# Item 2: May 12, 2022 Draft BAC Meeting Minutes

State of California

Health and Human Services Agency

Department of Rehabilitation

Blind Advisory Committee (BAC)

Thursday, May 12, 2022

9:00 AM – 4:00 PM

Department of Rehabilitation (DOR), Room 169

Zoom Meeting

## May 12, 2022 Draft Meeting Minutes

## Members in Attendance

Chris Fendrick, Chair

Bryan Bashin

Mitch Pomerantz

Sandy Balani

Cheryl Thurston

Margaret Buchmann-Garcia

Sarah Harris

Joe Smith

Julie Parrish

## DOR Staff in Attendance

Peter Dawson, Regional Director, Blind Field Services (BFS)

Michael Thomas, Assistant Deputy Director, Specialized Services Division (SSD)

Laura Rasmussen, BFS District Administrator (DA)

Sue Pelbath, Orientation Center for the Blind (OCB) Administrator and Demand Side Employment Initiative (DSEI) Grant Lead

Jay Harris, Program Manager, Older Individuals who are Blind (OIB) Program Manager

Deyanire Villachica,Team Manager

Yuki Long, Team Manager

Sky NTXWJ, Team Manager

Joe Stansil, Team Manager

Kathleen Munyer, Committee Analyst, SSD

## Members of the Public in Attendance

Steve Clark, Adaptive Technology Services

Lesley Gibbons, Sterling Adaptives

Laura Wilson, Visually Impaired Persons Support, Modesto

Shellena Heber, Valley Center for the Blind Aaron Espinoza

Jamie Gump, Lighthouse for the Blind, San Francisco

Sharlene Ornelas, Executive Director, Blind Community Center, San Diego

Elsie Herrada, Community Center for the Blind and Visually Impaired, Stockton

Yolanda Braxton, Lyons Center for the Visually impaired

Ismael Herrera, Blind and Low Vision Services Director, Los Angeles

Pete Benavidez, Blindness Support Services

Carmina Gutierrez, Blindness Support Services, Riverside

Cynthia Hllywa, Chairperson, Blindness Support Services, Inland Empire

## Meeting Summary

### Welcome and Introductions

Chris Fendrick

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

### Approval of BAC Meeting Minutes of February 10, 2022 and Review of the Action items

Chris Fendrick, Chair

Motion:

* Mitch Pomerantz made a motion to approve the minutes from the February 2022 meeting with the following changes:
* Two references on page 4 to the California Council of the Blind (CCB) should be changed to the American Council of the Blind (ACB).
* On page 4, under Joe Smith’s comments, change the wording from American’s Disability Act to the Americans with Disabilities Act.
* The motion was seconded by Joe Smith and passed.

### Committee Members Network Updates

Members of the Committee

* Chris Fendrick reported that he is a Fellow in the American Foundation for the Blind Leadership Program. He recently returned from Washington DC after attending 3½ days of intensive training by the Leadership Program. He looks forward to attending another session of the training and strongly encourages the committee members to apply for the training. Applications are being accepted on the website of the American Foundation for the Blind: <https://afb.org/research-and-initiatives/employment/blind-leaders-development-program>.
* Cheryl Thurston reported that in January and February she participated in preparations for a seminar sponsored by the National Federation of the Blind (NFB) in Washington DC. The seminar was held virtually. She is currently working on preparations for the NFB National Convention in July in New Orleans. She is also working on the State Convention scheduled in San Diego in November.
* Joe Smith has been tracking legislation via Zoom meetings. He is particularly interested in discussions related to access to medical devices for those with disabilities.
* Mitch Pomerantz reported that he is enjoying retirement and has focused on activities at the local level, such as the Lyon’s Club and the greater community of Pasadena.
* The National Convention for the ACB will be held in July.

Judy Heumann, a well-known advocate in the country for those with disabilities, will be the banquet speaker. Her autobiography, *Being Human*, will soon be available and Mitch looks forward to reading it.

* Julie Parrish reported that Wayfinder is offering Employment Services.
* We received some placements this quarter.
* The Davidson Program for Independence (DPI) and Hatlen are both expecting students at their residential programs.
* We will be providing a 6-week Transition Program at Cal State Los Angeles this summer.
* Sarah Harris affirmed that the CCB is holding its convention beginning tonight and will run through Sunday. The theme of the convention is, “Navigating the Future Together.”
* Resources for Independent Living in the Central Valley will be hosting a self-advocacy summit for youth this summer. It will be offered virtually and offer valuable information on self-advocacy as well as advocating in the greater community.
* Margaret Buchmann-Garcia reported that the Center of Vision Enhancement (COVE) will begin offering on-site services. COVE will be using a hybrid approach, offering on-site and virtual services.
* This June, COVE will host a month-long program on-site for high school students.
* Bryan Bashin reported that all Lighthouse staff are now working on-site. Enchanted Hills Camp staff are preparing for its 72nd season. The Camp is able to accommodate 220 people. The rebuilding of the site after the devastating fire several years ago has created a much changed, and more modern infrastructure.
* Bryan reported that he serves on the US AbilityOne Commission. The Commission just completed writing a five-year strategic plan. He expects positive changes to the program and invites interested parties to attend the meetings. More information is available at: <https://www.abilityone.gov/>.
* Sandy Balani reported that she was chosen by the Women’s Initiative Supporting Entrepreneurship (WISE) Organization to speak on “Going Beyond Randolph-Sheppard.”
* The WISE Organization provides information on how to apply for additional federal programs and works to enroll women with disabilities.
* She recently attended the [National Automatic Merchandising Association (NAMA) tradeshow in Chicago and learned that many of BEP businesses are moving toward automation.](https://namanow.org/)
* Some prisons are back to normal visiting hours; some are still shut down due to COVID.
* Most of BEP’s set-aside funds come from prison locations.
* BEP vendors who have locations in office buildings continue to struggle because of the reduced number of workers in the buildings who are teleworking.
* The California Vendors Policy Committee (CVPC) is considering recommending that DOR accept the Hadley On-Line Training for BEP students.
* Max Duarte is the new Chair of the CVPC and is actively recruiting BEP Students.

### Older Individuals Who are Blind (OIB) Program Updates

Jay Harris, OIB Program Manager

* Jay Harris reported that OIB intends to release the Request for Applications (RFA) in early 2023. DOR will be amending grants to include a sixth year.
* $1 million will be carry forward funding; this amount is in addition to the $3.1 million that is traditionally carried forward, resulting in an increase in grants. OIB is allowed an additional year to spend the prior year’s money.
* DOR is exploring ways to make the grant process more effective

and inclusive to provide maximum service throughout the State.

Starting the grant process earlier than in the past allows time for responding to any appeals and provides an opportunity to re-release an RFA.

* Jay reported that rather than distributing the carry-over funds equally, the plan is to distribute the funding through the formula. Internal discussions are being held to discuss the method of distribution.
* There are currently two counties that are unserved.
* Alpine County was released; its total population is around 2,000.
* Los Angeles County is served by Orange County.
* Organizations who receive a grant from OIB must spend the money during the current year.
* The 7-OB report provides information about services provided in a specific geographic area.

### Demand Side Employment Initiative (DSEI) Grant Update

Sue Pelbath, OCB Administrator and DSEI Grant Lead

* Sue Pelbath reported that in the State budget of 2020-2021 the DOR

and the Department of Developmental Services (DDS) were each given a one-time appropriation of $10 million to develop programs resulting in competitive integrated employment opportunities for people with disabilities.

* Businesses can receive money for hiring DOR consumers and other individuals with disabilities.
* There are four parts to the Initiative:

1. Business incentives in the form of direct grants to small and medium sized businesses;
2. Development of Human Resources Professional Certification education programs.
3. Development of the Earn and Learn Program for at least 100 individuals in the Allied Health Field.
4. $2 million has been reserved to form a marketing campaign.

* DOR will be establishing a contract agreement with the Society for Human Resource Management (SHRM), a professional association that offers several of its own certifications by the end of the current fiscal year.
* Committee members and members of the public are invited to send questions, comments, or suggestions to the DSEI mailbox at: [DSEI@dor.ca.gov](mailto:DSEI@dor.ca.gov).

### Report from Specialized Services Division (SSD)

Peter Dawson, Regional Director, Blind Field Services (BFS),

Michael Thomas, Assistant Deputy Director, SSD, Laura Rasmussen, BFS District Administrator (DA), Kelly Snow, BEP Manager, Sue Pelbath, OCB Administrator

* Peter Dawson reported that he has relinquished his position as Acting Deputy Director of SSD and has decided to return to his position as Regional Director of BFS. He will continue to provide guidance and support to SSD behind the scenes until a Deputy Director has been appointed.
* Michael Thomas, Assistant Deputy Director of SSD will oversee SSD until a new Deputy Director is appointed.
* Peter reported that staff are going back to work, but not physically full-time in the office.
* DOR has upgraded equipment in some of the meeting rooms.
* Interviews will soon begin to fill the position that will be created when Kathleen Munyer retires.
* The hybrid workplace is here to stay. The unions are involved in discussions with DOR regarding providing money to staff to pay for printers and other forms of technology that may be needed to work from home.
* Laura Rasmussen is back full time in her position as BFS District Administrator.
* The National Council of State Agencies for the Blind (NCSAB) is holding its Spring 2022 Virtual Conference May 9 - 13, 2022.
* Thanks again to Bryan Bashin on his long-time commitment to advocating for the blind community.
* Staff have been attending trainings on diversity, equity and inclusion.
* Michael Thomas thanked the attendees for the work that they do on behalf of the blind community.
* The NCSAB has been very informative about local and statewide issues across the country.
* Michael reported that he is one of the executive sponsors of diversity, equity and inclusion for DOR. The department is committed to the importance of diversity, equity and inclusion.
* Michael also expressed his thanks to both Bryan and Mitch for their longtime advocacy for the blind and visually impaired communities.
* Laura Rasmussen reported that she would like to be involved in the AbilityOne program and asked the committee to keep DOR informed of pertinent information.
* In July, DOR will start the process of transitioning to paperless communications.
* All new cases will be fully electronic, making documents more accessible for consumers and employees.
* BFS is in the process of planning the SB105 conference for the Fall of 2022. It will be a hybrid conference and attendees will have the option of attending in person or virtually.
* BFS staff have had an opportunity for an immersion experience at the OCB.
* Two staff members per week have been scheduled to attend. The emersion training is planned to continue through the month of June.
* BFS staff recently received training on procurement using the Cal-ATSD.
* The number of applications received for services are almost back to pre-pandemic levels.
* Closures are less than last year due to reduced applications received during the pandemic.
* DOR is mandated to direct 15% of funds to students with a disability.
* Overall, the Department is directing 42% of its funds to students with a disability.
* BFS is directing 13% of its funds to students with a disability.
* 30% of the closed cases over the last nine months were job retention closures.
* The average wages for BFS consumers is $27.57 per hour; a wage that is higher than any other DOR district.
* The average weekly wage in BFS is $900 per week.
* The average work week for BFS consumers is 32 hours.
* Kelly Snow reported that the BEP distributed over $900,000 in COVID relief funds to BEP vendors on behalf of the US Government.
* BEP received $54,000 to pay liability claims filed by 52 BEP vendors for lost inventory related to COVID.
* 40 vendors have received their payments; the remaining 12 will receive their payments after submitting a completed STD204 to the Department.
* Restrictions for COVID have been lifted but many BEP vendors are unable to open given that every building manager makes a determination of when that particular building will reopen and how many workers will be working from the office.
* As an example: the CalPERS building is open three days per week. Current sales are approximately 40% less than they were prior to COVID.
* It is anticipated that teleworking will continue. The Department of General Services (DGS) is working on a plan for filling buildings by the “Stacking Model” which is to combine more than one Department in a building.
* Staffing:
* Kelly Snow reported that he was appointed as BEP Program Manager on March 2, 2022.
* Interviews are being scheduled to hire a BEP Operations Manager.
* Shelly Harris was recently hired as a BEP Procurement Specialist.
* The position of a Location Development Officer has been re-announced.
* An announcement for the position of BEP Training Officer will be posted after the BEP Operations Manager has been filled.
* Mandy Dome has been hired as a Business Enterprises Consultant (BEC) in the Northern Field Office.
* There is an opening for an Office Technician in the Southern Field Office due to the retirement of Juana.
* Location Announcements:
* Interim location 697, [California Public Employees' Retirement System (CalPERS), was awarded to Joni Patche.](https://www.calpers.ca.gov/)
* Interim location 828, Department of Justice Headquarters, was awarded to Humberto Carbajal.
* The BEP Vendor serving location 844, Post Offices throughout the Long Beach area recently passed away. The location will soon be announced as an Interim.
* Procurement:
* $32,436 was spent on vending machines.
* $43,001 was spent on other categories of equipment.
* BEP Training
* Most locations are still closed and BEP is unable to provide pre-evaluations.
* BEP is considering restructuring the training to a hybrid model and would like to relocate the training to the OCB.
* Sue Pelbath reported that two DOR staff will begin an immersion program on Monday at OCB. They will receive the same experiences as DOR consumers in order for them to receive a comprehensive experience of the program and services.
* OCB continues to provide classes on safety in the workplace and in the community.
* OCB has an opening for a trainer in assistive technology. OCB allows up to three years for an individual to earn the necessary credential.

### Presentation by the Director

Joe Xavier, Director, DOR

* DOR is working on upgrading the department’s technology to increase its ability to hold virtual meetings.
* Asian Pacific Islanders Heritage week and Public Service week are celebrated this month.
* May is also Mental Health Awareness month.
* The appointment of Andy Mudryk to the Sacramento County Superior Court was a historical appointment.

National Updates

* Many Independent Living Programs received stimulus funding during the past year.
* Organizations in Vocational Rehabilitation (VR) did not receive stimulus funding, but last year DOR received reallotment dollars of $10 million.
* This year, DOR will pick up about $4 million in reallotment funds.
* A new grant has been introduced: “Real Pay for Real Jobs.” The

focus is on ending the subminimum wage and transitioning into competitive integrated employment. Proposals are due June 21. The estimated range of award will be as high as about $14 million with a distribution of just under $3 million per year.

* Reauthorization of the Rehab Act:
* Two of the Congressional House members introduced a bill to reauthorize the [Workforce Innovation and Opportunity Act (WIOA).](https://indor/vrprd/program-policy-implementation/workforce-innovation-and-opportunity-act-wioa-training)
* There is no change to the Rehab Act, but there is a proposed 10% increase for funding.
* At the recent meeting of the CSAVR the Rehabilitation Services Administration (RSA) reported that one in three agencies are reverting funds to the Treasury and that 36% of states did not meet the requirement of providing 15% of funding to youth services.
* There is no information on the appointment of a new Commissioner for RSA.

State Updates

* The Department of Health and Human Services (CalHHS) has adopted and published a playbook for states to use when hiring individuals with disabilities into State Civil Service.
* Medi-Cal eligibility may see changes:
* The Medi-Cal program is subject to a redesignation in the coming months.
* Medi-Cal recipients who receive a notice of possible redesignation should take the notice seriously and ensure that their contact information and financial status is correct.
* Those who receive a notice of redesignation may lose their health benefits.
* The May budget revise will take place tomorrow (5/13/22).
* The Governor may make adjustments to the budget he submitted in January of this year.
* CalHHS will hold a stakeholder call to discuss the May revised budget.

DOR Updates

* DOR’s sector Pathways Grant, which was part of realignment, must go through the budget process in order to move forward.
* Also, to be discussed at the budget revise is the $4 million that DOR received to establish 4 pilots around the State that will combine employment services along with treatment for substance abuse disabilities and provide training for the workforce who are treating individuals with substance abuse.
* Diversity, Equity, Access/Disability
* In September of 2019 DOR established a new section in the Executive Office to address Diversity and Inclusion. Rosa Gomez is the Diversity, Climate and Inclusion Officer.
* A discussion ensued regarding replacing the “Homemaker program,” Joe Xavier reported that progress has been made on that subject and he encouraged the committee to participate in the stakeholder call on the May budget revise.

### The Intersection of Retention Plans and Order of Selection

Jessica Grove, Deputy Director Vocational Rehabilitation Policy and Resource Division **(VRPRD)**

* Jessica reported that DOR is asking BAC to consider policy questions regarding the order of selection. This information is important so that DOR can be thoughtful and proactive in the event that services might be limited and provided only to those who need them most.
* In California, there are 3 categories in the order of selection. At this time, DOR is able to provide services for all three categories.
* Some states were not able to spend all of their federal money.
* Some states closed their door for services.
* Some states were not able to spend 15% of grant for student services.
* If the State puts up $1.00, the State can draw up to $4.00.
* The State Plan allows the State to prioritize retention cases.
* What should DOR take into account when considering prioritizing retention?
* What are the questions that DOR needs to ask? What does DOR need to think about? What impact should be considered? What more information does the BAC need to discuss this?
* Mitch Pomerantz reported that Joe Xavier provided the path that DOR must follow: Identify performance goals and make meeting them a priority.
* Bryan Bashin reported that DOR must do a better job of helping its consumers maintain employment.
* He also stated that blind individuals are always in the number 1 category and other Advisory Committees may have other suggestions.
* Margaret Buchmann-Garcia stated that it is important for those who have chosen a career path and then decided that it is unsuited to them must have an opportunity to explore and train for a career that is a better fit for them.

### Changes to Post-Employment Services

Laura Rasmussen, BFS, DA

* Post-employment should be provided before the case is closed, however, if a consumer is employed and then requires equipment to maintain the job, DOR would open a new case.
* Personal Goal Cases
* The funds that were allocated for Personal Goal Cases has been spent for this fiscal year. DOR will approve the funds, but they would not be allocated until the beginning of the next state fiscal year, July 1, 2022.
* Cases for Career Advancement would be handled in the same way, the services would be provided after the beginning of the new state fiscal year.
* A discussion took place regarding how DOR ensures that consumers who are working from home have the needed technology to successfully fulfill their job responsibilities.

### Cal-ATSD Updates

Zach Mundy, Chief, Contracts and Procurement

Zach Mundy provided the following report:

DOR Deliverables for BAC Recommendation 1: Clarification to Vendor Application

* 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.
* 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.
* Change the name of this document to Department of Rehabilitation Guidelines for Procuring Assistive Technologies Goods and Services.
* Status: All items were completed February 2022

DOR Deliverables for BAC Recommendation 2: Annual Vendor Information Update

* DOR will add explicit language to the application and the Cal-ATSD Website requiring vendors to immediately notify DOR when any of their information changes.
* Status: Completed 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: Evaluation Services Disclosure portion of the application was updated in February 2022.
* Notification was sent to vendors in April with a request that they send their information to DOR by May 31, 2022.
* DOR agrees to send out an annual reminder 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.

DOR Deliverables for BAC Recommendation 3: Documents to Post to DOR 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, 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

DOR Deliverables for 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: Completed. Training held March 15
* 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

DOR Deliverables for 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: Completed in February 2022

DOR Deliverables for 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 update annually at BAC’s request.

DOR Deliverables for BAC Recommendation 7: Guidelines Workgroup

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

DOR Deliverables for 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.
* Peter Dawson added that BFS will provide training for two days in June and when recommendations on providing assessments are provided by the BAC, Contracts will review them.
* Chris Fendrick and other BAC members agreed that BAC members prefer to schedule such a meeting to take place in the summer of 2022.
* Lesley Gibbons advocated for regular meetings with DOR throughout the year rather than meeting only once per year. She indicated that too much has been lost by not including the Department of General Services (DGS) and other stakeholders. She is concerned that consumers will not be receiving the equipment they need.

### Title IX Updates

Peter Dawson, Regional Director, BFS

Peter reported:

* The DR1000, a form to document rights and remedies for consumers, has been finalized and will be circulated shortly.
* This form has instructions on how to file a complaint with the Office of Civil Rights (OCR) at DOR or to the Department of Education (DOE). It also includes the new phone number which was requested to be available for people to file a complaint with DOR.
* The OCB handbook has been updated and a DR1000 is attached along with information on how consumers can address issues regarding sexual misconduct.
* The Community Rehabilitation Programs (CRP) document and the Individual Service Providers (ISP) handbook have been updated.
* The Legal section continues to work on the regulations and the public will have an opportunity to comment on the revised regulations.

### BAC Discussion on DOR’s Responses to Allegations of Sexual

Misconduct, items 4 through 8

Mitch Pomerantz, Chair of the Taskforce on DOR’s response to allegations of sexual misconduct.

* Mitch Pomerantz wrote all rebuttals.

Number 4

If an ISP 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. “Service” is defined as any activity that facilitates the independence of a blind/visually impaired 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 Office of Civil Rights (OCR) will conduct Title IX investigations in relation to allegations of abuse against ISPs.

Committee’s Rebuttal: 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.

Number 5

The Department should consider, based on any restrictions by the State of California, requiring LiveScan, 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.

Committee’s Rebuttal: 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. Chris Fendrick, Bryan Bashin, Sarah Harris, and Margaret Buchmann-Garcia agree with Mitch’s rebuttal.

Number 6

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.

Committee’s Rebuttal: 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?

Number 7

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 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. 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 the investigation.

Committee’s Rebuttal:

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 am 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!”

Number 8

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 RSA, 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 OCB will be handled in accordance with the policies and procedures established by DOR as described above. Such documented allegations 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 OCR 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.

Committee’s Rebuttal:

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.

A discussion ensued and committee members expressed that Title IX is not enough and DOR is not doing enough. Peter Dawson reported that DOR is committed to the safety of DOR consumers. The discussion will be continued during the next scheduled meeting in August 2022.

Margaret Buchmann-Garcia reported that the taskforce on Cal-ATSD will meet in June and will provide a report at the next BAC meeting.

### Open Forum

Chris Fendrick, Chair

The next meeting is scheduled for August 11, 2022.

### Adjourn

The meeting adjourned at 4:00 PM.