Division of Developmental Disabilities (DDD)
District West Independent Oversight Committee (IOC)
Public Meeting Minutes Summary
Tuesday, June 7th, 2022 – 5:30 PM to 6:00 PM

Call to Order

This meeting is being held virtually due to the Coronavirus (COVID-19) concerns.

Meeting called to order by **De Freedman**. The date was June 7th, 2022, at 5:42 pm. The address of the meeting was Virtual, no physical address.

Welcome and Introductions

Attendance in Person: **None This meeting was virtual only due to COVID-19 concerns**
Attendance by Google Meets unless noted:

- **Diedra (De) Freedman**
- **Cynthia Macluskie**
- **Brad Doyle**
- **Bernadine Henderson**
- **Heidi Lewis**
- **Pat Thundercloud** (by Phone)

Absent:

- **Julie Heineking**
- **Heidi Miller**
- **Shelly Vinsant**

Public in Attendance:

- **None**

Arizona Department of Administration (ADOA):

- **Larry Allen**

DDD staff and Guests:

- **Jeffrey Yamamoto** (DDD IOC Liaison**)**
- **Michelle Rademacher** (DDD IOC Liaison**)**
- **Linda Mecham** (DDD District Central IOC Chair)
- **Eva Hamant** (DDD District Central IOC Member)
- **Tina Buettner** (DDD District Central IOC Member)
- **Debbie Stapley** (DDD District Central IOC Member)

The Committee, DDD staff and guest, ADOA introduced themselves.
The IOC make up in attendance: **De Freedman** is a former Lawyer and a Chief Compliance Officer, **Pat Thundercloud** is a retired Physician's Assistant, **Bernadine Henderson** is a

former Special Education School Teacher and a current Foster Parent, **Cynthia Macluskie** is the President of the Autism Society of Greater Phoenix. **Brad Doyle** is a Parent and Advocate; **Heidi Miller** is a Parent and Advocate. **Shelly Vinsant** is a Parent and Advocate. All these members have/had children who have/had services with DDD. **Heidi Lewis** is a lead trainer for Practical Training Solutions.

Proposed Article 9 and DDD Policy review Discussion

De Freedman asked if everyone had a chance to review the document to be sent on behalf of the District West IOC. Most of the committee stated they did read the document. De asked the committee for a motion on allowing the District Central IOC (DC) members in attendance to join the editing of the document. *Voting documentation is noted later in this summary.*

De Freedman asked to go over the document line by line. For most of the meeting, the committee and DC guests asked **Jeffrey Yamamoto** (who was presenting the document) to edit the document as they went. At the end of editing session, the final version of the document was sent directly to the IOC members attending and the absent District West IOC members by **Jeffrey Yamamoto**. Those attending the meeting confirmed that they had received the final revised document before the end of the meeting.

During the meeting there were many motions made and their individual documentations are listed separately in this summary.

The following is the final version of the District West IOC response to be posted on behalf of the IOC to the "Public Comment" for Article 9 and DDD Policy revisions.

The DDD District West Independent Oversight Committee continues our 2021 objections to the DDD proposed Article 9 revisions. While we appreciate that a few DDD Independent Oversight Committee Members including Bernadine Henderson, DDD District West IOC Vice Chair, and Linda Mecham, DDD District Central IOC Chair, were included in one of many workgroups, we continue to have grave concerns and objections regarding the 2022 DDD proposed Article 9 revisions.

We find DDD's published rationale as to the need for Art. 9 to be wholly inadequate and still do not understand why Art. 9 needs to be revised. We are concerned that even the 2022 proposed revision seriously compromises the original Spirit of Article 9. It only has been 45 years since the historic 1977 settlement of the class-action lawsuit against the state that alleged horrific living conditions for residents of the Arizona Training Program. The AZ Legislature created the DDD Independent Oversight Committees as a result of that lawsuit. We are charged by law to be the public watch dogs who can demand transparency and

accountability from DDD. This helps ensure that DDD Members never again are subjected to such horrendous living conditions and violations of their Human Rights. Art. 9 is the DDD IOC Bible. It is the very foundation of our public responsibility and it is our sacred duty to ensure that Art. 9 adequately protects the Human Rights of all DDD Members.

A few months ago the AZ Legislature and Governor Ducey reaffirmed their commitment to the mission of the DDD IOCs by requiring that DDD afford the IOCs an additional 30 (now 60) days to review any regulation and policy changes. While we understand this law does not go into effect until 91 days after the 2022 AZ Legislative Session ends, we are concerned that DDD Assistant Director Zane Garcia Ramadan chose to follow the Letter of the new law rather than the Spirit and only afforded us 30 days to review the 2022 proposed Art. 9 revisions and voluminous corresponding DDD Policy revisions. We are further concerned that despite voicing our questions about the upcoming Art. 9 proposed revisions and corresponding proposed policy revisions (not shared with us until made available for public comment late afternoon on Friday, May 13, 2022) directly to DDD Assistant Director Zane Garcia Ramadan during the April DDD Statewide meeting and raising them publicly during the May 24, 2022 DDD District West IOC meeting during which today's June 7, 2022 special meeting was scheduled, DDD Assistant Director Zane Garcia Ramadan chose this morning to offer DDD IOC Members the opportunity to have our questions answered. It is too little, too late. DDD IOC Members are volunteers who take time out of our very busy lives to do this critical work. Combined, the DDD District West IOC has spent countless hours reviewing these 2022 proposed Art. 9 and proposed corresponding DDD Policy revisions without any assistance from DDD staff. We can only imagine how overwhelming review of the proposed Art.9 revisions and the proposed corresponding DDD Policy revisions must be for DDD Members, Self-advocates, Parents, Families and Friends that do not have our expertise. We have also been inundated with a plethora of other proposed DDD policy revisions posted in the last 2 months.

While we appreciate DDD having a 2022 Volunteer Recognition Event a few months ago, we would much prefer a productive partnership with DDD where we could trust that we are working together to safeguard the Human Rights of DDD Members as we have been tasked to do by the AZ Legislature and Governor.

We are also concerned that the 2022 proposed Art. 9 revisions and proposed corresponding DDD Policy revisions are poorly drafted. Use of terminology is not consistent throughout both revisions and makes the revisions confusing and difficult to follow especially when referring to DDD Members (i.e. indiscriminately referenced in the proposed revisions as a Member, Person with an Intellectual Disability, Person with a Developmental Disability,

Individual and Person), Planning Documents for DDD Members (i.e. ISP, Person Centered Plan, Service Plan and Planning Document) and Independent Oversight Committee (i.e. IOC, Human Rights Committee).

Again, we reiterate that Individuals with intellectual and developmental disabilities (I/DD) should be assured safety and security within the context of dignity of risk, autonomy, and choice. It is essential that we promote each individual's ability to be valued, fully participating members of the community and to engage in meaningful and relevant activities. A 2018 report published by the Council on Quality and Leadership, entitled, "Restraint, Restrictive Interventions, and Seclusion of People with Intellectual and Developmental Disabilities" notes that while hotly contested, there is inconclusive evidence of their effectiveness. In fact, the study notes that their use increases the risk of death, injury, and psychological harm not only for people with disabilities, but for the individuals employed to support them.

Again, we remind everyone that Article 9 in Arizona historically, proactively, and positively supported the positive and adaptive behavior of individuals with I/DD. Article 9 has been used as a template for the development of best practice and model policies for supporting individuals with I/DD across the country. One example is the Jensen Settlement Agreement in Minnesota, the result of a lawsuit filed against DHS in 2009 alleging that the former Minnesota Extended Treatment Options (METO) program used restraint and seclusion in a way that broke the law and violated the rights of people with disabilities. Jensen required person-centered thinking, positive behavioral supports and serving people in the most-integrated setting consistent with the person's goals, dreams, and aspirations. It is therefore, of great concern that the revised Article 9 would seem to allow certain elements historically prohibited. A review of recent reports from the DDD Independent Oversight Committees indicate that there is an overall theme in the response by individuals with I/DD to their behavioral treatment plans: a lack of trained and passionate direct care workers results in individuals with I/DD feeling that they are rushed, disrespected and as a result they engage in behaviors deemed "inappropriate".

We have the following concerns and objections:

Restraints, Restrictive Interventions, Response Cost, Seclusion
We continue to be concerned with the following changes to Article 9:

The following are currently stated as "shall not" in the 2022 proposed Art. 9 revision. However, we believe the original restriction of the unequivocable "prohibited" is stronger language and should be continued instead of replaced by the ambiguous "shall not."

1. *Abuse or neglect a member*
2. *Use a restricted technique as a negative consequence (should be explicitly prohibited without the modifier "as a negative consequence")*
3. *Use psychotropic medication as a chemical restraint*
4. *Overcorrection*
5. *Seclusion of DDD Member*
6. *Physical intervention, including mechanical restraints, when used as a negative consequence (Should be explicitly prohibited without the modifier "as negative consequence")*
7. *Aversive stimuli*
8. Use techniques that intent or execution cause physical or psychological pain or harm to a member, or are used as a form of punishment (should be explicitly prohibited without the modifier "as a form of punishment")
9. Administered psychotropic medication as needed

The following is no longer listed as shall not or restricted. We are inquiring whether this was mistakenly left off. If it was purposely left off, what is the rationale? We continue our objection of escape extinction without rationale or justification and limitations explicitly included in the behavior treatment plan.

1. Escape extinction

The following are listed as restricted. If the PRC allows a behavioral plan with any restricted behavioral interventions, there should be a mechanism to allow a due process review before it is allowed to be included in the plan. There should be a mechanism for the member, the parent/guardian or any other concerned party to ask for a formal review of this plan by the DDD Assistant Director.

1. *Forced compliance*
2. *Response Cost*
3. *Psychotropic Medication- should expressly include provisions for informed consent for the initial administration of any psychotropic medication, changes in doses, and screening protocols for side effects. PRN medications for the purpose of behavior management should be prohibited.*

4. *Restrictions to a DDD Member's rights*

Behavior Plans

We continue to concur with prior suggestions from the DDD Independent Oversight Committees: DDD should develop and require use of a standard template for Behavior Treatment Plans with participation and input from legal guardians, identify antecedent behaviors and ensure that the individuals developing the plan have familiarity with the individual with I/DD. We repeat that the proposed rule should require that behavior plans include documentation of proactive techniques to identify triggers, interventions to be utilized before behaviors escalate and skills training to support individuals to improve their self-regulation and/or use alternative and augmentative communication to enable them to communicate when they are stressed, in pain, etc. We believe that medical issues and conditions should be considered when developing a plan and a medical review and/or a Functional Behavioral Analysis should always be conducted if a new behavior is being addressed. We also believe that a parent/guardian or the member should approve the plan before it is implemented.

Medical Issues

We believe a behavior should never be assumed to be just "a behavior" and that all medical issues be addressed before a behavioral plan be considered. Often those with I/DD have complex and co morbid conditions that may not appear in typical ways or the individual may not be able to communicate the medical issues. We believe that before a PRC Behavior Plan is written, a medical professional should review medical records/documentation to ensure the medical issues are not causing behavior in the individual with I/DD. The medical professional should identify, rule out and address all medical issues and medical treatment plans should be incorporated with any behavioral health plan written. Behavior treatment plan training should include medical issues that could contribute to behavior.

PRC Membership

We remain concerned that the revisions to the membership prioritizing only professional credentials may result in a lack of experience and expertise in supporting individuals with I/DD. While we agree that PRCs should also include representatives with Quality Management and Behavioral Management backgrounds, it is important to maintain inclusion of representatives with experience in providing training and skill development to individuals with I/DD (habilitation providers), and District Program Management staff as

voting members. We believe the PRC Team should prioritize inclusion of a provider representative, a parent representative and an adult member representative whenever possible.

Training

There appears to be an elimination of the requirement that all individuals within the Division and its qualified vendors complete Article 9 training. This training ensures that everyone, from front line staff to executives are aware of the importance of maintaining the human rights of individuals with I/DD. Further, it does not appear that the Behavioral Health professionals and Quality Management professionals appointed to the PRCs will be required to complete Article 9 training. We believe all individuals working directly and indirectly with DDD Members including Quality Management professionals, all PRC participants, Behavioral Health professionals and Medical professionals who are part of the behavioral health team should be required to have current Article 9 training.

Data Collection

We understand that the requirement that within one working day a report must be submitted when emergency measures are utilized has been deleted from Art. 9 but is included in proposed DDD Policy. However, we believe this requirement should remain in Art. 9. Further, the reference that planning teams convene to develop a new behavior treatment plan if one does not already exist has also been deleted and should remain in Art. 9. The Independent Oversight Committees have repeatedly requested a standardized format for reporting incidents across regions and reference to this data collection, tracking, trending, reporting and relevant changes to policies and procedures should also be included in any revision to Article 9.

Conclusion

Integrating acute, behavioral, HCBS and LTSS approaches should continue to support the strengths, choices, autonomy, and integrity to supporting individuals with I/DD. The National Association of State Directors of Developmental Disabilities Services (NASDDDS) affirmed a similar position opposing aversive interventions and promoting positive behavior supports in 2015. Any revisions to Article 9 should affirmatively reject the use of interventions that have the potential to cause pain and harm, whether physical or psychological.

This ends the response for Public Comment for District West IOC.

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Here is the approved document from District Central IOC being attached to the District West IOC response. The names of the IOC members will be exchanged by the Chairs before the posting and will be included with the responses. The names of the District Central IOC members who agree with the two documents will be added to the District West IOC response along with District West IOC members names.

ARTICLE 9

Page 986, #9: "minimal economic impact on it as the implementing agency, small businesses"

Response: QVs will need to train all DSPs in the new Art 9. With the staff shortages we are all experiencing right now, DDD will need to have an extended (1-year) time for training. Not only will we have to pull current staff off shift to take the training but we will also need to fill their shift while at training resulting in OT and possibly more unfilled shifts, this may be a financial hardship for QVs. Consider reimbursing QVs the same way we were reimbursed for Abuse, Neglect, and Exploitation training to help offset the costs.

Page 989, #8: Direct Care Worker" means a person who is employed or contracted to provide primary personal care, guidance, or supervision to a Member in a Service Provider's care

Response: DCW is the term used for in-home supports such as housekeeping, respite, HAB, ATC. DCWs have different training requirements and testing than DSPs do. Direct Support Professional (DSP) is the term used for of HCBS service providers such as group home, day program and employment program staff.

Direct Support Professionals definition should be added

Page 989, # 12: "Direct Care Worker" means a person who is employed or contracted to provide primary personal care, guidance, or supervision to a Member in a Service Provider's care

Response: This definition is different than in the BX supports manual section 901

Page 989, # 16, b: Requiring a Member to repeatedly practice a behavior by engaging in effortful behavior directly or logically related to *repairing damage,* caused by the Member's behavior as a tactic to evoke behavioral change.

Response: Does it have to be damage? You can use overcorrection for language, manners such as knocking on a door before entering, any task such as wiping a counter, etc.

Page 989, # 17: Physical Intervention" means a technique used on an emergency basis by an individual who is providing care or service to a Member to restrict the movement of the Member by direct physical contact to prevent the Member from seriously harming self or others

Response: Subjective *causing harm to self or others that requires the use of first aid, CPR, hospitalization or engagement with law enforcement.

Page 989, # 19: "Planning Team" means a group of people including…"

Response: The QV is not included. As written the QV would not be responsible for Planning team tasks including documentation

Page 990, # C.3: Behavioral Health Services under A.R.S. § 36-2939(A)(2)

Response: How does this apply to services that are BH funded but provided in a DDD funded environment? Example: an FBA that evokes a behavior that is not ethical or is a violation of Art 9?

Page 990 R6-6-903. Prohibitions: "Neglect a Member"

Response: or *Exploit*

Page 990, R6-6-905-3: Planning Team Responsibilities: "current Planning Document and all Planning Documents from the prior year"

Response: this would be 4 PCSPs – that is overkill

Page 990, R6-6-905-4: Upon receipt of..

Response: "If a provisional". The way this is written it appears that all plans will receive a 'provisional' status

Pg 991, R6-6-906.Program Review Committee (PRC)- A: The PRC shall include the following persons designated by the Division

Response: BX Supports includes: A DDD employee who is not part of the member's planning team, or the plan being reviewed

Response: "Shall" means that there would need to be a minimum of 5 members per PRC for it to be held. BX Support manual states 3 members for quorum

Pg 991, A. 1: from at least one

Response: BX supports manual states A community member from ANY (not at least one)

Pg 991. C: The PRC chairperson shall send the PRC's written determination to the Planning Team within five Business Days of the meeting described in R6-6-906 (B)

Response: Although noted as being in R-6-906(B) it is not.

Pg 991. C. 3. C: The PRC shall only grant one extension

Response: "PRC chair" unless the provisional process is now going to be added to the review process for PRC. The committee would not make the determination if the extension should be granted since the committee is volunteers, not DDD employees

Pg 991. R6-6-907. B .3: R6-6-907(B)(2)

Response: There is no (B)(2) in 907. It is (D)(3)(b)

Pg 992: R6-6-910. Emergency Measures

Response: BX Supports manual 910 **Emergency Measure Interventions**

Pg 993: B.2: Complete and provide to the PRC and as prescribed by the Division

Response: PRC chair/district email. Is the intent of this statement to add QVs sending IRs that involve the use of an 'emergency measure' to PRC? Which email should they go to? Who at DDD is managing this? Why does the IR email not forward the IR to the correct PRC district (internal process)?

Pg 993: B.3: Alert the Support Coordinator

Response: Who is doing this (according to Art 9 the QV is not part of the planning team)? DDD IR reporting should be responsible for this process or if it is the responsibility of the QV why can't we just directly send (CC) the IR to the SC?

Pg 993, R6-6-911. A.1: Licensed physician
Response: BX supports manual uses the term: qualified healthcare professional

Pg 993, R6-6-911. B.1 Physician

Response: Change to "qualified healthcare professional"

Pg 993, R6-6-911. B.2. If positive for side effects, provided as soon as it is safe to do so and within 24 hours

Response: What is provided?

Pg 993, R6-6-911. B.2. Physician

Response: Qualified health care professional

Pg 993, R6-6-911. C. PRC

Response: chair/PRC email for correct district

POLICIES

~~100~~ 901 DEFINITIONS AND ~~APPLICABILITY~~ GUIDING PRINCIPLES

Line 31: Programmatic abuse which includes the use of prohibited techniques or the use of

restricted techniques without review and approval from the Program Review

Committee and Independent Oversight Committee.

Response: Of techniques identified in Article 9 as prohibited or restricted

Line 43: Aversive Intervention means a ***prohibited technique*** intended to inflict pain, discomfort

and/or social humiliation in order to modify behavior.

Response: As identified in Article 9

Line 50: Behavior Plan means an integrated, individualized, written plan which may be based on a

behavioral health professional's provisional or principal diagnosis and ***assessment of behavior***

Response: This is where an FBA comes in. FBAs are not BTPs (ASSESSMENT vs the PLAN)

Line 58: Provision of ***services***

Response: Of "behavioral health" services

Line 61-85: Behavioral Health Professional

Response: Who out of this list is actually going to conduct an FBA? BCBAs are really the only ones and there are few and far between that work with adults. Look back at the providers that had the Hab-C contract – how many Psyc's had Hab-C contracts? None!

Line 81: Adult psychiatric

Response: DDD serves children too. Are there children's psych and mental health nurses? If so they need to be listed as a BHP

Line 93: Direct Care Worker

Response: DCW is the term used for in-home supports such as housekeeping, respite, HAB, ATC. DCWs have different training requirements and testing than DSPs do. Direct Support Professional (DSP) is the term used for of HCBS service providers such as group home, day program and employment program staff.

Direct Support Professionals definition should be added

Line 98 "Out of control Behavior"

Response: Out of control needs to be defined if it is the term that is going to be used. The term is subjective

Line 107: Forced Compliance

Response: "This is a 'yellow light' technique in the Article 9 curriculum".

Line 114: "Recommendations for Treatment"

Response: This definition is correct. The use of an FBA in place of a BTP is incorrect. As this definition states, an FBA is an assessment that guides recommendations and development of a BTP, it is NOT a BTP

Line 120: "to provide independent oversight"
Response: For the Division???

Line 121: "Behavioral Health Members"

Response: Members served by DDD not behavioral health members. This is a DDD policy not a BH policy

Line 123: Qualified Vendor Agencies, Training Agencies

Response: "or Training Agencies"

Lines 131-132:

Response: Definition of "Member" is missing

Line 143: repairing damage

Response: Does it have to be damage? You can use overcorrection for language, manners such as knocking on a door before entering, any task such as wiping a counter, etc.

"This is a 'yellow light' technique in the Article 9 curriculum".

Line 146-147: seriously harming self or others
Response: Does it have to be damage? You can use overcorrection for language, manners such as knocking on a door before entering, any task such as wiping a counter, etc.

"This is a 'yellow light' technique in the Article 9 curriculum".

Line 148: Planning Document

Response: Is this the same as the service plan? If so why are there 2 documents that have the same content?

Line 169: "emergency safety Situation"

Response: Staff should use the verbal de-escalation, engagement, relationship builders, etc. taught in Prevention and Support all of the time, not just during emergency safety situation. The only part of Prevention and Support that should be used with emergency safety situations are the emergency physical intervention techniques

Line 173: "an assembly"
Response: A group of individuals or a committee designed to. Assembly was removed from other definitions of groups of people that are tasked with supporting a member (* see planning team, IOC definitions)

Line 181: "that **is** designed"

Response: "are" designed. There are multiple examples so 'are' should be used to signal multiple examples

Line 184: "Quorum mean"

Response: Add an s "means" for the purposes of this policy, the attendance…

Line 188-190:

Response: This is a 'yellow light' technique in the Article 9 curriculum.

Line 208-211:

Response: Is this the same thing as the 'planning document' on line 148? If so why are there two documents with the same content?

Line 214: "staff who administer"

Response: Change to 'provide'. As the term implies, services are provided not administered.

Line 217: behavior

Response: should be behaviors. There are often more than one target behavior

Line 255: caregivers

Response: Change to 'service providers'. The term caregivers has not been used anywhere else in the definitions or within the other documents

Line 269: Trauma Informed Care

Response: link for a presentation at AAIDD about trauma informed behavior planning for people with I/DD. Worth watching to incorporated I/DD specific trauma informed care

https://www.aaidd.org/education/events/2018/06/05/default-calendar/trauma-informed-behavior-planning-for-people-with-idd

Line 279: trauma in patients

Response: change to 'members' or add 'members'

Line 281: Actively avoid re-traumatization

Response: The current Abuse, Neglect and Exploitation course for members can re-traumatize members, so in this case providers are actively and contractually required to re-traumatize members

Line 328: Does the member want to escape? If so, what is the behavior helping them escape?

Response: Why is the only function identified in this definition escape? If this statement remains there should be one added for attention, access, and sensory input.

Line 330:

Response: Escape and avoid are the same function. This can be deleted. See line 348

Line 344: occurring *because*

Response: Change to 'if' so it has the same sentence structure as the one above since it is a list.

902 APPLICABILITY

APPLICBILITY

Response: Both terms developmental disabilities and intellectual disabilities are used through out the BX supports manual. One term should be used for consistence. Add a definition that matches the term. Simplify with intellectual/developmental disability to cover both

Line 36: "programs and, DDD work programs"

Response: Since Day programs and Employment programs both have DDD in front of them the other locations should also or DDD should be removed from all.

Line 45 Institutions

Response: That provide services to individuals with intellectual disabilities

Line 57-60: orders or treatment plans…

Response: So how does this apply to services that are BH funded but provided in a DDD funded environment? Example: a FBA that evokes a behavior that is not ethical or is a violation of Art 9?

903: PROHIBITIONS

Line 14: "Treatment and Neglect:
Response: Add exploitation. The training that staff are required to take is Abuse, Neglect, AND exploitation

Line 17: Abuse
Response: Keep definitions and add exploitation unless this information is included in policy elsewhere

Line 38-39: When used as a negative consequence to a member's behavior
Response: Change to "at any time" otherwise it reads that you could use it when it is not a response to a negative behavior.

Line 41: Prone position, use of metal handcuffs or leg hobbles
Response: By any mechanical means or a prone position. Police use zipcuffs often so they way this is written zipcuffs would be OK to use.

Line 45: show of force

Line 48: Communication boards
Response: Change to communication aids (includes aug coms, PECS, tablets, etc.)

Response: Add to definitions. Does this mean with a weapon? A group of people? Puffing up your chest? Standing over someone in a aggressive manner or all of the above?

Line 49: functioning
Response: Add "and independence"

Line 56: #11 –
Response: P and S basketweave and floor to standing escort both keep the member off balance

Line 61: What is this word for?

Lines 58-72: Formatting is off

Line 70: remove "sever" (should be severe) from discomfort, it was removed from emotional distress

904: RESTRICTED TECHNIQUES

Line 37: parent or guardian

Response: Change to 'responsible person' it is a definition provided in 901 and covers parent and guardian

Line 165, f: When a member has a rights restriction to address a lack of adaptive skills or a health and safety issue that is not the direct result of behavioral challenges…

Response: So a member without a BTP can have a rights restriction as long as it is documented, monitored and has a HAB goal associated with it?

Line 213, j iii: In absence of an approved behavior plan

Response: Per line #165 a BTP would not be needed unless the restriction was related to a challenging behavior
Line 257: Person

Response: Change to 'member' so it matches the rest of the BX supports manual documents

Lines 278-280: What is the difference between how you would answer "i" and how you would answer "ii"?

Line 314: x

Response: Line 286 is the same as line 314 (duplicate)

Line 317: likelihood of…

Response: should state: "of injury from" self-injurious behavior

Line 356: Medical protective equipment:

Response: Members with seizures often use helmets. I would include this example especially since members are often prescribed helmets for behavioral reasons

Lines 371-373: Electronic monitoring…

Response: Is a BTP needed if this is the sole concern? No medications or other TBs or is it just written in the PCSP (per line 165)

905: PLANNING TEAM RESPONSIBIITIES

Line 57: iii

Response: How is this being funded?

Line 62: iv

Response: How is this being funded?

Line 66: "made to a BHP"

Response: should be "Through the member's health plan"

Line 66: Are BHPs the only people that can do an FBA or can it be a lay-person?

Lines 68 & 69 "Scope"

Response: Repeated word in same sentence - confusing

Line 70: the BHP shall "write"Conduct and author the FBA. This implies there is something more than writing the BTP

Line 71: Is there a separate template for an FBA? If not then we are back to where were without a BTP template for standard BTPs. The format and content will be confusing and may be difficult for the QV to find information in the FBA that covers what the template requires. This also lends itself to what we were trying to avoid with a QV cutting and pasting the FBA into the BTP template or picking and choosing what they want to use.

Line 98: "and the IOC"

Response: Is this a separate submission or does the PRC chair do it?

Line 122-123: FBA completed… considered as the Behavior Plan

Response: FBAs are assessments; they are not behavior intervention plans!

Line 137-138 a. Without a standardized template this will get confusing for DSPs, PRC committee volunteers, IOC members, etc.

The FBA should be an accompanying document – it is an assessment, not a plan!

Line 142: past 90 days

Response: It is noted in Art 9 R6-6-905: Planning team Responsibilities #3 that 1 year of planning documents is required

Line 153: approved with recommendations

Response: Should this be reworded to match 'provisionally' as noted in other documents? Art 9, R6-6-905 #4

Line 223: PRC

Response: Should be PRC "chair"; the committee would not have access to this information

Line 225: PRC

Response: Should be PRC "chair"; the committee would not have access to this information

Line 237: receive a…

Response: Be referred to a BHP through the members health plan for an FBA

Line 242-244 c: separate FBA

Response: An FBA is an assessment, not an intervention plan

Line 248 ii: Specify the plan…

Response: Unless this is referring to staff collecting baseline data for the FBA this does not make any sense since an FBA is NOT an intervention plan.

Line 253-257 iv: FBA

Response: An FBA is an assessment NOT an intervention plan.

Line 259: FBA/Behavior Plan

Response: Is this saying that there is going to be a new FBA done each year? Will health plans pay for that?

906 PROGRAM REVIEW COMMITTEE

Line 17: 3 distinct members? Or can there be a chair and 2 provider reps?

Line 18-19: "or input from"

Response: Is this saying that not all 3 panel members have to be present? Could one just send in notes? If so that removes a portion of the discussion and the ability to generate ideas to improve the plan

Line 58: "and"

Response: Delete since there are 2 more conditions, no longer just one. The "and" should go after c.

Line 60: PRC

Response: PRC chair or Admin. The committee would not get this information

Line 70: PRC

Response: PRC chair or Admin. The committee would not get this information

Line 75: PRC

Response: PRC chair or Admin. The committee would not get this information

Line 76: PRC

Response: PRC chair or Admin. The committee is not responsible for this step nor do they have access to the email addresses for the member's team

Line 84: PRC

Response: PRC chair or Admin. The committee has not been chosen at this point

Line 85: PRC

Response: PRC chair or Admin. The committee has not been chosen at this point

Line 95: "responded to"

Response: Responded to or scheduled? An email back to the QV in 2 business days does not help the QV if the plan cannot be heard for another 8 days

Line 129: "behavioral disturbance or issues"

Response: If the member takes a med for seizures (med has a side effect of decreasing aggression) but also has a BTP with a TB of aggression. The reason for the med just has to say that it is for seizures, correct?

907 BEHAVIOR PLANS

Line 13: "…show increased risk…"

Response: Not all people with I/DD DX DO not show increased risk. They MAY show

Line 45: collecting baseline data

Response: How many days are needed for baseline data? Right now it is 30 days.

Suggest 60 day of baseline data for initial plans (accounts for honeymoon period)

Line 53: Committee

Response: these are sent to the District PRC email, not the Committee

Line 54: "is filled"

Response: Is *initially* filled

Line 61: Behavioral Health Diagnoses

Response: The PIF also requires a medical DX, if there is one

Lines 98-107: Is the Personal Identification Information (PIF) form no longer required? DDD-1985A

Line 107: FBA if one was conducted

Line 110: Program Review Committee

Response: PRC Chair or Admin. The committee has not been selected at this point.

Line 125-126: The Division shall identify…..

Response: Is the PRC chair sending the plan to all providers?

Line 129: "required changes"

Response: Is this provisional (art 9 language)

Line 133: "contingent"

Response: Provisional or contingent

Line 139: PRC

Response: the PRC chair. The committee does not have the power to make this determination, only a DDD employee can.

Lines 169-171 d.

Response: DTAs and ERS are permitted to do quarterly progress reports and that BTP outcome is to be a part of that report. Section 905 lines 197 and 198

908 TRAINING

Line 23: Article 9 Training Requirements

Response: Note: Art 9 training is NOT required for BHPs or others even if they are providing services in a members funded residential placement.

Line 59: and

Response: should include Exploitation

Line 66 specific physical intervention

Response: Current training materials refers to **Emergency** Physical Intervention Techniques

Line 82: seriously

Response: subjective

Lines 103-104 P & S Lead Advisory Committee

Response: Are all Art 9 leads also P and S leads? If not change to just Art 9 leads

Lines 111-112

Response: Are all P and S leads also Art 9 leads? If not change to just P and S leads

Lines 114-115:

Response: Are all P and S leads also Art 9 leads? If not change to just P and S leads

909 TRAINING

NO QUESTIONS

910 EMERGENCY MEASURE INTERVENTIONS

Line 7 "emergency measure intervention

Response: Current training materials refer to the techniques as "Emergency Physical Intervention Techniques

Line 40: individual

Response: member

Line 40: individual's

Response: member's

Line 45: individual

Response: member

Line 67: B

Response: To simplify. Just say 'any techniques not approved by DDD'. This covers all of the approved P and S techniques and any other techniques that are approved by DDD that are specific to a member.

Lines 76-77 4.

Response: The basketweave and 2-person floor to standing both place the member off balance and that is how it is trained.

Line 83: chest, abdomen

Response: This is part of the basketweave technique

Line 84 C: PHYSICAL

Response: Emergency Physical Intervention Techniques. This document is not consistent in the use of terminology. The title of this section is Emergency Measure Interventions. Training materials refer to Emergency Physical Intervention Techniques

Line 89: specific techniques

Response: emergency physical intervention techniques

Line 90: emergency to manage…

Responses: emergency *safety situation* to manage…

Line 98: seriously

Response: subjective

Line 120-123

Response: This makes no grammatical sense

Line 130: duration

Response: If QVs are expected to time the use of the intervention this needs to be added

in other policies. Other references to 'time' are least amount of time needed

Line 131: with 24 hours

Response: This says a verbal report is all that is needed within 24 hours. The IR does not have to be submitted for one business day. Current policy is 24 hours.

Line 135-136: reconvene…

Response: Reconvene for 2 uses of an emergency measure, not one per Art 9; R6-6-910 (B)(3)

Line 141: Program Review Committee

Response: This would be the PRC chair, the committee would not be involved or have access to the information

Line 147 G: AUTHORIZATION…

Response: Sections of this part read like a QV can select an alternate crisis intervention program. There are references to other program components other than the physical interventions

Line 161 2.

Response: The techniques to prevent or avoid escalation is not what this section is about. It is about the addition of an alternative physical intervention technique outside of what it taught in P and S. We would not be following other components of another curricula before needing the alternative technique

Line 168-169 5.

Response: This reads as if QVs were able to select a program for crisis de-escalation other than P and S.

Lines 200-201 2.

Response: Since this would not be a DDD technique, what are the DDD training procedures that the QV would need to adhere to, and where would a QV get this information? OR does this statement mean the same thing as #4?

911 MEDICATIONS

Line 67: appropriate

Response: subjective

Lines 71-73:

Response: Needs to be clarified; This sentence does not make any sense

Line 96 3. Program Review Committee

Response: The PRC is not doing this. This would be a role of DDD Behavior Health Administration, possibly the PRC chair

Line 105: Add 'member'; otherwise the sentence is incomplete.

Line 108: as needed

Response: annually at a minimum. (BTPs require an AIMS/DISCUS within 1 year of the plan submission)

Line 113: as soon as it is safe to do so

Response: Why would it not be safe to do so?

Line 117: PRC

Response: The PRC would not get this information. The PRC chair or Admin would. How is the QV getting the positive screening results to IOC or is that something the PRC chair is doing?

Line 159: PRC committee

Response: Delete 'committee'. The 'C' in PRC is for committee

Line 170: physical management techniques

Response: This terminology is different than used in previous sections of the BX Support manual

Line 186: 'items'

Response: These are not items they are 'events'

Line 205: Behavior Plan

Response: After Behavior Plan, add "With any needed updates (last med review, changes to living environment, etc.)"

Line 237: emergency measures

Response: Terminology is not consistent throughout the BX Support documents

This ends the document from District Central IOC.

Votes taken during tonight's meetings concerning comments on Article 9 and DDD Policy.

De Freedman asked for a motion to allow the District Central IOC members to comment and allow to help edit the District West response for public comment.

- **Brad Doyle** motioned to allow the District Central IOC members to comment and allow to help edit the District West response for public comment.
- **Cynthia Macluskie** Seconded the motion.
- **The committee voted and all members present said "aye" there were no "nay" votes.** All IOC members present are listed in the attendance roll call in the Welcome & Introduction

Motion carried

De Freedman asked for a motion to allow the District Central IOC document to be added to the District West revised response for public comment.

- **Bernadine Henderson** motioned to allow the District Central IOC document to be added to the District West revised response for public comment.
- **Brad Doyle** Seconded the motion.
- **The committee voted and all members present said "aye" there were no "nay" votes.** All IOC members present are listed in the attendance roll call in the Welcome & Introduction

Motion carried

De Freedman asked for a motion to allow the District Central IOC members names to be added to

the District West response for public comment.

- **Brad Doyle** motioned to allow the District Central IOC members names to be added to the District West response for public comment.
- **Cynthia Macluskie** Seconded the motion.
- **The committee voted and all members present said "aye" there were no "nay" votes.** All IOC members present are listed in the attendance roll call in the Welcome & Introduction

Motion carried

De Freedman asked for a motion to officially accept the draft document revised and approved tonight to be the official response from the District West IOC concerning Article 9 and DDD policies.

- **Brad Doyle** motioned to officially accept the draft document revised and approved tonight to be the official response from the District West IOC concerning Article 9 and DDD policies.
- **Cynthia Macluskie** Seconded the motion.
- **The committee voted and all members present said "aye" there were no "nay" votes.** All IOC members present are listed in the attendance roll call in the Welcome & Introduction

Motion carried

De Freedman asked for a motion to submit the revised approved document over Article 9 and DDD policy on behalf of the District West IOC including the District Central IOC document on their response including all names in favor of the documents from both committees.

- **Brad Doyle** motioned to vote submit the revised approved document over Article 9 and DDD policy on behalf of the District West IOC including the District Central IOC document on their response including all names in favor of the documents from both committees.
- **Cynthia Macluskie** Seconded the motion.
- **The committee voted and all members present said "aye" there were no "nay" votes.** All IOC members present are listed in the attendance roll call in the Welcome & Introduction
- **Motion carried and De Freedman will submit the revised approved document over Article 9 and DDD policy on behalf of the District West IOC to be sent for public comment. She will be including the District Central IOC document on their response including all names in favor of the documents from both committees.**

Adjournment

Division of Developmental Disabilities (DDD)
District West Independent Oversight Committee (IOC)
Public Meeting Minutes Summary
Tuesday, June 7th, 2022 – 5:30 PM to 6:00 PM

De Freedman adjourned the meeting at 7:56 pm

The next District West IOC meeting will be held on Tuesday August 23rd , 2022, at 5:30 pm. This will be virtual meeting.