction Report**

The Federal Financial Report (FFR or SF 425) replaces the Federal Cash Transaction Report (FCTR or SF-272/SF-272A). This federal-wide report standardizes financial reporting across the government. The due date for submitting expenditure data on the *annual* FFR is 90 days after the end of the calendar quarter in which the budget period ends.

\* The DD Act requires this activity "periodically". A Council may choose the timeframe (which may include annual).

## **Conflict of Interest Overview and Application**

### **Introduction**

Councils value the active participation and membership of stakeholders, state agencies, DD Act agencies, allied professionals, and leaders in disability rights. This active participation may at times create actual or perceived conflict of interests. Therefore, clear and open discussion is the path to ensure the Council maintains its public perception of integrity, while actively engaging key stakeholders.

### **What does the Act say related to Conflict of Interest?**

#### **Section 124 (c) (5) (D)**

The plan shall provide an assurance that no member of such Council will cast a vote on any matter that would provide direct financial benefit to the member or otherwise give the appearance of conflict of interest

### **What is an assurance?**

A pledge, a guarantee; free from doubt

To maintain federal compliance, Councils must submit this assurance to the Administration on Developmental Disabilities with their 5-year State plan

### **What is conflict of interest?**

A conflict of interest is real or perceived and exists when the Council member or a member of their family appears to gain or benefit personally from their position on the Council.

### **Appearance of conflict of interest**

Members of governance have a responsibility to avoid the appearance of a conflict of interest.

They should never use the organization as a platform for personal benefit or gain. A perceived conflict is often more damaging than a real one since it is much harder to resolve.

### **What is a Dual Role?**

A dual role exists if a Council member also serves in a leadership/decision making role of another entity who is seeking Council funding

Example: Council member also serves on the Board of Directors of the local disability organization

**Helpful hints if you find yourself in dual roles....**

If you are a member of the Council and also a member of a Board of Directors of an agency or organization applying for Council funds, first and foremost you should keep the primary purposes and guidelines of the Council as the priority. Dual role Council members should take great care they not influence any other Council member to gain their support or “sway” them to vote for or against proposals or decisions that may benefit their organization

**Example #1**

Situation: A member serves on the Council as well as on the Board of Directors or Advisory Committee of a disability organization that applies for a grant through the Council

Result: Even though the Council member may not receive direct financial benefit from the grant, there may be an appearance of a conflict of interest.

Recommendation: The Council member can publically disclose the conflict [so that it is in the record], and recuse themselves from discussions and vote on the topic

**Example #2**

Situation: A Council member has a spouse, significant other, immediate family member (or other relationship outlined within State or Territory guidelines) receiving funds from a Council funded project.

Result: This would constitute a conflict of interest for the Council member.

Recommendation: Council member would consider resigning appointment to the Council.

**Example #3**

Situation: A Council member participates in the design of a request for proposal outlining the activities of a project that will be funded by the Council; the Council member’s place of employment competes for the funding

Result: The involvement of the Council member may constitute a perception of conflict of interest and unfair advantage to other entities competing for the Council funds.

Recommendation: The Council member can publically disclose the conflict [so that it is in the record], and recuse themselves from discussions and vote on the topic

**How do Councils provide the assurance?**

Councils use a variety of methods to provide the assurance. The most common are:  
Conflict of Interest policies  
Information forms that provide disclosure from Council members about other boards and organizations they represent  
Code of Conduct policies  
Recusing oneself from the room when discussions or voting occurs

## **Executive Director Annual Evaluation**

### **What does the DD Act say?**

Section 125 (c)(9)

The Council shall, consistent with State law, recruit and hire a Director of the Council, should the position of Director become vacant, and supervise and annually evaluate the Director. The Director shall hire, supervise, and annually evaluate the staff of the Council. Council recruitment, hiring and dismissal of staff shall be conducted in a manner consistent with Federal and State nondiscrimination laws. Dismissal of personnel shall be conducted in a manner consistent with State law and personnel policies.

### **Why?**

Because the executive director is such a critical figure in the organization, it is important to know how he/she is contributing to the **Council's** success and in what ways he/she could improve her performance.

To do this, the **Council** must conduct regular evaluations that not only review the executive director's strengths and weaknesses but also propose ways of improving his/her performance.

### **The Basics**

- Step one: Identify the evaluation committee.
- Step two: Set the goals and objectives of the executive director's job.
- Step three: Develop the evaluation form.
- Step four: Assess.
- Avoid these common errors when conducting the evaluation:
  - Focusing on a single trait or incident
  - Rating personality above performance
  - Substituting likes and dislikes for objectivity
  - Being overly lenient or severe
  - Keeping assessments near the average

Provide a copy of the evaluation form to the executive director so they can conduct a self-assessment.

- Step five: Meet with the executive director.
- Step six: Implement the changes.

### **The ED Position “Breakdown” of responsibility**

State planning and fiscal activities	20-50%
Community relations	10-20%
Support to Council	10-15%
Supervisory/Human Resources	10-30%
Public policy	10-15%

Note: Percentages and responsibilities reflect the majority of ED job description responsibilities.

### **What are Councils doing?**

- Survey entire Council
- Survey questions tied directly to job description of the Executive Director
- Rating scale (remarkable, satisfactory, unsatisfactory, unknown)
- Protect anonymity
- Results are tabulated by evaluation committee
- Chairperson or evaluation committee is authorized by Council to conduct the evaluation and informs the Council of completion and results

## Resource

### **ANNUAL EVALUATION OF THE EXECUTIVE DIRECTOR**

Because the executive director is so central to the success or failure of the Council, evaluation of the executive director by the Council is an important component of the Council's responsibilities. But too often evaluations (and job descriptions) are undertaken only when the Council has become unhappy with their executive director. An annual, written evaluation both documents the executive director's achievements and shortcomings, and helps the executive director understand areas for improvement or where the Council is insufficiently informed. Typically, a committee of the Council (often the Council officers) leads the evaluation process, reports on the evaluation to the entire Council, and recommends salary for the next year.

Because the executive director acts both directly and indirectly through others to manage the organization, evaluating the executive director's performance is inevitably linked to evaluating the Council's performance as a whole. As a result, many Councils incorporate evaluation of the executive director into the annual review of organizational performance and goal-setting for the coming year (see the Board Cafe's April 1999 issue on a "360 Degree Assessment of the Agency").

Most Councils involve only other Council members directly in the evaluation process. Others choose to utilize feedback from the staff on the executive director's work as well. Still others go outside the agency to gather information regarding the performance of both the agency and the executive director, for example, to funders, collaborating agencies, volunteers, and clients.

Although survey-type assessments are easy to use, they have some important shortcomings. First, they are based on the perceptions of Council members, who frequently have very limited views of the executive director's performance. A failing executive can hide problems from the Council more readily than from staff, clients, or funders. A second shortcoming is that the quantitative nature of the questionnaire tends to attribute the same level of importance to all activities, and success with smaller tasks can inappropriately compensate for a big failure. For example, if an executive director does wonderful program and community work, but has incurred a huge deficit leading the agency to the brink of bankruptcy, the problem will only show up as one or two negative "grades" and won't affect the "grade point." Because of these shortcomings, it's important to see the Annual Assessment not as the evaluation itself, but as the starting point for a discussion.

Regardless of the evaluation process used, don't forget that executive directors need feedback all year round. Like any employee, executive directors need praise and acknowledgment for work well done, and immediate feedback when problems arise. In the best situations, the Council president (chair) and officers have established good working relationships with the executive director where constant feedback flows in both

directions. The annual formal evaluation is an important component of, not a substitute for, that relationship.

This Assessment is best used as a "first draft" for your own tool. You might add questions related to publishing, or meeting with the press, or adapt these questions to your own Council's work.

## **SAMPLE~SAMPLE~SAMPLE~SAMPLE~SAMPLE**

### **Executive Director's Annual Assessment**

Please rate your assessment of each category of performance as Remarkable, Satisfactory, Unsatisfactory or Unknown

**Council Wide: Program Development and Delivery** (Circle one)

- a. Ensures that the Council has a long-range strategy which achieves its mission, and toward which it makes consistent and timely progress. R S U Unk
- b. Provides leadership in developing program and organizational plans with the Council members and staff R S U Unk
- c. Meets or exceeds Council goals in quantity and quality R S U Unk
- d. Evaluates how well goals and objectives have been met R S U Unk
- e. Demonstrates quality of analysis and judgment in program planning, implementation, and evaluation R S U Unk
- f. Shows creativity and initiative in creating new programs R S U Unk
- g. Maintains and utilizes a working knowledge of significant developments and trends in the field R S U Unk

*Comments:*

**Administration and Human Resource Management**

- a. Divides and assigns work effectively, delegating appropriate levels of freedom and authority R S U Unk
- b. Establishes and makes use of an effective management team R S U Unk
- c. Maintains appropriate balance between administration and programs R S U Unk
- d. Ensures that job descriptions are developed, and that R S U Unk

- regular performance evaluations are held and documented
- e. Ensures compliance with personnel policies and state and federal regulations on workplaces and employment R S U Unk
  - f. Ensures that employees are licensed and credentialed as required, and that appropriate background checks are conducted. R S U Unk
  - g. Recruits and retains a diverse staff R S U Unk
  - h. Ensures that policies and procedures are in place to maximize Council member involvement R S U Unk
  - i. Encourages staff development and education, and assists program staff in relating their specialized work to the total program of the Council. R S U Unk
  - j. Maintains a climate which attracts, keeps, and motivates a diverse staff of top quality people R S U Unk

*Comments:*

**Community Relations**

- a. Serves as an effective spokesperson for the Council; represents the programs and point of view of the organization to agencies, organizations, and the general public. R S U Unk
- b. Establishes sound working relationships and cooperative arrangements with community groups and organizations. R S U Unk

*Comments:*

**Financial Management and Legal Compliance**

- a. Assures adequate control and accounting of all funds, including developing and maintaining sound financial practices R S U Unk
- b. Works with the staff, Finance Committee, and the Council in preparing a budget; sees that the Council operates within budget guidelines. R S U Unk
- c. Maintains official records and documents, and ensures compliance with federal, state and local regulations and reporting requirements (such as annual information returns; payroll withholding and reporting, etc.) R S U Unk
- d. Executes legal documents appropriately R S U Unk

e. Assures that funds are disbursed in accordance with contract requirements and DSA procedures R S U Unk

*Comments:*

*Comments:*

**Council Members**

a. Works well with Council officers R S U Unk

b. Provides appropriate, adequate, and timely information to the Council R S U Unk

c. Provides support to Council committees R S U Unk

d. Sees that the Council is kept informed on the condition of the Council and important factors influencing it. R S U Unk

e. Works effectively with the Council as a whole R S U Unk

*Comments:*

Are there specific performance objectives, either for the executive director or for the Council as a whole, which you would suggest we add for the coming year?

Are there any other comments you would like to make?

The above Assessment is excerpted from *Boardroom Dancing: A Practical Handbook for Nonprofit Boards*, to be published later this year by CompassPoint Nonprofit Services.