State of California

Health and Human Services Agency

Department of Rehabilitation

# BLIND ADVISORY COMMITTEE (BAC)

Thursday, February 10, 2022

Meeting Location

Department of Rehabilitation (DOR) Central Office

Zoom Meeting

MEMBERS IN ATTENDANCE

Chris Fendrick, Chair

Bryan Bashin

Mitch Pomerantz

Margaret Buchmann-Garcia

Sarah Harris

Joe Smith

Julie Parrish

Sandy Balani

DOR STAFF IN ATTENDANCE

Peter Dawson, Acting Deputy Director, Specialized Services Division (SSD)

Michael Thomas, Assistant Deputy Director, SSD

Laura Rasmussen, Acting Regional Director, Blind Field Services (BFS)

Sue Pelbath, Acting District Administrator, BFS

Sky Ntxwj, Team Manager, BFS

Casey Cook, Team Manager, BFS

Villachica Deyanire, Team Manager,

Janelle Tisher, Resources Specialist, Vocational Rehabilitation Policy and Resource Division (VRPRD)

Kathleen Munyer, Committee Analyst, SSD

MEMBERS OF THE PUBLIC

Richard Rueda, Society for the Blind

Margie Donovan

Steve Clark, Adaptive Technology Services

James Gump, Lighthouse for the Blind, San Francisco

Cynthia Hllywa

Max Duarte, Business Enterprises Vendor Program Vendor

Cricket Bidleman

Aaron Espinoza

Lesley Gibbons, Sterling Adaptive

Laura Wilson

MEETING SUMMARY

Welcome and Introductions

Chris Fendrick, Chair

* Chris Fendrick welcomed the attendees and completed a roll call.

Approval of BAC Meeting Minutes of November 17, 2021 and Review of the Action items

* The Chair called for a motion to approve the minutes of the last BAC meeting.

Motion:

Mitch Pomerantz made a motion to approve the minutes of the November 17, 2021 meeting. The motion was seconded by Bryan Bashin.

Vote: Sandy, yes; Bryan, yes; Margaret, yes; Sarah, yes; Mitch, yes; Joe, yes. The motion passed.

Committee Members Network Updates

BAC Members

* Chris Fendrick reported that those who work in education are eager for the mask mandate to end.
* California Transcribers and Educators for the Blind and Visually Impaired (CTEBVI) will be holding a virtual conference in April.
* Sandy Balani reported that the past two years have been very frustrating due to the pandemic.
* One day Business Enterprises Vendor Program (BEP) vendors are told that they can open, and the next day new information comes out that BEP vendors cannot open.
* This has resulted in continued loss of inventory.
* Prisons are in complete shut down right now.
* Most staff in State and Federal buildings are still teleworking.
* BEP and DOR are exploring the possibility of opening locations in the private sector.
* Per California Vendors Policy Committee (CVPC) regulations, the election of a new board was recently held. Of the eight delegates, seven were reelected and a new member, Michael Hatch, was elected to serve.
* Interviews for the new BEP Program Manager were recently held, and vendors are looking forward to an appointment.
* Bryan Bashin reported that 42,000 Americans who are blind, work. Most do not work in integrated workplaces. The disability community needs to shift the model to grow in different directions to achieve competitive, integrated employment for the blind.
* Lighthouse opened registration for the Enchanted Hills Camp.
* There are many job openings, including positions for counselors and kitchen staff.
* Margaret Buchmann-Garcia reported that the Center of Vision Enhancement (COVE) is still doing remote training.
* Merced County is very heavily impacted with COVID.
* Masks are staying on.
* Remote training allows us to reach people in the foothills and on the West side of the county that we could not reach before.
* COVE has had a high rate of staff turnover.
* One of the staff completed the Master’s Program as a rehabilitation counselor and started working for DOR in December.
* Sarah Harris reported that the California Council of the Blind (ACB) will hold a virtual convention from May 12-15. The theme is “Navigating the Future Together.”
* There is a board meeting of the ACB tonight.
* Sarah has been participating in online communications to provide information on where to get vaccinations for COVID and participating in workshops to provide training on how to stay safe. Please contact her if you would like more information.
* Julie Parrish reported that all locations are providing in-person training.
* Wayfinder in Los Angeles is providing Assistive Technology Training (ATT) in a hybrid format if that is preferred by the student.
* Applications for Employment Services are being accepted although there is a wait list of one to two months.
* Presently, there is one opening for a female student at Hatlan.
* More openings will be available after the current class graduates in June.
* Mitch Pomerantz reported that the CCB will hold a leadership conference in March.
* The CCB National Convention will take place in Omaha, Nebraska this year.
* Dan Spoone, President of the American Council of the Blind (ACB), sent an open letter to the [Centers for Disease Control and Prevention (CDC) expressing the need for the home test kits that are being distributed be made accessible to the blind.](https://www.cdc.gov/)
* Joe Smith reported that he has been participating in many Zoom calls.
* He shared that the community college district in Los Angeles is trying to file against the Americans with Disabilities Act (ADA) applying to accessible books for blind students.
* Mitch Pomerantz added that the district is arguing that unintentional discrimination is not discrimination and should not require the district to make books accessible to the blind.
* Joe added that he listened to the hearing of the Finance Committee and shared the committee reported there is a lack of funding for people who are not working with DOR toward employment.
* A discussion took place during which many attendees expressed that funding needs to be available for people with disabilities to learn how to cope with their disabilities and may not be ready to prepare for employment.
* Bryan Bashin stressed the need for DOR to take up this cause so that funding can be made available. Personal Goal funds need to be available.
* Margaret Buchmann-Garcia also stressed that Personal Goal funds need to be made available to blind/visually impaired consumers.

Updates to the California Assistive Technologies, Services, and

Devices Supplier Directory (Cal-ATSD)

David Kwan, Assistant Deputy Director, Administrative Services Division

Zach Mundy, Chief, Contracts and Procurement Section (C&PS)

* David Kwan greeted the committee, thanked the members for the opportunity to present the DOR’s responses to their questions and reported that Zach Mundy would make the presentation.
* Zach Mundy responded to BAC’s recommendations:

BAC Recommendation 1: Clarification to Vendor Application

* DOR agrees to modify the Evaluation Services Disclosure portion of the application to require identification of the possible evaluator’s connections or relationships with other vendor/suppliers of such a kind that it would be reasonable to believe that the relationship might influence the evaluator’s ability to remain impartial or result in a financial benefit from the recommendation of a product.
* DOR agrees to include a statement directing applicants to review the Department of Rehabilitation Staff Guidelines for Procuring Assistive Technologies Goods and Services which includes DOR’s guidelines to avoid potential financial conflict of interest.
* Status: In process, anticipate completion in February 2022.
* Change the name of this document to the Department of Rehabilitation Guidelines for Procuring Assistive Technologies Goods and Services.
* Status: Completed in December 2021.

BAC Recommendation 2: Annual Vendor Information Update

DOR agrees to add explicit language to the application and the Cal-ATSD website requiring vendors to immediately notify DOR when any of their information changes.

* Status: In process with anticipated completion in February 2022.
* DOR agrees to a one-time vendor information update to occur once the Evaluation Services Disclosure portion of the application has been updated.
* Status: This one-time vendor information update will be completed once the Evaluation Services Disclosure portion of the application has been updated.
* A notice will be sent to all Cal-ATSD vendors asking them to update their information.
* Status: DOR anticipates that this will be completed in March 2022.
* DOR agrees to send out an annual notice to all vendors reminding them to verify their information is up to date on the Cal-ATSD website.
* Status: This process will begin in 2023 as DOR is completing a one-time vendor information update in 2022.

BAC Recommendation 3: Documents to Post to DOR’s Website

* DOR agrees to review and finalize the DOR Requirements for Assistive Technology Evaluations document after receiving input from the BAC.
* Status: Will be completed once input is received from the BAC on the DOR Requirements for Assistive Technology Evaluations document.
* DOR agrees to post the Department of Rehabilitation Guidelines for Procuring Assistive Technologies Goods and Services document, which includes DOR’s guidelines to avoid potential financial conflict of interest to the Cal-ATSD website by the end of November 2021.
* Status: Completed and posted to the Cal-ATSD website December 1, 2021.

BAC Recommendation 4: BFS Counselor Training

* BFS Counselors and other staff who issue authorizations will be trained and well informed of DOR’s Guidelines for Procuring Assistive Technologies Goods and Services.
* Status: Contracts and Procurement is scheduled to provide this training in March 2022.
* DOR agrees to provide training on products and types of services available to all appropriate BFS staff involved in the process of procuring assistive technologies goods and services. These trainings will be provided on an ongoing basis starting this state fiscal year.
* Status: BFS will be scheduling a series of trainings to be completed by June 30, 2022.

BAC Recommendation 5: Quarterly Update to BFS Counselors

* DOR agrees to update the Cal-ATSD website, as discussed in the response to Recommendation 1 above, which will provide the requested information regarding potential connections or relationships of the evaluator with other vendors or suppliers to staff through the website.
* Status: In process, anticipate completion in February 2022.

BAC Recommendation 6: Annual Report

* DOR will provide an update on substantiated complaints at a scheduled BAC meeting annually.
* Status: Ongoing item. DOR to provide an update annually at BAC’s request.

BAC Recommendation 7: Guidelines Workgroup

* DOR agrees with, and welcomes, recommendations from the BAC as appropriate.
* Status: ongoing. DOR will review recommendations provided by the BAC when received.

BAC Recommendation 8: Workgroup to Standardize Assessments of BFS Consumers

* DOR agrees with, and welcomes, recommendations from the BAC regarding the DOR Requirements for Assistive Technology Evaluations document.
* Status: DOR will review recommendations provided by the BAC once input is received regarding the DOR Requirements for Assistive Technology Evaluations document.

Updates to Allegations of Sexual Misconduct TaskforceRecommendations

Peter Dawson, Acting Deputy Director, SSD

Michael Thomas, Assistant Deputy Director, SSD

Daisy Hughes, Attorney IV, Office of Legal Affairs and Regulations

* Peter Dawson reported that DOR understands the concerns of the BAC regarding the seriousness of allegations of sexual misconduct.
* There has been much work put in by both the BAC and DOR on this subject.
* For the issues to be discussed during this meeting, Chris Fendrick asked for a summary of DOR’s findings.
* To meet Chris’s request, Peter Dawson reported that he is providing three talking points on the matter. Gurmeena Rai agreed to read the summary to the attendees and Daisy Hughes will assist with the presentation.
* Peter Dawson’s Talking Points:

1. DOR agrees that the safety of all consumers is a top priority. In addition to all anti-discrimination law that applies to DOR, DOR has determined that Title IX law addressing sexual misconduct also applies to DOR. Therefore, when a DOR consumer files a complaint of sexual misconduct covered by Title IX, DOR’s Office of Civil Rights (OCR) Title IX Coordinator will investigate that complaint. The DOR OCR is in the process of updating its procedures to handle such claims. DOR is also in the process of adding Title IX language and procedures into all applicable consumer documentation and developing our own Title IX regulations.
2. Since Title IX only applies to “persons or entities operating an educational program or activity”, DOR is in the process of determining which contractors/service providers fall into that category. Those determined to be in this category will be required by DOR to have a Title IX Coordinator and implement their own Title IX regulations. DOR’s current Terms and Conditions contains Title IX language and procedures which includes DOR reserving the right to conduct Title IX investigations of consumer complaints about sexual misconduct, and upon request, provide the DOR OCR with access to all witnesses and documents necessary to complete that investigation.
3. All BFS consumers attending out-of-state residential training centers have been made aware of their Title IX rights including their right to file a complaint with the DOR OCR. It includes a hotline which is in operation and ready to process these specific complaints of sexual misconduct. As DOR determines which contractors are covered by Title IX, those contractors/service providers will be contacted to inform them and explain what will be required by them to comply according to DOR. The only out-of-state residential training centers BFS has sent consumers to in recent years has been those affiliated with the National Federation of the Blind (NFB) including the Colorado Center for the Blind, Blind Inc. in Minnesota, and the Louisiana Center for the Blind. They have all recently put many of their own policies and procedures in place or updated them to address sexual misconduct. The new NFB Code of Conduct states that these three residential training centers and their staff are also covered by the new Code of Conduct which addresses sexual misconduct and the new procedures in place to address those complaints.

* Daisy Hughes reported:
* After an internal review, DOR identified necessary changes to regulations to guard against sexual, and other forms of abuse. DOR is writing regulations to address and respond to those types of allegations.
* DOR took guidance for amending its regulations from Title IX of the Educations Amendments Act of 1972.
* Title IX prohibits discrimination based on sex in any education program or activity that receives federal funds. This includes vocational rehabilitation agencies.
* Title IX has regulations that specifically focus on prohibiting sexual harassment, including sexual violence such as rape, sexual assault, sexual battery, and sexual coercion.
* Title IX is well known in the context of colleges or universities in relation to allegations of sexual misconduct, such as those brought by one student against another student.
* Title IX provides the framework for the regulatory changes that DOR has identified with the goal of more closely mirroring the policies and practices of investigations conducted by colleges and universities.
* Some of the changes that DOR is considering adding:
  + Changing the title of Shannon Coleman, the Chief of the Office of Civil Rights (OCR) to Chief of the Office of Civil Rights and Title IX Coordinator.
* There is a discrimination resolution process in DOR’s current regulations and a separate, distinct process will be added for complaints under Title IX that are specific for sexual harassment and will include a detailed investigatory process for providing supportive and remedial measures in such cases.
* DOR will ensure that investigative reports are provided to both parties for review and writing a response. An additional level of review will be added. A decision maker, who will decide the case, will be separate from the investigator and the Title IX Coordinator.
* The new regulations will identify potential consequences, including disciplinary actions or other measures that could be taken against the respondent, such as a requirement to attend sexual harassment training, or end the current service at that venue where the incident occurred.
* It is important to remember that under Title IX there is no presumption of guilt.
* Under the new regulations, the length of time for the process will take about 135 days because of the increased layer of review compared to the current regulations where the process takes about 110 days.
* DOR anticipates amendments coming to the federal Title IX regulations, even though they were updated in 2020. Any changes that DOR makes must be in line with federal regulations.
* DOR anticipates posting the new regulations for a public comment period in December of 2022.

Committee’s responses:

* Mitch Pomerantz reported that he will provide rebuttal comments to DOR’s responses from the last meeting, specifically on items 4, 5, 6, 7, and 8. (That rebuttal appears in the Appendix section of this document.)
* While it is excellent for DOR to recognize Title IX, DOR’s seeming unwillingness to draft specific standards of conduct for Individual Service Providers (ISPs), is misguided and DOR needs to go further.
* Item 4 is an example where Title IX does not meet the need. Title IX does not address situations when a consumer is dealing one-on-one with a service provider.
* If a service provider, whether it is an in-state or out-of-state entity has been accused of a pattern or practice of abuse, the out-of-state agency will not allow DOR to investigate.
* Chris Fendrick and Sarah Harris requested a copy of Daisy’s presentation and Peter’s talking points.
* Peter Dawson reported that he would request permission to distribute his talking points.
* Daisy Hughes is willing to share her presentation.
* Chris Fendrick questioned why DOR does not require Live Scan.
* Peter Dawson responded that DOR does require Live Scan when it is a requirement of a service provider.
* Committee members expressed that Live Scan should be consistently used by DOR.
* Lesley Gibbons reported that due to law AB1018, private employers with five (5) or more employees are prohibited from asking the applicant’s criminal history.
* Julie Parrish reported that Wayfinder has begun to do background checks on consumers.

Report from Specialized Services Division (SSD)

**Peter Dawson, Acting Deputy Director, SSD**

**Michael Thomas, Assistant Deputy Director, SSD**

* **Peter Dawson reported that COVID has created a lot of fatigue over the past two years.**
* **Numbers for BFS and the entire department are up.**
* **The State is in a good financial position.**
* **We hope to put COVID behind us soon.**
* **Kelly Snow, Operations Manager, BEP, reported that he has worked for BEP for about 25 years.**
* Congress awarded $20 million to State Licensing Agencies throughout the nation.
* California received about $900,000 and distributed it to BEP vendors to help for the losses they suffered in 2020 due to COVID.
* BEP is currently in the process of distributing monies from a claim made for liability insurance due to COVID. About 52 vendors filed a claim and they will each receive about $1,500.
* **The pandemic is still negatively impacting BEP vendors; most locations are still not operational.**
* **BEP will work with the** Preferred Food Services Task Force **(PFST) to explore the possibility of securing customers from the private sector.**
* **Illinois and Alabama have been successful in serving some accounts in the private sector.**
* Staffing
* Interviews to fill the position of BEP Program Manager took place Monday and Tuesday of this week. A hiring decision is pending.
* A Job Announcement for a Location Development Officer was published. Only four applications were received and the position will be announced again.
* Willie Novoa, Architect, BEP, retired in December. BEP is evaluating whether a full-time architect is needed.
* The soft-hiring freeze ended, enabling BEP to hire a Business Enterprises Consultant (BEC) in the Northern Field Office.
* The Northern Field Office and the Southern Field Office will now employ four BEC’s in each office.
* The Duty Statement for the BEP Training Officer has been modified to include providing continuing education for BEP vendors, assist in remote training and to help the Location Development Officer to penetrate the private sector.
* Location Announcements
* No announcements or selections were made this past quarter.
* The Navy base in Ventura is still pending a reward. BEP submitted a proposal, but a decision to appoint the location was postponed twice. BEP expects a decision to be announced by mid-February.
* Purchasing
* 22 vending machines were purchased for a total of $248,110 in the past quarter.
* 269 pieces of equipment were purchased totaling $232,092.
* Amendments to the California Code of Regulations 7221 were approved by the Rehabilitation Services Administration (RSA). The new regulations reduce late penalty fees for vendors. The changes were sent to all BEP vendors and took effect on February 1.
* The RSA requested that DOR not submit the RSA15 report until RSA provides additional guidance regarding where Financial Relief and Restoration Payment (FRRP) funds should be integrated into the report.
* The CVPC voted to make changes to the BEP retirement plan to allow more, and better, options for BEP vendors.
* Michael Thomas, Assistant Deputy Director, SSD, reported on the Older Individuals who are Blind (OIB) Program
* Michael Thomas reported that OIB provides a five-year grant period to provide services to individuals who are 55 and over and are blind/visually impaired.
* This is the last year of the grant period. Jay Harris, Staff Services Manager I Specialist, OIB, is putting together a packet for grants coming up in the spring of 2023. New grants will start in October 2023.
* Mitch Pomerantz added that he is in favor of looking at opportunities to change the way to evaluate agencies. He is very reticent about monitoring agencies virtually.
* Michael reported that Jay plans to talk to Advisory Committees to get input on changes that DOR should consider making for the OIB to be a more productive and efficient program.
* Sue Pelbath reported on the Orientation Center for the Blind (OCB)
* OCB has a full cohort of 15 students; 1 is a repeat.
* OCB resumed onsite tours after a year’s absence due to COVID.
* OCB recently started a separate, stand-alone iPhone class.
* Mobility Boot Camp starts next month. The training will be for 40 hours given over a two-week period.
* Work related behaviors and skills assessment are again available.
* Various seminars are ongoing via Zoom:
* Healthy Behavior, Safety in the Community, Sexual Health, and Safety.
* Classes for the month of April are almost full; there is 1 vacancy.
* Reservations are being accepted for July.
* Peter Dawson added that the OCB handbook is being updated.
* Laura Rasmussen reported on BFS (BFS)
* BFS continues to provide services while coping with the challenges of COVID. Potential consumers may submit applications in person, via Zoom, or over the phone.
* BFS is almost fully staffed; most open positions are in the process of being filled.
* Training is being ramped up. March 15 has been reserved for training on purchasing assistive technology from the Cal-ATSD website.
* A series of trainings are planned to focus on purchasing different types of assistive technology devices.
* SB105 is scheduled to take place in Sacramento this September. The date(s) of the training have not yet been set.
* Participants may attend on-site or via a virtual platform.
* BFS is back to pre-COVID closure levels. For the first six months of the year, there were 164 closures compared to 107 closures at this time last year.
* BFS consumers enjoy the highest weekly earnings of all 14 districts.
* BFS is rolling out Adult Work Experience.
* Activity Dues continue to be a struggle; a new purchasing agent was hired in January.
* Mitch Pomerantz requested that the number of returned Activity Dues be provided in future BFS reports.
* Max Duarte, Chair of the California Vendor’s Policy Committee (CVPC) introduced himself to the BAC and reported on challenges that BEP Vendors have experienced because of the COVID pandemic.

Presentation by the Directorate

Joe Xavier, Director, DOR

Andi Mudryk, Chief Deputy Director, DOR

The Director’s Report

* Joe expressed his gratitude for DOR’s partnership with the BAC.
* In just the past two years, DOR has experienced retirements equivalent to 150 years of cumulative experience. This loss affects our senior leadership team, our mid-level managers, and our front level managers.
* It takes a long time to gain the experience needed to get to where we want to be.
* COVID had a major impact on DOR in 2021 as the department found ways to continue our work in a very changed environment.
* Almost 87% of DOR’s workforce is vaccinated against COVID.
* In 2021, DOR brought an additional $100 million into the department for programs and services.
* Modernizations were put into place, such as the Vocational Rehabilitation Connections (VRC) Portal that will enhance collaboration, business processes, and service delivery. The consumer payment card will be transformative in allowing consumers getting some of the resources they need to advance their employment plan.
* Policies were enacted to bring an end to the sub-minimum wage.
* Expectations for 2022 is to continue to provide person-centered, whole person care and continued investment in the disability community.
* The Rehabilitation Services Administration (RSA) is expected to announce that $177 million will be available through the Disability Innovation Fund (DIF) to improve the outcomes of individuals with disabilities.
* In 2021, Social Security reimbursements of $194 million were made to 67 agencies, reflecting that the number of people who were on Social Security income are now employed and no longer receiving Social Security benefits.
* The Council of State Administrators of Vocational Rehabilitation (CSAVR) held a meeting last month.
* There is no news of an appointment of a new commissioner.

State Updates

* The governor’s budget of $286 billion has been published.
* It includes $45.5 billion in new investments.
* Over 86% of those investments are one-time investments.
* Funding is included to improve the opportunities for people with disabilities to go to work for the State of California.
* Funding is provided to continue the Master Plan on Aging.
* Healthcare affordability, behavioral health, and addressing the problem of homeless are funded in the budget.
* California Advancing and Innovating Medi-Cal (CalAIM) creates an opportunity for linkage to other systems where funding is available.
* It is moving Medi-Cal toward a population health approach that prioritizes prevention and whole person care.
* A provision called “in lieu of services” will provide whole person care: physical, behavioral, developmental, dental, visual, and long-term care needs.

The Chief Deputy Director’s Report

* Andi Mudryk reported that the federal government provides the largest portion of DOR’s budget.
* DOR’s overall budget is $500 million and funds 1,886 positions.
* DOR continues to operate under requirements that employees must provide proof of vaccination from COVID. Unvaccinated staff are required to undergo weekly COVID testing.
* Effective February 16, fully vaccinated staff will not be required to wear masks in most indoor employment settings.
* DOR has set goals to improve services to our consumers.
* Goal 1:
* Improve vocational rehabilitation and independent living program effectiveness;
* Increase work-based learning opportunities;
* Continue to provide expedited enrollment to all who apply for vocational rehabilitation (VR) services;
* Initiate a program for expedited plan development;
* Seamlessly integrate VR services and independent living services.
* Goal 2:
* Increase and modernize operational efficiencies;
* Adopt paperless internal processes;
* Assess and redesign our key business processes.
* Goal 3:
* Cultivate a data informed and data supported culture.
* Goal 4:
* Inspire organizational culture change for consumers and staff;
* Increase the delivery of services for underserved communities.
* Establish a Diversity, Equity, and Inclusion Office within DOR in the Office of the Director.
* The State Leadership Accountability Act is a mandated State report DOR is required to file.
* The report identifies a two-year plan of DOR’s goals and a plan to minimize DOR’s risks for the same period.
* It was filed at the end of 2021.
* Risk 1: People with disabilities, continue to disproportionately live in poverty and not gain and retain employment at the same rate or wages, as people without disabilities.
* Risk 2: inefficiencies and outdated technology.
* Risk 3: Related to data management and the lack of an enterprise data management framework.
* Risk 4: Reaching diverse and underserved communities.
* Pathways Initiative
* DOR has about 70 different pathways to employment.
* Some pathways lead to State employment.
* Some pathways lead to on-the-job training.
* Internships are available.
* Staffing
* Kathi Mowers-Moore, Deputy Director of Vocational Rehabilitation Policy and Resource Division (VRPRD) has retired. Jessica Grove has been appointed as the new Deputy Director.
* Shayn Anderson has been appointed as the Regional Director of the San Joaquin Valley District after the retirement of the former Regional Director.
* Peter Blanco has been appointed as the new Regional Director of the San Diego District.
* There is a vacancy for a Deputy Director in the SSD due to the retirement of Elena Gomez. Peter Dawson is the Acting Deputy Director, SSD.
* The Legislation and Communications Deputy Director accepted a new position and DOR looks forward to an appointment by the Governor to fill the position.
* Armel Biscocho, Deputy Director, Administrative Services Division, has retired and David Kwan is the Acting Deputy Director.
* There are two vacancies for Assistant Deputy Directors in the VR field services.
* Joe Xavier: DOR Program Reports
* Joe Xavier informed the committee of the importance of being aware of the program reports that DOR submits, such as the 7-OB report for the OIB and the RSA-15 report for BEP.
* Every program report contains information related to policy making and the program’s fiscal performance.
* He reported that a large amount of stimulus money was available during the COVID pandemic, but VR did not receive any of it.
* DOR requested waiver flexibilities from Congress; those have not materialized.
* A discussion ensued regarding the lack of resources that are unavailable for the underserved population, such as former homemakers.
* The Director asked the BAC to consider how the committee can support DOR in finding ways to provide services to underserved communities.

Status Report on Vocational Rehabilitation Connections (VRC)

Conan Petrie, Staff Services Manager III, Vocational Rehabilitation Employment Division (VRED)

Russell Schutte, Information Technology Specialist I, Information Technology Services Division (ITSD)

* Conan Petrie reviewed the topics that were discussed at the BAC meeting held in May of 2021 on Phase 1:
* Update on the VR connections portal on expediated authorizations and the ability to send the authorizations to our vendors via the portal.
* Since going live, the portal has processed and sent electronically 110,000 authorizations, averaging 530 authorizations every day.
* The portal has provided an electronic signature for 14,745 Individual Plans for Employment (IPE), averaging 68 IPE’s every business day.
* In phase 2, a feature has been added allowing vendors to create an account and log into the portal to view and approve invoices that the vendor submitted.
* The newest feature went live about 2-1/2 weeks ago. It is an online referral application contact request which directs the user through the application process.
* Russell Schutte reviewed the “getting started process” which provides instruction for entering information regarding questions about applying for services. Instructions are specific to receive information for:
* Disability and benefits programs;
* Job search and interviewing skills;
* Job training and tools;
* College and textbooks;
* Disability equipment;
* Support services like childcare or transportation;
* Connecting the consumer with other people or groups that may be of assistance.
* The program will request answers to the following:
* What is your preferred name?
* What is your email address?
* What is your phone number?
* How would you prefer to be contacted, by email or phone?
* Are you under the age of 18?
* What is your language preference?
* How can we help you?
* Would you prefer working with someone experienced with:
* Visual impairment/blind?
* Deaf/Hard of Hearing?
* Under the age of 16?
* Based upon the answers provided, the request for information is sent directly to the Team Manager.
* The portal will continue to be updated with additional features.

Action item:

Invite someone who uses a screen reader, such as JAWS, who can provide input about using the system.

Updates from the Community Rehabilitation Division (CRD)

Jessica Grove, Deputy Director, Vocational Rehabilitation Policy and Resource Division (VRPRD); Janelle Tisher, Resource Specialist, Community Resource Development Section (CRDS)

* Jessica Grove greeted the group and provided information on the various roles she has had within DOR.
* Janelle Tisher is a Resources Specialist and works with the Deaf and Hard of Hearing Section (DHHS) and BFS.
* She has worked for DOR for 31 years, starting as a Support Services Assistant-Interpreter, later as a Rehabilitation Counselor for the Deaf (RCD), then for 15 years as a Generalist Counselor and as a Rehab Supervisor, and currently as a Resource Specialist.
* Janelle reported that DOR communicates to the field offices by issuing an email, DORALL, that all DOR staff receive.
* Janelle routinely provides advice and training to staff in the field offices.
* Prior to the distribution of a DORALL, a meeting at the Deputy Director and Assistant Deputy Director level is held for the approval of the release of the DORALL.
* Janelle may receive inquiries from field staff, or she may contact field offices to determine whether any explanation, or training is needed to support the DORALL.
* Janelle is available to advise and train DOR staff in BFS or Deaf and Hard of Hearing Services (DHHS).
* DOR is focusing on Community Rehabilitation Programs (CRPs) to provide adult work experience.
* One CRP has been approved to provide adult work experience and other CRPs are in the process of completing needed changes to qualify to provide adult work experience.
* Adult work experience, unlike student work experience, is in an assessment category and does not require an Individual Plan for Employment (IPE).
* During an adult work experience assignment, DOR pays the consumer minimum wage for up to 100 hours.

Proposed Form Revisions and Upcoming Application Regulations Package and Student Services Regulations Package

Nancy Wentling, Staff Services Manager I, Program Policy Section, Elizabeth Colegrove, Staff Attorney III, DOR Office of Legal Affairs and Regulations

* Elizabeth Colegrove reported that Daisy Hughes was called away for a family emergency and that she would make a presentation on the topic that Daisy had planned to discuss.
* Nancy Wentling stated that she will report on changes made to forms

used by DOR.

* Form DR 222 is an application to apply for VR services. It has been used for many years and was last revised in May of 2020 to add xxx’s in the Social Security Number field. It is referenced in the California Code of Regulations.
* It is a paper form.
* Form DR210 is a streamlined and simplified form to apply for VR services requiring only contact information and information needed to determine eligibility for VR services.
  + It is a paper form and designed to assist the VR Counselor in making a timely decision on the potential consumer’s eligibility for VR services.
* Form DR222A is a supplemental personal information form. Data is collected that DOR is required to report to the Rehabilitation Service Administration (RSA) on a quarterly basis.
* The reason for the revision of form DR222 and the implementation of form DR210 is to ensure that the application only includes information needed to determine eligibility for VR services and to initiate services.
* The revised form DR222 and form DR210 requires the following information:

1. Name of applicant;
2. Contact information;
3. Disability;
4. How does disability impact employment?
5. The forms also asks whether the applicant is registered to vote because DOR is a voter registration agency. Applicants may choose not to answer that question.

* The changes made to the paper applications aligns with the VR Connections Portal.
* Form DR210 will be discontinued because it duplicates form DR 222.

Elizabeth Colegrove reported:

* The DR222 is incorporated by reference into DOR’s regulations. This limits DOR’s flexibility in changing the form and requires regulations to be changed to make amendments.
* DOR will submit a package of regulations that includes a description of the four required elements that an applicant must provide to apply for services as referenced in Nancy’s report.
* The form DR222 will not be referenced in the package
* DOR anticipates that the regulatory package will be submitted in the spring of 2022.
* Proposed changes will be publicly noticed for 45 days.
* Student Services Regulations
* The Workplace Innovation and Opportunity Act (WIOA) of 2014 established federal regulations for VR agencies to provide services to students.
* DOR will be submitting a regulations package that is consistent with the language in the federal law.
* These regulations will define potentially eligible students with a disability, they will define the potentially eligible case type, and a student services plan. They will match the federal regulations.
* The notice for these regulations is expected to be posted in April or May of 2022.

Open Forum

* A discussion took place regarding the reallotment monies that were received by DOR and suggestions of how some of those dollars should be spent, such as providing relief to BEP vendors, providing a source of funding for people with disabilities who are not seeking employment but need to learn independent living skills.
* Review funding provided by DOR to non-profits who are providing services to DOR consumers but the non-profit is operating at a loss.
* BEP vendor, Sandy Balani, stressed the need for an on-site yearly training.

Adjourn

* The meeting adjourned at 4:15 PM.

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Appendix A

FINAL RECOMMENDATIONS 4 through 8 suggested by the Blind Advisory Committee, on August 4, 2021 and discussed again on November 11, 2021

including remarks by Mitch Pomerantz.

1. If the individual service provider (ISP) program is retained, DOR should develop specific standards for any contracted party entering the home or domicile of a consumer, or at any location where a contractor/service provider meets with a consumer. Such standards to become part of the triennial certification of both for-profit vendors and CRP’s. (“Contractor” is defined as any individual or business entity providing a blindness-related service(s) to a consumer.)

DOR Response: While DOR does not agree with developing specific standards for any contracted party entering the home or domicile of a consumer, or at any location where a contractor or service provider meets with a consumer, DOR is revising its policies, terms and conditions, handbooks, and other materials consistent with Title IX requirements. Further, DOR’s OCR will conduct Title IX investigations in relation to allegations of abuse against ISPs.

Mitch’s response to item 4:

I would prefer specific standards as does Mr. Bashin (he and I previously agreed on this point). Title IX does not address situations in which individuals work one-on-one with consumers. Title IX cannot serve as the complete roadmap for DOR.

1. The Department should consider, based on any restrictions by the State of California, requiring LIVE Scan (digital fingerprinting) for both CRP staff who work closely with consumers and contractors who visit consumers’ places of residence, domicile, or at any location where a contractor/vendor meets with a consumer to provide services.

DOR Response: DOR disagrees with this recommendation. DOR does not agree that requiring vendors to be fingerprinted is necessary to ensure the safety of individuals receiving services. DOR is also concerned that requiring this would add an additional cost and effort for CRPs and vendors in an environment where it is already difficult to obtain and retain vendors.

Mitch’s response to item 5:

I would far prefer LiveScan and - as Mr. Bashin concurred at a previous BAC meeting - fingerprinting individual service providers is a matter of performing routine “due-diligence.” Most public entities including my former employer require everyone to be fingerprinted. The State of California should do so and the fact that it does not is puzzling at best and questionable at the least.

1. The Department should contract with an independent trainer certified and specializing in matters of sexual misconduct to train on an annual basis staff of all CRP’s and for-profit contractors and their executives. Participation in such training – or proof that similar training has been provided annually during the previous three years – to be part of the triennial certification process.

DOR Response: DOR disagrees with this recommendation. CRPs already conduct internal sexual harassment and misconduct training as mandated by California law. This law requires all employers of five or more employees to provide one hour of sexual harassment and abusive conduct prevention training to nonsupervisory employees and two hours of sexual harassment and abusive conduct prevention training to supervisors and managers once every two years. As noted in prior responses, by December 31, 2021, DOR will also be adding Title IX Terms and Conditions into all CRP certifications, guides, and authorizations from DOR to all service providers serving DOR consumers.

Mitch’s response to item 6:

Who is responsible for and making certain that training offered by community rehabilitation programs is adequate? Does someone from DOR observe or monitor the training conducted by CRPs, or periodically review the curriculum of such training?

1. On an annual basis, the Department should obtain from all out-of-state residential rehabilitation training centers their written policies and procedures regarding the handling of documented allegations (formal charges) of sexual misconduct. Failure of any out-of-state center to provide such written policies and procedures annually may result in DOR’s denying a consumer’s request to attend such center. DOR will determine to its satisfaction that each out-of-state center’s written policies meet DOR’s own sexual misconduct standards prior to the processing of any consumer’s request to attend that center.

DOR Response: DOR disagrees with this recommendation. As DOR revises its policies in relation to Title IX, DOR will determine whether these training centers have Title IX Coordinators and a process in place to handle allegations in accordance with Title IX by December 31, 2021. As noted in prior responses, the DOR will add a DOR Term and Condition in all authorizations that will state that if the service provider does not have a Title IX Coordinator in place, the service provider must provide the DOR OCR with access to residents, staff and records relevant to the Title IX investigation that the DOR OCR will conduct.

Mitch’s response to item 7:

I do not believe that this approach is adequate. Did the Department truly obtain the necessary information from all out-of-state residential rehabilitation training facilities at which California DOR consumers may wish to receive training by 12/31/21? Further, does DOR believe that an out-of-state rehabilitation training facility would permit any sort of investigation by a small California department’s Office of Civil Rights? While I am pleased to hear that some out-of-state facilities have provided their relevant policies, I’m extremely skeptical that such facilities would permit DOR’s OCR to conduct an investigation into an allegation of sexual misconduct filed by a student funded by the Department. This is most unlikely, and if I ran an out-of-state residential rehabilitation facility, I would politely but firmly tell DOR, “No!”

1. The Department should immediately suspend future authorizations for any out-of-state training center for which a documented pattern or practice of unsafe conditions, including sexual or other misconduct has been determined by the Department. DOR will develop a hearing process, with input from the BAC and in consultation with the Rehabilitation Services Administration, for its determination of such documented unsafe pattern or practice related to consumer safety. Any hearing must be conducted within 30 days of the Department becoming aware of circumstances which threaten current residential student safety including documented allegations of sexual misconduct and must include processes for all interested parties to provide policy and statistical information as well as any other accounts related to student safety. Out-of-state residential centers will have the right to appeal any adverse finding by the Department in a timely manner. Similar documented allegations made by a consumer attending the Orientation Center for the Blind (OCB) will be handled in accordance with the policies and procedures established by DOR as described above. Such documented allegation made by a consumer attending another in-state residential rehabilitation training program – not classified as a state entity – will be handled pursuant to their internal policies and procedures, but subject to appeal to the Department’s Office of Civil Rights if the consumer is dissatisfied with the outcome of either entity’s internal review process.

DOR Response: DOR disagrees with this recommendation, which proposes the development of an administrative hearing process for service providers. This type of hearing process for providers is not required by Title IX, and DOR currently has the ability to suspend or terminate services with a provider pending the outcome of an investigation or review into allegations of misconduct. As noted in DOR’s prior answers, when residential rehabilitation training centers or other service providers do not have Title IX Coordinators to provide the process required to address Title IX allegations, that process will be provided by DOR’s OCR.

OCB already follows appropriate procedures for any Title IX allegations by immediately working with DOR’s OCR. OCB will be part of any additional process required under new Title IX regulations and policy developed by DOR.

Mitch’s response to item 8:

It is unfortunate that DOR is only willing to do what is absolutely required by Title IX. This recommendation is for a documented pattern or practice of misconduct, not for rumors or hearsay. As a possible compromise (having not run this idea by the other members of the taskforce), when such an allegation comes to the Department’s attention, OCR would contact the facility in question and schedule an opportunity for that facility to present the facts of the situation as they believe them to be. This would be done prior to any suspension, but failure to respond could result in such suspension.