**California State Rehabilitation Council (SRC)**

**Policy Committee Meeting**

**Friday, February 2, 2024, 10:00 a.m. – 12:00 p.m.**

Location: Department of Rehabilitation (DOR) Central Office, 721 Capitol Mall, Room 301, Sacramento, CA 95814.

*Approved Meeting Minutes*

Note: This committee meeting was held in accordance with California Government Code section 11123.5. There may be members of the public body who participated in meeting who were granted a reasonable accommodation per the Americans with Disabilities Act (ADA).

Attendance:

* SRC Policy Committee members in attendance (by Zoom): Chanel Brisbane, Ivan Guillen, Theresa Comstock, and Candis Welch.
* SRC Policy Committee members absent: Jonathan Hasak, and La Trena Robinson.
* DOR staff in attendance: Kate Bjerke (present at DOR’s Central Office), Lisa Niegel (present at DOR’s Central Office), and Cruz Fresquez (by Zoom)
* Members of the public in attendance (by Zoom): Aaron Espinoza, Michelle Bello (Department of Education), Ligia Andrade Zuniga (SILC), and Shannon Coe (SILC).

# Item 1: Welcome and Introductions

A quorum was established and Chanel Brisbane, SRC Policy Committee Chair, welcomed attendees to the meeting. Kate Bjerke, SRC Executive Officer, reviewed the Bagley-Keene Open Meeting Act requirements. Meeting attendees then introduced themselves.

# Item 2: Public Comment

There was no public comment.

# Item 3: Approval of the April 17, 2023 SRC Policy Committee Meeting Minutes

It was moved/seconded (Comstock/Guillen) to approve the April 17, 2023 SRC Policy Committee meeting minutes as presented (Yes – Guillen, Comstock, Brisbane, Welch), (No – 0), (Absent – Hasak, Robinson), (Abstain – 0).

# Item 4: Policy Topic - Administrative Law Judges

Lisa Niegel, Chief Council, and Cruz Fresquez, Appeals Analyst, with DOR’s Office of Legal Affairs joined the SRC Policy Committee to share information on, and discuss, questions regarding Administrative Law Judges and consumer mediations/fair hearings.

Chanel Brisbane, SRC Policy Committee Chair, gave an overview of the agenda item. During the November 30, 2023 SRC quarterly meeting, the SRC members identified questions and areas of interest related to Administrative Law Judges (referred to as “ALJs”) who conduct fair hearings and mediations for DOR consumers. The SRC members prioritized this topic and referred it to the SRC Policy Committee. This topic was also encouraged by member of the public, Danny Marquez, who represents the California Association of Social Rehabilitation Agencies, known as CASRA.

Lisa Niegel provided background information on the DOR Office of Mediation and Fair Hearings which is housed within the Office of Legal Affairs and Regulations. Niegel explained that prior to the March 6 – 7, 2024 SRC quarterly meeting, the SRC will receive a copy of the federal fiscal year 2023 Rehabilitation Services Administration (RSA) 722 report which provides statistics on appeal requests, appeals, mediations, outcomes, and petitions that are filed in superior court. The SRC will receive decision summaries and a request for joint approval of new impartial hearing officers (also known as ALJs). Cruz Fresquez introduced himself and provided an overview of his role as DOR’s Appeal Analyst.

Fresquez and Niegel provided information in response to the SRC’s questions:

1. *Do ALJs receive disability etiquette and implicit bias training?*

Response – the ALJs receive implicit bias training as part of their judicial and professional training. The ALJs do not receive training specifically on disability etiquette. Niegel spoke about DOR’s contract with the California Department of Social Services, State Hearings Division; the options DOR consumers have to request a mediation, fair hearing, or both; and, the role of ALJs. Cal. Welf. and Inst. Code § 19705.1 requires that ALJs receive training on 1) the goals and requirements of the vocational rehabilitation program and its regulations, and 2) how to protect the rights of appellants (understanding that most appellants represent themselves).

1. *Are ALJs with disabilities and/or lived experience being hired?*

Response – As an employer, the State Hearings Division is unable to question employees, including ALJs, about their disability status, however, the State Hearings Division is aware of several ALJs that have self-reported disabilities.

1. *How are ALJs trained on the DOR regulations?*

Response – the ALJs receive extensive training on the federal and state laws applicable to the vocational rehabilitation program. The training includes information on DOR’s purpose, an analysis of DOR legal authorities and resources, mediation and fair hearing issues, procedures, and deadlines. The training emphasizes a less formal and more consumer-friendly approach to proceedings.

1. *Do DOR consumers have a right to an in-person hearing or mediation, or only when requested as a reasonable accommodation?*

Response – Hearings or mediations are conducted virtually or over the phone. There is not a particular right to in-person proceedings in statute. During the COVID-19 public health emergency there was an opportunity to increase use of virtual meeting technology. With the new contractor, State Hearings Division, mediations and fair hearings are conducted by videoconference or over the phone. To date there have not been any complaints. Guillen explained that there were two individuals that contacted CAP because they were denied in-person mediation/hearings, one which requested it as a disability accommodation. Guillen explained the matters were resolved with the assistance of CAP, however, stated that individuals who do not have access to internet, or the technology to participate by video conference could be at a disadvantage. Guillen noted that individuals who file appeals with other departments that are heard by State Hearings Division such as Medi-Cal, do have the option for in-person hearings. Niegel stated, the DOR will always engage with individuals in the reasonable accommodation and interactive discussion process as needed. Niegel asked that if an SRC member is aware of issues or barriers related to accessing hearings or mediations to let DOR know right away, instead of waiting to adopt a formal policy recommendation. Guillen explained that the State Hearing Division paperwork has an option to select an in-person hearing, and the State Hearing Division conducts in-person hearings for other Departments/programs. Niegel said her team will look into this and will review the State Hearing Division forms and paperwork. Niegel explained that consumers can utilize DOR offices, internet and equipment to access mediations and hearings.

1. *Continued interest from the SRC about learning if the transition to utilizing the California Department of Social Services, State Hearings Division to conduct fair hearings for DOR consumers has resulted in positive changes, increased engagement, and neutrality, and if it is more user friendly for DOR consumers.*

Response – although there is no official data, from informal feedback, DOR does feel that the process has improved, and has not received complaints.

1. *Thoughts on offering DOR consumers a post hearing/mediation survey.* Response – the DOR has considered a survey; however, the sample size would be limited and administering a survey would require resources. A decision about conducting a survey has not been made.
2. *Consumers receiving DOR evidence and position statements three days in advance.*

Response – DOR has not heard of any issues regarding this matter.

The SRC Policy Committee members gave the following comments:

* Theresa Comstock noted that even though disability etiquette is not a required training for the ALJs, it is still important to learn about person-first language.
* Ivan Guillen noted that perhaps the State Hearings Division has their own survey and if so, suggested that DOR could possibly obtain feedback this way.
* Ivan Guillen reported that he assisted with his first mediation with the State Hearings Division and it was a positive and productive experience. The client resolved their concerns and the judge had a good understanding of the applicable laws, regulations, and disability etiquette.
* Action item: add to the SRC’s running list of possible, future agenda items: have the State Hearings Division present at a future SRC quarterly meeting.

# Item 5: Debrief and Working Session

The SRC Policy Committee members will have the opportunity to debrief, identify additional policy questions and topics, and/or draft recommendations for the full SRC’s consideration during a future SRC quarterly meeting.

* It was discussed that last year there was a decision (#104799518 – 767) that the SRC members thought showed perhaps a lack of disability awareness, etiquette and understanding. During the March 6 – 7, 2024 SRC quarterly meeting, SRC members will review the new 18 hearings to see if there are any similar concerns.
* The SRC Policy Committee requested the following additional information regarding ALJs and mediation/fair hearings. Bjerke will submit these requests to DOR.
  + Copy of DOR’s handout that explains consumer rights and remedies in plain English (if available).
  + Copy of the implicit bias training that the ALJs receive.
  + Link to Cal. Welf. and Inst. Code § 19705.1
  + Statute that was referenced regarding clients not having a right to in-person mediation or hearings.
* The SRC identified follow up questions regarding ALJs and mediation/fair hearings. Bjerke will relay these questions to DOR:
  + When a consumer files for mediation or fair hearing, are they given information on, or referred to, the Client Assistance Program?
  + Who at DOR explains all the steps to a consumer about fair hearings and mediations? Is the Counselor involved? Does the relationship between the Counselor and client tend to turn adversarial if the consumer files?
  + Instead of a survey, perhaps a neutral DOR staff person could just call the consumer after a fair hearing or mediation to see how it went and get feedback?

The SRC Policy Committee then discussed other policy topics.

* The SRC Policy Committee will discuss and stay updated on the Master Plan for Career Education during the monthly SRC Policy Committee meetings.
* Suggestion that DOR research if other states have had positive results and outcomes with consumers pursuing self-employment. This could help the SRC identify policy recommendations.
* Request that moving forward, the SRC receive copies of monitoring and audit reports from the State of California and Rehabilitation Services Administration.
* Future agenda items –
  + Follow up on the DB 101 website.
  + Engage with DOR regarding the Older Individuals who are Blind (OIB) Grant. Disability Rights California has received calls with concerns on how the OIB services are being administered and monitored. In addition, receive an update on DOR’s competitive grants rulemaking package and a copy of the State Auditor report number 2017-129 entitled “Department of Rehabilitation: Its Inadequate Guidance and Oversight of the Grant Process Led to Inconsistencies and Perceived Bias in Its Evaluations and Awards of Some Grants.”

# Item 6: Identification of Future SRC Policy Committee Meeting Dates

The SRC Policy Committee agreed to meet monthly on the second Thursday of each month from 10 a.m. – noon.

# Item 6: Adjourn

It was moved/seconded (Comstock/Guillen) to adjourn the meeting at 11:55 a.m.