New Mexico Commission for the Blind

State Rehabilitation Council

Minutes (Draft)

Special Meeting

December 16, 2019 - 9:00 AM

Disability Rights New Mexico

3916 Juan Tabo Blvd. NE

Albuquerque, New Mexico 87111

1. Call to Order

Chairman O’Brien called the meeting to order at 9:03 AM.

2. Roll Call

Kaity Ellis took Roll, and present were Bernadine Chavez, Kaity Ellis, Urja Lansing, Paul Luttrell, Tom O'Brien, and Greg Trapp. Lila Martinez joined the meeting by phone at 9:12 AM. Yolanda Montoya-Cordova joined the meeting by phone at approximately 12:45 PM.

3. Introduction of Guests and Staff

Guests and staff were introduced, and staff included Jim Salas, Deputy Director for Vocational Rehabilitation and Independent Living; Trish Adams, Executive Secretary; and Kelly Burma, Skills Center Coordinator. Guests present included Phyllis Connor and Coby Livingstone.

4. Approval of Agenda

Ms. Ellis made a motion to approve the agenda, and Ms. Lansing seconded the motion. Mr. O'Brien asked that the motion include flexibility for a 121 Project report from Paula Seanez, and to adjust the time of the report from Yolanda Montoya-Cordova. Mr. Luttrell said that he needed to leave by 1:00 PM. Mr. Trapp said that the Council needed to approve several important items, and asked that if necessary the action items be moved up on the agenda so that they could be voted on while the Council had a quorum. Ms. Burma noted that lunch should arrive between 11:45 and 12:00 noon. A vote was taken, and the agenda as revised was approved unanimously.

5. Approval of Minutes of Meeting of October 21, 2019

Ms. Lansing made a motion to approve the minutes of the October 21 meeting, and Mr. Luttrell seconded the motion. Ms. Adams said that the only changes from the minutes that were sent out were minor formatting changes. A vote was taken, and the minutes were approved unanimously.

6. Chair Report, Tom O’Brien

Mr. O'Brien reported that he was privileged to attend the Legislative Finance Committee hearing at the Roundhouse on October 31. He said that Kaity Ellis, Art Schreiber, and Robert Reidy also attended. Mr. O’Brien said that he met with John Arthur Smith before the LFC hearing. Mr. O'Brien said that the Commission requested a $600,000 increase in General Funds. (Ms. Martinez Joined the meeting at 9:12 AM) Mr. O'Brien said that he was glad that the Commission was requesting additional funds. He said that state revenues were up because of increases in taxes from gas and oil production, and that many agencies were asking for additional funds.

Mr. Salas said that Ms. Ellis facilitated the meeting with Senator John Arthur Smith, and that she is a super advocate. Mr. Salas said that she pulled Senator Smith out of the hearing to meet with her and the Commission team, and that he changed the hearing schedule so that he could meet with them before the Commission was heard.

Mr. O’Brien said he thought that the LFC will do their part to help the Commission. He said that Representative Candie Sweetser came up to him and thanked the representatives from the Commission for being there and commented on Ms. Ellis being on the State Rehab Council.

Mr. O’Brien said that he and his wife were able to attend Kaity’s graduation from Western New Mexico University, and that she graduated with honors with a Masters in Social Work with certificate in rural social work. Mr. O'Brien also complemented Mr. Trapp on his 20 years with the agency, saying how valuable the stability at the Commission was, and that he had served in four different administrations.

7. Client Assistance Program Report, Bernadine Chavez

Ms. Chavez thanked the Council for having their meeting at Disability Rights New Mexico. Ms. Chavez congratulated Ms. Ellis for her graduation. Ms. Chavez also congratulated Mr. Trapp for his service, and said he was a prominent figure and steady force in New Mexico and at the national level. Ms. Chavez also complemented Mr. Trapp for the presentation that he made to the National Coalition of State Rehabilitation Councils.

Ms. Chavez reported that only one person had called regarding the Commission, and that the caller had moved and returned to New Mexico, and that CAP was helping the individual reapply for Commission services.

8. Section 121 Report, Paula Seanez

There was no Section 121 Report.

9. Statewide Independent Living Council Report, Coby Livingstone

Mr. O’Brien introduced Ms. Livingstone, and thanked her for coming to the meeting. Ms. Livingstone reported that the SILC has hired Ms. Patricia Quintana as the new SILC Director. Ms. Livingstone said that Ms. Quintana is working with the SILC Chair, Jason Gordon, to get the State Plan for Independent Living submitted. Ms. Livingstone named the other SILC members and listed the Center’s for Independent Living.

10. Director’s Report, Greg Trapp

Mr. Trapp thanked Ms. Chavez for hosting the SRC meeting, and thanked her for her complements. Mr. Trapp congratulated Ms. Ellis for her graduation, and thanked her for helping to set up the meeting in Silver City. Mr. Trapp also thanked Mr. Salas for presenting at the Legislative Finance Committee Hearing, and he said that he heard that he did a fantastic job. Mr. Trapp also thanked Mr. O’Brien and Ms. Ellis for attending the LFC hearing, along with Chairman Schreiber.

Mr. Trapp said that the Commission’s budget hearing will be on the afternoon of January 14. Mr. Trapp said that the Commission for the Blind is second on the agenda, behind the Commission for Deaf and Hard of Hearing. Mr. Trapp said that the state is projecting a large budget surplus that is primarily due to revenues from the oil and gas boom that is taking place in the Permian Basin. Mr. Trapp said he is hoping that he will be able to get most of the requested increase to the agency budget.

Ms. Ellis asked about the House Appropriations and Finance Committee Hearing scheduled for January 14, and Mr. Trapp said that the HAFC Committee will vote on the actual agency budget, and that it was beneficial for the Council to be actively involved in the budget of the agency. Mr. O’Brien asked Ms. Ellis if she could coordinate schedules and go up the day before like she did for the LFC hearing, and Ms. Ellis said that she would be glad to. Ms. Lansing said that she was also planning on attending.

Mr. Trapp reported on the Council membership, saying that the Council needed several additional appointments. He said that Peggy Hayes, Jim Babb, Coby Livingstone, Paula Seanez, and Mary Willows had all been recommended for appointment.

Mr. O’Brien asked about the next meeting dates, and Mr. Trapp said that the due date of the State Plan has been moved forward from April 1 to March 2. He said that the feds require 90 days to review the plan before it takes effect on July 1. Mr. Trapp said that the Commission is needing to get its portion of the State Plan submitted by January 9, and that they are having to scramble to get everything submitted in time. Mr. Trapp said that the Workforce Solutions Department is holding two town forums, one in Albuquerque on February 21, and another in Las Cruces on February 27.

Ms. Chavez said that she did not see any mention of vocational rehabilitation in the town forum announcements. She also said that she did not see any mention of the process for requesting reasonable accommodations. She also asked what happens if a person does not register. Mr. Trapp said that he has provided New Mexico First with the auxiliary aids and services language, and that he has worked with them to make the registration process accessible. He said that they have been very receptive to working with him on accommodation and accessibility issues.

Mr. Trapp said that the Democrat and Republican budget negotiators reached a deal on a 1.37 Trillion budget, hopefully avoiding a Federal shutdown. He said that the agency will keep its federal draws as current as possible should there be a shutdown.

Mr. Trapp talked about the agreements with the Public Education Department and local school districts, saying that he is working to renew the agreements with the Public Education Department and local school districts. Mr. Trapp thanked Ms. Ellis for her help in coordinating the agreement process with the Demining School District. He described the content of the agreements, saying that they included provisions that local schools not contract with entities that pay subminimum wage, and contain language concerning the required Section 511 counseling. Mr. Trapp listed the local districts that the agency is working with, noting that he thought the meeting with the Las Cruces Public School District went especially well.

Mr. Trapp asked Mr. Salas to report on recent personnel actions. Mr. Salas said that the agency has hired a Vocational Rehabilitation Counselor in Farmington, and that they have interviewed for the Las Vegas Counselor. Mr. Salas said that he is also working to fill the Assistive Technology Specialist position in Las Cruces. Mr. Salas announced that the agency had hired Mr. Juan Haro as the new Independent Living Program Manager. Ms. Chavez asked why the name sounded familiar, and Mr. Salas said that he had been the Director of the Orientation Center, and that he has worked as an assistive technology trainer in Albuquerque and Roswell.

Mr. Salas said that the 704 report information had been submitted to the Division of Vocational Rehabilitation last week, and that DVR will add information for the Centers for Independent Living. Mr. Salas said that the 7OB report had been submitted, and that Sarah Villavicencio helps him with the 7OB report. Mr. Salas said that the agency is also working on the RSA-2, which reports on the VR program, and that Daphne Mitchell also works on that report.

Mr. Salas reported that for the current State Fiscal Year, seven persons had been placed in competitive employment, and that the average wage was $17.87. He said that there were so far no closures for the current Federal Fiscal Year, which had just started in October. He said that 32 consumers were currently in employment status. Mr. Salas said that Nahid Movaghar, one of the Counselors in Albuquerque, had 12 of the consumers who were in employment status on her caseload. Mr. Salas said that 23 consumers were placed in competitive employment for Federal Fiscal Year 19. Mr. Salas said that with 32 persons in employment status, he expected a good result for Federal Fiscal Year 20. Ms. Ellis asked how many of the 32 persons in employment status were stable, and Mr. Salas responded that the Commission keeps cases open beyond the 90 days to make sure that they are stable.

Mr. Trapp concluded his report by saying that vocational rehabilitation was in its 100th anniversary year, and that the vocational rehabilitation program is extraordinarily cost effective. He said that the vocational rehabilitation program has enjoyed bipartisan support throughout its history.

11. Public Comment Period on the Commission's Portion of the Combined State Plan

There were no public comments on the Combined State Plan. Mr. Trapp said that it was important to provide the public with an opportunity to comment on the Combined State Plan, and that the item was on the agenda to provide the public with an additional opportunity to comment on the plan.

12. Unfinished Business

a. Status of Pre-Employment Transition Services, Greg Trapp and Jim Salas

Mr. Trapp said that they had anticipated the issuance of guidance from the Rehabilitation Services Administration on Pre-Employment Transition Services, and that he expected that it would be announced during the fall meeting of the Council of State Administrators of Vocational Rehabilitation and National Council of State Agencies for the Blind that took place in Washington during the last week of October. Mr. Trapp said that it was the especially critical nature of the CSAVR and NCSAB meetings that caused him to have Mr. Salas return to New Mexico to represent him at the Legislative Finance Committee meeting. Mr. Trapp said that an Executive Order issued by President Trump shortly before the meetings requiring review of federal agency guidance delayed the issuance of the Pre-ETS flexibilities. Mr. Trapp said that he met with RSA Commissioner Mark Schultz along with NCSAB President Carol Pankow, NCSAB President Elect Dacia Johnson, and CSAVR Director Steve Wooderson, and that they explained the negative impact of Pre-ETS on blind agencies, and discussed issues such as tuition, assistive technology, and the definition of a student. Mr. Trapp said that he met again with Commissioner Schultz during the NCSAB executive Committee meeting on Wednesday, October 30, and that he spoke again with him during the NCSAB reception that took place that evening. Mr. Trapp said that RSA will be issuing a draft of the flexibilities, and that there will be an opportunity to provide comment before the final version is issued.

Mr. Trapp said that he is expecting that the agency will be able to spend all of the Federal Fiscal Year 19 Pre-ETS funds, which were carried over into Federal Fiscal Year 20. Mr. Trapp said that the Intergovernmental Agreement with REC 5 and the Governmental Services Agreement with the New Mexico School for the Blind and Visually Impaired is helping the Commission to spend the FFY19 Pre-ETS reserve. Mr. Trapp said that Daphne Mitchell is monitoring the agreements to make sure that all of the spending meets the Pre-ETS requirements.

Mr. Trapp said that RSA would be looking closely at Pre-ETS spending during their next Section 107 Monitoring visit. He said that RSA is now conducting focused monitoring, and that DVR was one of the agencies selected to be monitored and that they would be having their monitoring visit in March. He said that the New Mexico Commission for the Blind and the New Mexico Client Assistance Program were not selected for monitoring. Mr. Trapp said that the Commission might be monitored next year, and that the agency would use the additional time to focus on making sure it was in full compliance.

Mr. O’Brien asked about the monitoring, and if this was a case of RSA saying that they were the federal government and here to help, and Mr. Trapp said that RSA had been extremely adversarial in prior years, but that they are now trying to be less adversarial. Mr. Trapp said that the federal rules are extremely complex, and that there will certainly be findings during any monitoring visit. He said that they would be looking at compliance with the period of performance, the agreements with State Educational Agencies, Pre-ETS, and prior approval.

b. Approval of Council Annual Report for Federal Fiscal Year 2019, Greg Trapp

Mr. Trapp said that he had sent the Council a draft of the Annual Report, and that it was due to RSA on December 29. Mr. O’Brien said that he would like to include some additional mention of Pre-ETS in his cover letter, and that he would like it to say that it was an undue burden and limited spending on services to adults, and that it had forced many agencies to implement an Order of Selection. Mr. Trapp said that he would revise the letter to include more discussion of the negative impact of Pre-ETS, and that some of this discussion was also in the VR section of the report. Mr. Trapp said that the Annual Report was basically a template, and that it would be updated to include the employment numbers and performance measures for Federal Fiscal Year 19, and that they are still gathering those numbers. Mr. Trapp said that he would like to refer any technical and non-substantive changes to the executive committee.

Ms. Lansing made a motion to approve the Annual Report with the addition of more information about the negative impact of Pre-Employment Transition Services, giving to the executive committee the authority to make technical and minor changes. Ms. Ellis seconded the motion. A vote was taken, and the Annual Report as revised was approved unanimously.

13. New Business

a. Approval of Council Open Meetings Act Resolution, Tom O'Brien

Mr. O’Brien said that the Council must each year approve an Open Meetings Act Resolution. It was noted that there was a sentence fragment at the end of paragraph 13, and Mr. Trapp said that it should have been deleted.

Ms. Ellis made a motion to approve the Open Meetings Act Resolution revising to remove the incomplete sentence in paragraph 13, and Mr. Luttrell seconded the motion. A vote was taken, and the Open Meetings Act Resolution as revised was approved unanimously.

b. Discussion of Commission's Portion of the Combined state Plan, Greg Trapp and Jim Salas

Mr. Trapp said that quite a bit of the state plan and process has already been discussed, and he discussed what still needs to take place before the plan is submitted. Mr. Trapp asked Mr. Salas to describe the Commission’s portion of the Combined State Plan.

Mr. Salas said that the State Plan includes Parts A to Q, and that the parts have replaced what had previously been called attachments. He said that the prior State Plan had been sent out to the Council a few weeks ago. He said that the agency is really working hard on the plan because of the new deadlines. He said that the key parts are the Goals and Priorities, and the input from the Council. Mr. Salas said that the State Plan used to be done annually, but that that is no longer the case. He said that the current State Plan was submitted in 2016, and was updated in 2018.

In response to a question from Mr. Luttrell, Mr. Trapp said that the new State Plan schedule does not align with some parts of the regulations, which still contemplate that the plan will be submitted annually. He said that Ms. Burma had sent out a helpful description of the requirements related to the State Plan. Mr. Trapp said that the Comprehensive Statewide Needs Assessment was performed and reviewed by the Council during the February meeting, and that during the Silver City meeting they discussed the assessment and the ability of the agency to provide the full range of vocational rehabilitation services to all eligible individuals. He said that they determined that the Commission could serve all eligible individuals, and did not need to implement an Order of Selection. Mr. Trapp summarized the needs assessment, noting especially that it identified a need to provide more services because of decreased Braille literacy.

c. Summary of Public Meetings and Comments, Kelly Burma

Ms. Burma summarized the public meetings, reporting that public meetings were held in Hobbs on October 16, and in Clovis on October 17, but that there were no public comments provided at either of those public meetings. Ms. Burma said that a public meeting was held in Santa Fe on November 25, and that Bernadine Chavez and Commissioner Dr. Robert Reidy attended that public meeting. Ms. Burma said that another public meeting was held in Albuquerque on November 27, and that Bernadine Chavez, DRNM Director Gary Housepian, and Commission Chair Art Schreiber attended that meeting. Ms. Burma said the comments in the Santa Fe and Albuquerque meetings primarily concerned the difficulties of serving students who are blind or visually impaired, the need to recruit and hire additional VR counselors, issues related to the Medicaid waivers, and appreciation that the Commission is not on an Order of Selection. Ms. Burma reported that a public meeting was held in Las Cruces on December 2, and that three persons attended that meeting. She said that the comments primarily concerned the need to provide additional outreach to schools and students in rural areas. Ms. Burma said that a public meeting was held in Alamogordo on December 3, and that one person attended that public meeting. Ms. Burma said that the comments primarily concerned the work incentives that are available to blind persons, and the need to provide benefits counseling and guidance.

d. Approval of Goals and Priorities, Greg Trapp and Kelly Burma

Mr. Trapp said that the Goals and Priorities were revised based on input that the Council provided during the meeting that was held on October 21, and that as a result four new Goals were developed and one existing Goal was eliminated. Mr. Trapp said he had sent the revised Goals and Priorities to the Council on Monday. The Council read and discussed each of the four new Goals and Priorities.

The Council began by reviewing Goal A concerning the hiring and retention of VR Counselors, and Ms. Montoya-Cordova stressed the importance of having goals and priorities that were measurable, and Mr. Trapp said that the agency might for example try to have the goal of having an average of 75 percent of the VR Counselors filled, but that finding qualified counselors was a problem across the nation. Mr. Salas further discussed the difficulty of hiring and retaining qualified counselors.

Ms. Ellis stressed the importance of having competent VR Counselors who can assess the needs of consumers when those consumers come to the Commission.

Mr. Trapp said that one possible solution was to try to find a way to bump up the salary of the VR Counselors, but that the Commission actually had a fairly low turnover rate for the VR Counselors. Mr. Salas reviewed the term of each of the current VR Counselors, noting that most had been with the Commission for at least seven years. Ms. Montoya-Cordova noted the difficulty of keeping specialists in rural areas.

The Council proceeded to Goal B, noting the increasing number of older workers and the need to appropriately serve the population of older workers.

The Council discussed Goal C, which encouraged the agency to promote healthy lifestyles that help persons to become and remain employed. Mr. Trapp said that there is a growing problem of obesity in the nation, and that 30 to 60 percent of the population is overweight or obese, and that this can affect employability. Ms. Montoya-Cordova expressed concern about secondary disabilities and substance abuse. Mr. Trapp responded, noting the increase in diabetes and heart disease in children.

The Council discussed Goal D, which concerned the provision of vocational rehabilitation services that would improve the soft skills of consumers. Mr. Trapp said that this is an especially difficult issue since the schools tend to more affirming and positive, but that the VR Counselor must focus on deficits and barriers to employment.

Ms. Lansing said that she agreed that this is a very important goal, but asked how it would be accomplished. Ms. Burma said that group discussion and individual follow up was one way to address these issues.

Ms. Lansing made a motion to approve the Goals and Priorities, giving to the executive committee the authority to make technical and minor changes. Mr. Luttrell seconded the motion. A vote was taken, and the Goals and Priorities were approved unanimously.

e. Approval of Council Input on the Commission's Portion of the Combined State Plan, Greg Trapp and Jim Salas

Mr. Trapp invited the Council to add additional comments on the State Plan, noting the comments made during the discussion of the Goals and Priorities.

The Council input included encouraging the agency to provide support for helping consumers to acquire better soft skills, to encourage attendance at consumer conventions, to enhance cultural competencies, to reach out to unserved and underserved populations, to use the Skills Center to work with students, to work with older blind persons, to work to avoid an Order of Selection, to maintain the STEP program, provide advocacy support, and to incorporate the comments made during discussions of the Goals and Priorities.

Mr. O’Brien made a motion to approve the Council input, giving to the executive committee the authority to revise further and make other technical and minor changes. Mr. Luttrell seconded the motion. A vote was taken, and the Council input was approved unanimously.

Chairman O’Brien left the meeting at 3:14 PM, asking Ms. Lansing to chair the remainder of the meeting.

14. Council Open Discussion

15. Audience and Public Comments

16. Date and Location of Next Meeting

Mr. Trapp asked that the Council hold February 6 for a possible joint meeting with the State Workforce Development Board and the Division of Vocational Rehabilitation. He also asked the Council to hold February 28 in case the public comment period for the State Plan resulted in the state needing to make substantive changes to the State Plan. The next date for the Council to meet was set for May 6 and 7 in Alamogordo.

17. Adjourn

Vice Chair Lansing adjourned the meeting at 3:21 PM.

Approved by the State Rehabilitation Council this 23rd Day of June, 2020.

Thomas P. O’Brien, Chair

State Rehabilitation Council