



Division of Developmental Disabilities (DDD)
District West Independent Oversight Committee (IOC)
Public Meeting Minutes Summary
Tuesday, August 23, 2022 – 5:30 PM to 7:30 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 August 23rd, 2022, at 5:33 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**
- **Shelly Vinsant**

Absent:

- **Julie Heineking**
- **Heidi Miller**
- **Pat Thundercloud**
- **Heidi Lewis**

Public in Attendance:

- **Jose Castro Palomino** (by phone)

Arizona Department of Administration (ADOA):

- **Larry Allen**
- **Fredreaka Graham**

Healthcare Plan Liaison

- **Janet Holtz** (Mercy Care) (by phone)
- **Karen Kramer** (United HealthCare)

DDD staff and Guests:

- **Zane Garcia Ramdan** (DDD Assistant Director)
- **Leah Gibbs** (DDD Office of Individual and Family Affairs Administrator)
- **Mary DeCarlo** (DDD Senior Program Development Manager, Licensed Behavior Analyst)
- **Delorah Grant** (DDD District West Quality Manager)
- **Martha Williams-Hayes** (DDD District West Quality Supervisor - incident entry)
- **Diane Kress** (DDD District West Quality Supervisor - investigative)
- **Susanne Arnold** (DDD Behavioral Health Administrator)
- **Jeffrey Yamamoto** (DDD IOC Liaison - DC & DE)



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- **Michelle Rademacher** (DDD IOC Liaison - DW, DS, DN)
- **Joan McQuade** (DDD OIFA Manager - support IOC Liaisons)
- **Katrine Feliz** (DDD Behavioral Analyst & PRC Administrator)
- **Linda Mecham** (DDD District Central IOC Chair - Parent & Educator)
- **Eva Hamant** (DDD District Central IOC Member - Parent & Advocate)
- **Sherry Wilhelmi** (DDD District Central IOC Vice Chairperson - Parent & Surrogate Parent for Dept. of Ed./Special Ed.)

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.

De Freedman asked the members of District West IOC if they would like to give the members of District Central the courtesy of participating as non-voting IOC members in this meeting.

- **Brad Doyle** Motioned to allow the members of DC committee to be able to join as non-voting members.
- **Cynthia Macluskie** second 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

Proposed Article 9 and DDD Policy Discussion

De Freedman asked if there was anything anyone on the committee wanted to discuss related to Article 9 and or review revising the committee's statement?

Cynthia Macluskie stated that she wanted to discuss Article 9. She stated that she wished the committee's statement had been stronger that we rule out medical access and medical care so that we don't treat behaviors like behaviors until we rule out medical conditions that could be causing that behavior. She wishes there is something in Article 9 prior to behavioral plan and before medications can be used, is a complete physical/ medical examination because our population exhibit issues in ways that are unusual and they are unable to communicate pain in the way that you would expect so they don't get the medical care they deserve. De reminded the committee that the group can form a work



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group at any time with any other IOCs, like was done with Article 9, as long as one IOC does not have a quorum at the meeting.

Zane Garcia Ramadan shared he was hoping we could talk about the Article 9 letter. Zane stated we want to ensure that DDD members are not receiving inappropriate behavioral interventions. He stated using this Article DDD feels we can continue to ensure that the same safeguards that have always been in place continue. He feels that the revision was misinterpreted. He is hoping to achieve some clarification tonight. The Division did not reach out until a couple of days before the deadline to review and discuss before. Zane stated there were six key concerns from the IOCs which he would like to go over line by line. 1. Language change from “Prohibited to Shall not”, does not mean the actions will be allowed. Zane stated per the Arizona rulemaking manual, the State of Arizona wants to ensure consistent language. The guide is written and states the use of shall not constitutes a complete prohibition.

Cynthia Macluskie added a comment that she has a fear that the providers will misunderstand the language change and that they are not going to see it in the way it was explained by Zane and already group homes are not held accountable as they should be and she feels like this endangers our members. Cynthia asked what education DDD is going to do with the providers to make them understand that prohibited and shall not mean the same? **Jose Palomino**, asked about 6-6903 Prohibitions: locked out rooms, overcorrection, forced compliance, and PRNs of sections A, B, C,. He asked if DDD is now allowing overcorrection, forced compliance, lock outs, etc? Zane responded no DDD is not and those are continued to be not allowed. Zane explained that it changed from ABC to numbers. Zane pointed out that the revision did have a broader section titled “Prohibitions”. He stated that he hears the concerns and the suggestion to emphasize that point in training and provider communication to eliminate any potential ambiguity.

De Freedman asked for a motion from the DW IOC to extend the accommodations for Jose to participate in the DW IOC meeting without voting privileges.

- **Brad Doyle** motioned to permit the public member that is on the call tonight be afforded the same privileges as the DC members. He is a potential member of the DC IOC.
- **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

Mary DeCarty confirmed the ABC strikethrough was changed to numbers. She confirmed the draft with the strikethroughs was confusing because a lot of the information looked like it was struck through and removed but it was formatted and moved to a different section but still contained within the same chapter in the Article. All of the techniques are still listed within 903 which is Prohibition. The



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Division continues to not allow these types of procedures. **Sherry Wilhelmi** asked for a clean copy of what is current. Mary agreed to provide a copy. Zane agreed with sending out the most up to date, clean copy. Sherry explained the language is not concrete enough and is feeling that direct care workers need training at minimum. **Brad Doyle** stated he feels that DDD can work together more proactively. Questions posed by Brad Doyle to Zane: 1. What prompted the change in Article 9? 2. Can you understand the language “shall not” potentially, legally if they were to break the rule, they could be found not to be breaking the rule because of the language? Zane stated DDD proceeded with the revision because the last time Article 9 was revised was in 1994. DDD is supposed to review and update our rules every five years. Zane stated DDD is trying to make the relevant updates and the language easier for the public to understand. All of these things are part of DDD moving forward in updating Article 9 and not trying to remove member protections. **Linda Mecham** stated Restitution was added to Article 9 sometime between 2002 and 2005. Zane said he understands the language concerns over “shall not” and DDD will consider. Linda asked if it was why we have policies to update as to how to implement what is current? Zane said yes, with policies DDD has the ability to update any time and with more frequency than the rule. Zane stated there are certain elements of the overarching rule which inform DDD is able to include in policy and not able to include. There is a need in addition, every once in a while, to look at the overarching rules that inform policy.

Mary Decarlo provided information related to behavior plans to address what the IOC may have misunderstood. She spoke related to the workgroups in the recent past per the rule change and the behavioral support manual. Mary stated that the recommendations from the workgroup were taken into consideration and implemented in creating a standard behavioral plan template. As of January this year, DDD has started rolling that out. If you participate in PRCs you will be seeing the standardized templates coming through. Mary stated that the Division supports positive behavioral supports. She said a big part of training in Article 9 is making it clear what sort of proactive procedure should be attempted before moving into those protective procedures. Mary stated ruling out factors that could be contributing to behaviors by using best practices to rule out medical factors is not captured directly in Article 9. In the Behavior Supports Manual policy chapter 901 along with the definitions, there are some best practices listed including ensuring that the member has received recent follow ups, ruling out any dental, gastrointestinal concerns and we would be expanding on once we get to the curriculum piece. **Sherry Wilhelmi** provided historical information from when she was an Article 9 and PBS trainer in the past. Sherry explained that she assisted in bringing PBS into the state and PBS is not being incorporated into behavior plans currently. She spoke of doing a motivational assessment tool, using it to build capacity for tolerance, build compliance, and earn esteem. **Cynthia Macluskie** provided information per her communication with BCBA's who are providing behavioral interventions in group homes. She stated the BCBA's told her the group home staff think they are physicians and don't seek medical intervention or medical review when adding new behavioral plans and it is a fight with them to get to consider it. Cynthia stated the doctors and medical staff doing the evaluations don't



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know anything about the developmentally disabled and how they present. She stated it is hard for our community to get good medical care even when you are actively looking for it and are a parent and working hard. She said with group home staff managing medical care of members, you are not getting anything of any value. Cynthia stated we don't have a good developmental disability clinic that looks at all the specialties and all the different ways DDD children and adults can present. There is a Downs Syndrome clinic at PCH that screens for all the comorbid conditions. There is nothing in the state for Autism at all. We need stronger language in Article 9 to hold providers accountable and to make sure that we are doing what the Autism Society believes is right, which is "A behavior is never ever a behavior ever unless you rule out medical." Cynthia and Sherry stated that we don't have anybody in the medical community that can treat our members or provide pain management. When Article 9 appears to be weakened by the language that prompts big concerns. We need to make sure whatever language is used that it is translated down through training that the worker truly understands what "shall not" means. Zane stated that the way you hold people accountable is through the strengthened legal language which provides a vehicle for enforcement and holds a legal standing. **Linda Mecham** asked in order to get the legal in there can DDD also include both shall not and prohibited? Zane stated he would take that back to the group for revision.

Zane wanted to make it clear that in 2021 DDD sent out Article 9 for comments. In doing that DDD realized that a need to go back rewrite it and make it more clear based off of the comments. Subsequent to taking Article 9 down and reengaging our work, DDD formed the workgroup with IOC members participating. DDD is making approximately ten changes to the language per the workgroup's suggestion and public comments received. Zane stated he can take the suggestions about shall not and prohibited back and see if that might be another language change that DDD adds as Article 9 is moved forward in the next steps of the process.

The meeting moved to the next topic of Article 9 and the Behavioral Supports Manual, PRC membership and training. Zane stated the topic as it relates to PRC membership, there is no change to the make-up of the PRC membership. Zane stated he believes there is change in the language in reference to update the newly reflected titles 30 years later. Cynthia expressed she thought it would be helpful to include the change of adding self advocates in PRC. Mary stated a member with disabilities is included in the PRC membership. Mary added that the DDD volunteer coordinator has presented recently at the DDD self advocate meeting to try to recruit. She stated if the committee members have any self advocates, DDD would love to have them as part of the group.

Zane stated training for DDD staff and qualified vendors/providers on Article 9 is the same with no change to the requirement. **De Freedman** clarified that she found nothing that spoke to all staff of qualified vendor agencies being trained in Article 9, including office staff. Zane asked about a collaboration with the IOCs on an accompanying memo to make the points abundantly clear to approach any misunderstandings or confusion by the providing agencies and staff. Zane stated that he hears De's point and takes it seriously the need to clarify that. Mary stated rule 21 is the qualified



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vendor agreement rule and it includes the requirement for vendors to complete Article 9 training. Mary said Article 15 outlines the requirement of anyone providing HCBS services that also requires Article 9 training. In DDD's behavior support manual Chapter 908 goes into further detail per Article 9 training, how frequently that training needs to be completed, how records are maintained as well as prevention and support.

Zane moved to the next topic, Data Collection. He stated it appears there is concern around the requirement that within one working day when emergency measures are utilized an incident report is required, had been deleted from Article 9. Zane stated it was not deleted but changed in the language to from one working day to within 24 hours. Zane stated to the other point on a Standardized format for incident reporting is currently being worked on and a meeting is in place believed to be in September with AHCCCS, DES leadership and IOC representatives to work toward finalizing a new standardize incident reporting form which could be rolled out to the qualified vendors sometime in 2023. Zane spoke about House Bill 2865, recently passed, which beginning on January 1st, 2024 DDD is required to report to the legislature statistics on incident reports categorized by the level of severity, medication errors, incidents that involve behavior treatment plans, and much more. That law in general is going to provide the ability to have better collection of this type of data and have it more transparent for people even beyond the IOCs to be able to see. **Linda Mecham** asked about the incident reporting format and if she was correct in understanding that AHCCCS is coming out with the new format that they approved and it will be statewide for incident reporting? **Leah Gibbs** stated that Zane mentioned there is a workgroup coming up in September. The incident reporting form is going to be the same template as the workgroup recommended as well as the addition of new fields that DDD is required to report on beginning January 21, 2024. Suggestions to data tracking was raised by **Cynthia Macluskie** to include DDD should track the use of 911 instead of Crisis by group homes because group homes frequently use 911. Cynthia stated the tracking should include an additional way of incident reporting that would include elevating and notifying DDD leadership when group homes call 911 because currently there is no way that the call to 911, without including Crisis, provides notification to DDD or the health plan that the member has been engaged with law enforcement. **De Freedman** asked if will we be asking the Auditor General to do a similar report for DDD, ICFs, Group Homes, Adult Developmental homes and Child developmental homes and DDD congregational living as was done for the Department of Health Services? Zane stated he is not aware of any intent to do that on the DDD scale in the near future. He stated on a smaller scale would achieve a similar independent look, as part of HB 2865, beginning January 1st, 2023 the division is contracting with Arizona Center for Disability Law who is going to conduct independent investigations of quality of care concerns with incidents in DDD group homes. De clarified for the record on the "abysmal" lack of oversight in which she is talking about, was from the Arizona Department of Health Services, not DES. They did not cooperate. Zane clarified a tool as a standard for group home monitoring will be provided to AZDL containing the standards which are reviewed at a group home. AZDL will be hiring staff that have the expertise to do this. There was an appropriation from the legislature that afforded AZDL the funds to do that hiring for investigations.



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Brad Doyle reminded the committee that our service delivery model in Arizona almost got switched to United Healthcare a few years ago without any public involvement or true testimony. Brad stated he saw the true bipartisanship as both sides went at AHCCCS who were trying to turn services over to a corporation. Brad asked Zane per a thing he saw on Facebook where parents and care providers all support getting outsourced to something. He asks if there really is any more potential of the services getting turned over to the health plan or will DDD always be part of the service model? Zane said DDD is not involved in any way shape or fashion in the push for this. DDD has not had any conversations about it. Zane said the way the service model is currently is a national barometer and we have no intent to change that.

A story was told by Sherry and Cynthia about shock therapies and use of shock collars. **Dr. Suzanne Arnold** provided some information on the topic to include treatment for depression which is now called ECT, electroconvulsive therapy where electrodes are put on a put on both sides of the skull and a mild current is run through it, while the individual is under sedation. It is a treatment for depression and catatonia. It is different than shocking someone as part of a behavior.

DDD Staff Updates

Zane Garcia Ramdan (DDD Assistant Director) presented earlier in the meeting and did not provide anything additional.

Leah Gibbs (OIFA Administrator) provided an update stating that tomorrow is the last day of our public forums for input regarding the additional funds to provide permanent provider rate increases. Two meetings were scheduled for that date. On the DDD webpage there is a form for submitting your recommendations on how you would like to see DDD distribute the funds for provider rate increases.

Mary DeCarlo (DDD Behavioral Health Coordinator) presented earlier in the meeting and did not provide an update.

Delorah Grant (DDD District West Quality Manager) no update was provided.

Jeffrey Yamamoto (DDD IOC Liaison) no update was provided.



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ADOA Update

Larry Allen stated the website has transitioned to a new platform. He is still working on some landing pages and how to sort functions. He will do a quick in-service on how to locate items on the website. **De Freedman** asked if the actual google meets link will be included on the website. Larry stated yes. De asked for information regarding the memorialization on the rules regarding IOC membership and parents when they are employed by an agency but provide services for their own child or someone living in their household. She wants to have the information due to wanting to include everyone as possible but wants to ensure the rules are known by everyone so we can be in compliance. Larry stated he will double check but has not seen anything. He stated that it might be a point of the person to recuse themselves from any voting. De explained that recruiting members is difficult and parent members are permitted to be included. De stated that they have not been successful in recruiting to the full potential.

Fredreaka Graham had no update.

Health Plans (HP) updates

Janet Holtz (From Mercy Care) (by phone) stated Mercy Care continues to engage in the monthly town hall meetings. She said Mercy Care did a provider notification about aug. comm. devices. Regarding aug. comm. devices for addressing in BHRFs. She sent information on member resources to the support coordinator program administrator and the behavioral health administration on the resources Mercy Care has.

Karen Kramer (United Health Care) did not have any updates.

DDD IOC Liaison Updates

Michelle Rademacher shared an update on information received from the DDD Volunteer coordinator to state that she is actively recruiting to assist with membership. She has posted our open volunteer opportunities on volunteer websites to include VolunteerMatch and LinkedIn Volunteer Marketplace. She is also attending conferences with the DDD community outreach team and attending Job fairs (with DES HR hiring team). De asked if the volunteer coordinator has an action plan for the committee on how they can assist in recruiting for volunteers. Michelle said she has not received an action plan from the volunteer coordinator.

De Freedman asked for a motion to ask for an action plan to include the efforts in how the IOCs can



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help with recruitment.

- Brad Doyle motioned to request a plan so the IOC can assist in recruitment efforts.
- 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

Discussion, Review, and Possible Action on Committee Membership

This topic was covered under the DDD IOC Liaison’s update.

Discussion and Review of Incident Reports (IR) & Behavior Plans (BP)

Bernadine Henderson asked for a discussion on a recent member death. She stated she has been watching for the incident report and has not seen it. She explained it was a member that had been involved in Crisis on many occasions. Cynthia stated that she has been helping the family personally and the family notified her personally.

Leah Gibbs stated that she knows the team is getting caught up on redacting incident reports. She stated that if it is a specific member that you want to see that incident on to let Michelle Rademacher know offline from the meeting and we will see if we have that incident and about get it out to you.

Michelle Rademacher stated that currently the team is redacting incidents from the first week of August. She said that she believes death incidents are handled and presented differently than the standard redactions and provided to the IOC. Michelle said they may be expedited or I may be able to expedite getting the incident to the IOC. She said that discussing specific incidents on a member like this one is something that would be discussed in executive session and not something that would be discussed with the public present. Michelle stated as part of the agenda the committee may discuss any topic out of order or not at all. The committee can move forward as they wish to.

De Freedman asked the members if they would like to make a motion that as soon as the specific death incident is available that it be sent to the entire committee for review and discussion in closed session for the September meeting.

- **Cynthia Macluskie motioned when we receive the notification of the death that is to be sent to every district west ioc and we meet in closed session to discuss it.**



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- **Bernadine Henderson seconded the motion.**
- **The committee voted and all members present said “aye” there were no “nay” votes.**

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Motion carried

Cynthia Macluskie will send the member’s name and date of death to **Michelle Rademacher** and Michelle will send the redacted incident to the IOCs.

For all of **May** IRs, the Committee members have been given **787** for May incident reports in the Shared Drive. This included **41** open and **746** for closed reports.

Type	Open	Closed
Accidental Injury	3	91
Consumer missing	0	12
Deaths	1	11
Emergency Measures	0	5
Human Rights	9	14
Legal	2	5
Medication Errors	2	46
Neglect	11	83
Other Abuse	3	11
Other-Behavior	3	309
Other -Injury unknown	1	133
Physical Abuse	5	23
Property Damage	1	3
Suicide	0	0
TOTALS	41	746

The IRs will be reviewed by the committee members.

Number of Questions for QIM: members of the committee will comment on incident reports directly and the liaison will send to QIM.

All PRC meetings are being attended by Bernadine Henderson and Pat Thundercloud.

Number of Behavior Plans turned in by IOC Members: 0

The Program Review Committee (PRC): None.



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Adjournment

De Freedman adjourned the meeting at 7:52 pm

The next District West IOC meeting will be held on Tuesday September 27th , 2022, at 5:30 pm. This will be a virtual meeting.