

SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS

MINUTES

February 18, 2021

The South Carolina Commission on Disabilities and Special Needs met on Thursday, February 18, 2021, at 10:00 a.m. at the Department of Disabilities and Special Needs Central Office, 3440 Harden Street Extension, Columbia, South Carolina.

The following were in attendance:

COMMISSION

Present In-Person

Gary Lemel – Chairman

Barry Malphrus – Vice Chairman

Robin Blackwood – Secretary

Eddie Miller

Stephanie Rawlinson

David Thomas

DDSN Administrative Staff

Mary Poole, State Director; Pat Maley, Deputy Director; Chris Clark, CFO; Rufus Britt, Associate State Director, Operations; Susan Beck, Associate State Director, Policy; Kevin Yacobi, Director of Internal Audit; Kim McLeod, Legislative Liaison & Public Information Officer; Kyla Schultz, Director of Risk Management; Julie Cook, Risk Management Coordinator; Ann Dalton, Director of Quality Management; Andrew Tharin, Director of Engineering and Planning; and Christie Linguard, Administrative Coordinator.

Notice of Meeting Statement

Chairman Lemel called the meeting to order and Secretary Blackwood read a statement of announcement about the meeting that was distributed to the appropriate media, interested persons, and posted at the Central Office and on the website in accordance with the Freedom of Information Act.

Adoption of the Agenda

On a motion by Commissioner Malphrus, seconded by Commissioner Blackwood, the Commission unanimously adopted the February 18, 2021 Meeting Agenda. (Attachment A)

Invocation

Commissioner Rawlinson gave the invocation.

Approval of the Minutes from the January 21, 2021 Commission Meeting

Commissioner Rawlinson made a motion to accept the January 21, 2021 Commission Meeting minutes with an amended change under the New Business, Section 11A to add “Pursuant to appointment by the Chairman,” at the beginning of the second sentence. This motion was seconded by Commissioner Miller and unanimously approved by the Commission. (Attachment B)

Commissioners’ Update

Chairman Lemel participated in a Midlands Human Service Providers Association Zoom meeting a few weeks ago that was well-organized and informative. He also mentioned that former DDSN Commissioner, Deborah McPherson, has been advocating for residents in other DDSN residential facilities and individuals being served at home to be eligible for the COVID Vaccine.

Public Input

There were no public input requests.

Commission Committee Business

A. Finance and Audit Committee

Committee Chair Blackwood announced that the Finance and Audit Committee met on February 1, 2021. The following topics were presented for review and approval by the Commission:

Capital Purchases – Vehicle Replacement Plan – the subcommittee approved the purchase of 12 new vehicles and the sale of 11 vehicles. Chairman Lemel stated that the Commission will treat the subcommittee’s approve of the purchase of 12 new vehicles and the sale of 11 vehicles as a motion and second. Discussion was held related to the condition of some of the vehicles and other purchasing options. Commissioner Malphrus made a motion to table this matter until April’s subcommittee meeting. The motion was seconded by Commissioner Rawlinson. Commission members would specifically like to know if there are any other options to pay for the vehicles other than borrowing money. They also asked for a list of the problems (history) of the vehicles listed for replacement. The motion was unanimously approved by the Commission. Commission members agreed that if the additional information is prepared prior to the upcoming March subcommittee meeting, it can be presented at that time. State Director Poole asked

Commissioner Malphrus to provide the staff with the recent information he has obtained to change his mind in regards to purchasing the new vehicles so that research can be done prior to the meeting. Mr. Clark will complete an operating lease analysis. (Attachment C)

Provider Fee for Service (FFS) Loan Program – Chairman Lemel stated that the Commission will treat the approval of this loan program as both a motion and second coming out of the subcommittee. There was no further discussion. The Commission members unanimously approved the FFS Loan Program as presented. (Attachment D)

200-01-DD Cash on Hand Maintained at the Residential Level – Chairman Lemel stated that the Commission will treat the approval of this directive as both a motion and second coming out of the subcommittee. The Commission members unanimously approved this directive. (Attachment E)

200-09-DD Fees for Residential Services in Intermediate Care Facilities for Individuals with Intellectual Disabilities and Developmental Disabilities (ICFs/IID) Facilities – Chairman Lemel stated that the Commission will treat the approval of this directive as both a motion and second coming out of the subcommittee. The Commission members unanimously approved this directive. (Attachment F)

B. Special Committee on Commission Communication

Committee Chair Malphrus stated the Committee met on February 9, 2021 to discuss the scope of the committee and the justification for its actions. The committee approved a budget of no more than \$1,563 for the purchase of ten (10) black tablecloths, one gold seal and one conference room door sign. The subcommittee would like for all personalized items of departing Commission members be given to that member when he/she leaves. Additionally, the subcommittee voted to have the DDSN Commission website page look similar to the SCDOT Commission page. Commission members are encouraged to send Ms. McLeod a 200 word biography and a headshot to be posted on the agency's website. With a motion and second coming out of the subcommittee, Chairman Lemel asked if there was any further discussion. There being none, the Commission unanimously approved the aforementioned budget and the purchase of the items listed. (Attachment G)

C. Legislative Committee

Review 2018 House Legislative Oversight Report - Commissioner Thomas stated that the subcommittee met on February 11, 2021 to review items

and noted that no actions were taken at that meeting. At this time, he asked that the Commission hold off on discussion of this topic for now. (Attachment H)

Review Current Legislation – Ms. McLeod briefed the Commission on current legislation. (Attachment I)

Old Business

A. SC Mentor Updated

Ms. Cook gave an overview of her findings during this past year's review of SC Mentor. She has made announced and unannounced visits and she has found all systems remain in place and adequate.

B. ID/RD Waiver Renewal

Ms. Beck provided a briefing on the status of the Intellectual Disability/Related Disabilities Waiver renewal. The waiver program expires December 31, 2021 and renewal is anticipated January 1, 2022 based on the South Carolina Department of Health and Human Services' (SCDHHS) plan to submit the renewal to the federal Centers for Medicare and Medicaid (CMS) in July, 2021. Ms. Beck reviewed service considerations and indicated that the CMS technical assistance contractor, New Editions, was assisting with the renewal through work on service definitions and performance measures as well as the long-term planning necessary to re-design the waiver program with considerations for rate research/development, and acuity assessments. Ms. Beck will provide more specifics in the future for approval as the renewal progresses. (Attachment J)

C. Band B & I Switch to Fee for Service (FFS) Update

Mr. Clark began by stating that five (5) open mic sessions have been completed with providers and added that he and his team completed a private provider training on February 4, 2021. The Finance Manual, specifically chapter 10, is being entirely rewritten and should be completed soon. The cost analysis team is currently reviewing room and board reviews and cost reports preparations which has not permitted them time to begin the provider financial reviews related to the FFS switch. An executive memo memorializing the FFS process will be created for providers. The next round of this conversion is the funding decisions for band changes. Mr. Clark provided the Commission members with information on the June 2020 audited financial cash position for the agency's provider network which includes a recap of all the provider relief funds and the PPP resources received thus far.

Discussion was held about the duties and responsibilities of county boards related to forgiveness of the PPP loans and if any of this could come back onto SCDDSN. The Commission asked that DDSN ask the question to county boards regarding bank loan forgiveness. Mr. Clark reiterated his position that SCDDSN should solicit an independent CPA firm to complete an agreed-upon procedures engagement to provide the level of assurance needed related to proper reporting of costs in the Agency's cost report. Kyla Schultz discussed the acuity piece of the conversion. She reported that there were 104 total band swap submissions; 44 have been completed (which can be updated as needed); 16 screenings will take place next week; and six (6) more are scheduled for the first week in March.

D. Cost Reports Update

Mr. Clark announced that a 2013 rough draft has been completed; this rough draft does not include the step down of administrative costs. Cost Reports for 2014 and 2015 are moving right along. He also reminded the Commissioners that Cost Reports for 2018, 2019, and 2020 will be done internally and that a staff person has been hired to rebuild internal capability to complete the Agency's cost report.

E. Internal Audit (IA) Monthly Report

Mr. Yacobi commenced with a summary of the Agreed Upon Procedures Reports and stated that as of today, IA has received all of the reports. He also brief the Commission on DSN contract reductions, which totaled \$9,600. The IA division has completed training of approximately 451 people to include boards and private providers. The Case Management analysis will be sent to Commission members next week. IA division is also working on Interpreter Services and following up on room and board issues. Mr. Yacobi has been involved in most of the waiver renewal discussions. He now has access to the Health Risk Screening Tool (HRST) system so that he can look at assessment firsthand and has plans to go through training.

F. Quarterly Incident Management Report

Ms. Dalton gave the Incident Management Report for community residential, day service and regional centers. Discussion ensued and questions were asked by Commission members. (Attachment K)

G. Legislative Update

Ms. McLeod updated the Commission on the State Register and Regulations. She suggested that instead of a special meeting on March

29, 2021 and have the Commission look to have a public hearing during the regularly scheduled April Commission meeting. There were some language changes that Ms. McLeod wanted to make to state statutes, which was also advised and noted in the 2018 Legislative Oversight Report. Ms. McLeod has drafted a letter to the Chairman of the Legislative Committee and Medical, Military, Public and Municipal Affairs Committee (3M), which has been approved by Commissioner Thomas. Hopefully, they will draft a bill to clean up the language. Commissioner Thomas made a motion to cancel the March 29, 2021 public hearing pending further feedback on regulations, seconded by Commissioner Malphrus. Commissioner Thomas made a motion to hold the Public Hearing on April 15, 2021 thirty minutes after the conclusion of the regular scheduled Commission meeting, seconded by Commissioner Blackwood. The motion is carried.

H. COVID Update

Mr. Britt briefed the Commission on COVID policies, updated positive result numbers, hazard/hero pay for staff members, nursing signing bonuses and vaccinations. Commissioner Rawlinson made a motion to provide an incentive bonus pay in the amount of \$50 for the first dose and \$100 for the second dose [two dose vaccine from Pfizer or Moderna vaccine], to all DDSN employees who will provide human resources with documentation that they have been vaccinated; this shall include individuals who have been vaccinated prior to this motion. This motion was seconded by Commissioner Blackwood and unanimously approved by the Commission.

New Business

A. Fire Panel Replacement Project – Coastal Center

Mr. Tharin gave a historical overview of the fire panel at the Coastal Center. The system is currently activated; however, if a fire were to occur, there is no switchboard notification to the administrative building. At this time, he would like to move the fourth year CPIP project up to the top of the list and switch over the fourteen remaining buildings. Commissioner Miller made a motion to approve the replacement of the fire panel throughout the Coastal Center, seconded by Commissioner Blackwood. The motion is carried. (Attachment L)

B. Financial Update

Mr. Clark announced that the agency continues to be well below budget on the expenditure side by approximately 5%; however, if the extra provider payment for the month of July is included, the agency is about

7% below budget under the spending plan. Commissioner Miller made a motion to approve the financial update as presented, seconded by Commissioner Blackwood. The Commission members unanimously approved the update. (Attachment M)

C. Contract Amendments Over \$200,000

Mr. Clark presented contract amendments exceeding \$200,000. The amendments are due to the residential rate increases related to the pass-through of the full day program rate to all providers. This is a requirement related to signing the Administrative Contract with HHS. Commissioner Blackwood made a motion to approve the contract amendments as presented and seconded by Commissioner Miller. The motion is carried. (Attachment N)

State Director's Report

Director Poole provided the State Director's Report. (Attachment O)

Executive Session

At 1:40 p.m., Chairman Lemel requested a motion to begin Executive Session after a ten minute break to discuss a contractual and personnel matter. On a motion by Commissioner Blackwood, seconded by Commissioner Miller and unanimously approved by the Commission; executive session will begin at 1:50 p.m.

Upon rising out of Executive Session at 4:47 p.m., Chairman Lemel announced that there were no motions made and no votes taken during executive session.

Commissioner Rawlinson made a motion to move to condition #2 to restrict SC Mentor's ability to expand beyond what is contemplated but not to exceed their letter to DDSN dated February 20, 2021 as signed by John Fisher and cc'd to Kevin Wright; however, all of the stipulations as cited in the DDSN Commission vote in February 2020 will stand as cited. This motion was seconded by Commissioner Thomas and unanimously approved by the Commission.

Commissioner Thomas made a motion to remove Mary Poole as director from DDSN and remove her from service of employment at DDSN immediately, seconded by Commissioner Malphrus. Individual votes were taken and there were five (5) ayes and one (1) nay (Chairman Lemel). The motion passed. Commissioner Malphrus stated that on this date, 28 months ago, Mary Poole was hired as the State Director.

Commissioner Rawlinson made a motion to allow SC DDSN Legal Counsel, Constance Holloway, serve as temporary interim executive director of the

agency until a special-called meeting takes place on March 1, 2021 at 11:30 AM at DDSN's headquarters at which time the Commission will interview a potential interim executive director, who will be officially named.

Commissioner Rawlinson hereby moved that a press release, which will be written by Commissioners Thomas and Blackwood, be released regarding this matter this afternoon and that this will be the Commission's final statement regarding this matter. Chairman Lemel asked that the motion be amended to reflect that Constance Holloway will be paid a salary commensurate with this position, which essentially is equivalent for her time as the executive director. Commissioner Rawlinson's motion was seconded by Commissioner Miller and Chairman Lemel's amended motion was seconded by Commissioner Blackwood. The motions passed with five (5) ayes, no nays and one (1) abstention (Chairman Lemel).

Commissioner Rawlinson made a motion to put a hiring freeze in place for DDSN for the next month until such time that an interim commissioner [director] can be named and put in place, seconded by Commissioner Malphrus. There was no further discussion, and the motion is carried.

Commissioner Rawlinson made a motion to have a special-called meeting of the Commission on March 1, 2021 at 11:30 a.m. for the purpose of meeting with a potential interim director, seconded by Commissioner Malphrus. The motion is carried.

Commissioner Malphrus made a motion to adjourn, seconded by Commissioner Blackwood.

Next Regular Meeting

March 18, 2021

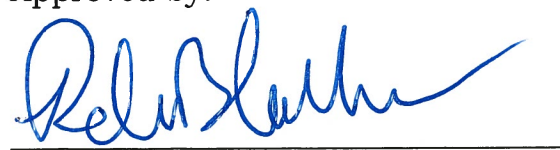
Adjournment

On a motion by Commissioner Malphrus seconded by Commissioner Blackwood and unanimously approved by the Commission, the meeting was adjourned at 4:54 p.m.

Submitted by:


Christie D. Linguard
Administrative Coordinator

Approved by:


Commissioner Robin Blackwood
Secretary

SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS

A G E N D A

**South Carolina Department of Disabilities and Special Needs
3440 Harden Street Extension
Conference Room 251 (SKYPE)
Columbia, South Carolina**

February 18, 2021

10:00 A.M.

1. Call to Order *Chairman Gary Lemel*
2. Notice of Meeting Statement *Commissioner Robin Blackwood*
3. Welcome
4. Adoption of Agenda
5. Invocation *Commissioner Stephanie Rawlinson*
6. Approval of the January 21, 2021 Commission Meeting Minutes
7. Commissioners' Update *Commissioners*
8. Public Input
9. Commission Committee Business
 - A. Finance Committee *Committee Chair Robin Blackwood*
 1. Capital Purchases - Vehicle Replacement Plan
 2. Provider Fee for Service (FFS) Loan Program
 3. 200-01-DD Cash on Hand Maintained at the Residential Level
 4. 200-09-DD Fees for Residential Services in Intermediate Care Facilities for Individuals with Intellectual Disabilities and Developmental Disabilities (ICFs/IID) Facilities
 - B. Special Committee on Commission Communication *Committee Chair Barry Malphrus*

Committee Purchase Recommendations
 - C. Legislative Committee *Commissioner David Thomas*
 1. Review 2018 House Legislative Oversight Report
 2. Review Current Legislation
10. Old Business:
 - A. SC Mentor Update *Ms. Julie Cook*
 - B. ID/RD Waiver Renewal *Ms. Susan Beck*
 - C. Band B & I Switch to Fee for Service (FFS) Update *Mr. Chris Clark*
 - D. Cost Reports Update *Mr. Chris Clark*
 - E. Internal Audit Monthly Report *Mr. Kevin Yacobi*
 - F. Quarterly Incident Management Report *Ms. Ann Dalton*
 - G. Legislative Update *Ms. Kim McLeod*
 - H. COVID Update *Mr. Rufus Britt*

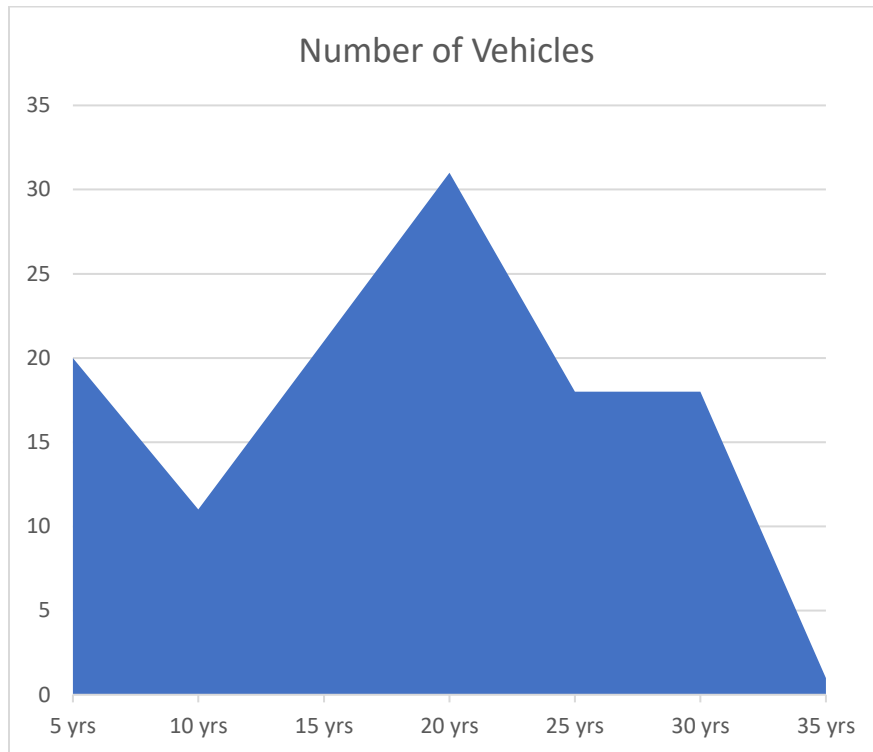
11. New Business:
 - A. Fire Panel Replacement Project – Coastal Center *Mr. Chris Clark*
 - B. Financial Update *Mr. Chris Clark*
 - C. Contract Amendments Over \$200,000 *Mr. Chris Clark*
12. State Director’s Report *State Director Mary Poole*
13. Executive Session
Contractual and Personnel Matters
14. Enter into Public Session
15. Next Regular Meeting (March 18, 2021)
16. Adjournment

Vehicle Replacement - FY '21									Replace with				
Location	Tag #	Year	Make	Model	Type	Mileage	Condition	Est. Value	Make	Model	Capacity	Est. Cost	Availability
Coastal	SG355	1996	Ford	Van	Van	338,429	Poor	\$ 500	Ford	Transit X2X	8P/2WC	\$ 69,969	Immediate
Coastal	SG354	2001	Dodge	Van	8 Pass	39,670	Fair	\$ 1,000	Ford	Transit X2X	8P/2WC	\$ 69,969	Immediate
Coastal	SG659	2009	Ford	Goshen	Bus	20,620	Poor	\$ 1,000	Ford	Starcraft	14P/4WC	\$ 71,707	Immediate
Midlands	SG402	1994	Chevy	Cargo	W/C Van	---	SOLD	\$ 1,233	Ford	Transit K1C	8P/2WC	\$ 54,842	Immediate
Midlands	SG77788	1994	Dodge	15 Pass.	W/C Van	45,775	Fair	\$ 400	Ford	Transit X2X	8P/2WC	\$ 69,969	Need to Order
Midlands	SG257	2000	Ford	E350	W/C Bus	137,157	Fair	\$ 3,549	Ford	Starcraft	14P/4WC	\$ 71,707	Immediate
Pee Dee	SG270	2001	Ford	Van	16 Pass	47,536	Poor	\$ 1,000	Ford	Transit X2X	8P/2WC	\$ 69,969	Immediate
Pee Dee	SG268	2001	Ford	Goshen	8P/3WC	91,093	Poor	\$ 1,000	Ford	Transit X2X	8P/2WC	\$ 69,969	Immediate
Pee Dee	SG426	2004	Ford	Van	12 Pass.	120,253	Poor	\$ 1,000	Ford	Transit K1C	8P/2WC	\$ 54,842	Immediate
Whitten	SG67028	1998	Ford	Goshen	Bus	102,399	Poor	\$ 1,000	Ford	Starcraft	14P/4WC	\$ 71,707	Immediate
Whitten	SG70917	1998	Ford	Club Wagon	Van	110,011	Poor	\$ 500	Ford	Transit X2X	8P/2WC	\$ 69,969	Immediate
Whitten	SG67001	1998	Ford	Club Wagon	Van	91,845	Fair	\$ 750	Ford	Transit X2X	8P/2WC	\$ 69,969	Immediate
							TOTAL	\$ 12,932			TOTAL	\$ 814,588	

Vehicle Replacement Plan – Phase 1 of 2 for FY 2021

1) Summary of Our Current Status – Regional Center Vehicles

We have summarized the age of our fleet and reflected this information in the chart below. As you can see, the vast majority of our fleet at DDSN is passed their useful lives. A target useful life that I have found to be reliable over my years in the industry is 8 years. We have 22 (17.7%) of the 124 vehicles we operate and rely on to operate the Regional Centers that are at or below the 8 year targeted useful life I have established. 79 (63.7%) of the 124 vehicles we rely on are over 15 years old (almost double the targeted/desired useful life). 48 of these 79 are over 20 years old.



2) Background on Vehicle Needs

While the Regional Centers are self-contained campuses, the people we serve are transported off campus to medical appointments, for our outings, during times of evacuation, etc. Vehicles are also a matter of pride for our staff and the people we serve. It is not only a safety issue, but it is also a morale issue. Most of our current needs center around safe transport of persons needing a wheelchair to get around. As a result, the initial batch of vehicles recommended for replacement are very expensive. ADA vehicles with lifts are costly.

3) Priority of Replacement Recommendations – top priority to bottom priority

- a. Regional Center Vehicles Transporting Persons Served
 - i. ADA vehicles in poor or fair condition
 - ii. Non-ADA vehicles in poor or fair condition
- b. Central Office Vehicles in poor or fair condition
- c. Regional Center Vehicles used administratively/maintenance in poor or fair condition
- d. Regional Center Vehicles Transporting Persons Served exceeding targeted useful life
- e. Central Office Vehicles exceeding targeted useful life
- f. Replacement of leased vehicles with owned vehicles where it makes economic sense

4) Recommended Phase 1 Purchases for FY 2021

We recommend purchasing 12 ADA vehicles after careful review of the needs at each Regional Center. The total purchase price is estimated to not exceed \$825,000 for these 12 vehicles. The vehicles being replaced will be sold or have already been sold through state surplus. The anticipated sales proceeds from these sales is approximately \$13,000 (one vehicle already sold for approximately \$1,000).

5) Source of Funds

The Commission has already approved a capital budget amount of \$1,520,000 for vehicle purchases during FY 2021.

We recommend financing an amount not to exceed \$810,000 through use of the State Master Lease Program in lieu of using cash resources. DDSN is in the process of restoring its fiscal health and cash reserves are not adequate at this time. We seek to establish at least one month's (30 days) of cash reserves. We finished FY 2020 with approximately \$12 million in our reserves representing 6 days of operating cash. We anticipate finishing FY 2021 with approximately \$35 million in our reserves representing 17 days of operating cash. The total capital needs and deferred maintenance needs are anticipated to exceed \$40 million at this time. As a result, it is necessary for us to finance capital needs where possible. With needs such as roofs, rotting steel pipes, paving, demolitions, painting, floor coverings, retherm equipment, vehicles, HVAC systems, software replacement, boilers, electrical grids, hurricane shutters, signs, etc, it is critical that we spend our cash reserves wisely.

6) Summary

Recommend purchase of 12 ADA Vehicles at a total cost not to exceed \$825,000.

Recommend selling through state surplus 11 vehicles for anticipated proceeds of \$12,000.

Recommend financing an amount not to exceed \$810,000 through the State Master Lease Program.

**PALMETTO BUS SALES
WEST COLUMBIA, SC
803-754-3827**

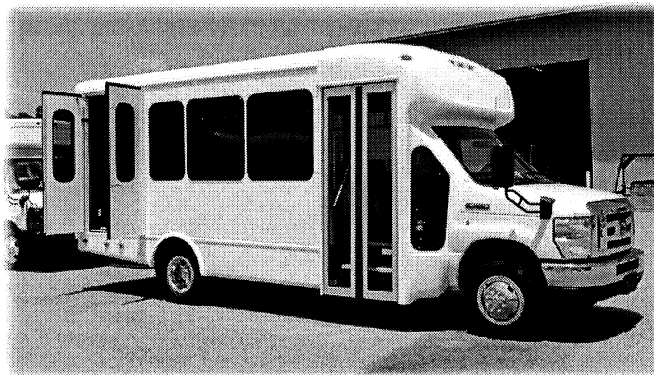
WWW.PALMETTOBUSSALES.COM

**STATE OF SOUTH CAROLINA
ADA COMPLIANT SHUTTLE BUS**

**** STATE CONTRACT #4400019973 ****

CONTRACT VALID 11/27/18 THRU 10/31/21

STARCRAFT "ALLSTAR" BUS BODY --- FORD CHASSIS



WE HAVE STATE CONTRACT ADA COMPLIANT BUSES IN STOCK!!!

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"S.C. ADA COMPLIANT BUSES" Contract # 4400019973
FORD CHASSIS
STARCRAFT "ALLSTAR" BUS BODY
(4) WHEELCHAIRS - OR - (14) PASSENGER CAPACITY
BN #3475, 3476, 3477

1-6-21

BUS CHASSIS FEATURES PER BID SPECIFICATIONS:

Ford E-350 Chassis

6.8 Liter V-10 Gasoline Engine

4-Speed Automatic Transmission with Overdrive

158" Wheelbase Chassis

12,500 lbs. GVWR

Dual Rear Wheels

Power Disc Brakes with 4-wheel ABS

(40) Gallon Fuel Tank

Ford 225 Amp. Alternator

Front standard Ford OEM driver's air conditioner

FRONT CHASSIS GRILL, HEADLIGHT BEZELS & TRIM ARE ALL BLACK

CHROME CHASSIS PACKAGE IS "OPTIONAL"

TILT STEERING WHEEL IS "OPTIONAL "

CRUISE CONTROL IS "OPTIONAL"

Driver's front 4-speed heater/defroster

Heavy Duty Dual batteries

Power Steering

(6) LT 225/75R 16E All Season Radial Tires

Intermittent windshield wipers

Dual Electric Horns

Engine oil cooler

White exterior

Volt, oil & temp gauges

Driver's side air bag

Chassis Caster/Camber Kit Installed

(3) Year or 36,000 Miles Ford Chassis Warranty

(5) Year or 60,000 Miles Ford Chassis Warranty on Engine, Transmission & Powertrain

(5) Year / Unlimited Miles Ford Chassis Corrosion Warranty

BUS BODY FEATURES PER BID SPECIFICATIONS:

Back Up Alarm

Electric Passenger Entry Door

Dual Parallel ADA Entry Door Grab Rails

Rear Door with Window

Rear Door open beeper

Side Emergency Exit Windows With Open Buzzer x (2)

Transpec Roof Hatch with Power safety Vent

Street Side Exhaust

Black Rubber Flooring in Driver's Area

Black "Anti Skid" Floor Covering In Aisle & Under Passenger Seats

GRAY "SEASPRAY" CARPETED INTERIOR WALLS & CEILING

Front Entrance Door and Wheelchair Lift Modesty Panels

STD. FORD High Back Driver's Seat

Mid High Rigid Passenger Seats for (12) seated passengers

Driver's Side Rear Flip Seat for (2) Passengers

Black Vandal Resistant Grab Handles on Top of Seats x (12)

Moisture Barriers For All Passenger Seats

Under Seat Retractable Seat Belts

24" Seat Belt Extensions x (2)

Glove Box with Lock and Light

STD. FORD AM/FM Stereo with Four Speakers

Front OEM Heating and Air Conditioning System

Rear Air Conditioning System is warranted by it's Manufacturer for 2 Years

35,000 BTU Rear Underseat Heater

"ACC CLIMATE CONTROL" Rear Air Conditioning System – 68,000 BTU with Dual Compressors

RICON "1,000 LB. CAPACITY" ADA Wheelchair Lift mounted in Right Hand REAR Of Bus

ADA Brake Interlock With Fast Idle

ADA Stop Request - Pull Cord Chime with Touch Tape Stop Requests at Wheelchair Locations

Dual Wheelchair Doors located at Right Hand REAR with Windows

Yellow Passenger Entry Step Nosing

ADA Priority Seating Decals

Fire Extinguisher, First Aid Kit, Triangle Warning Devices & Seat Belt Cutter

Body Fluid Clean Up Kit

Spare Tire and Wheel Shipped Loose In Bus

"SURE LOK" FE-500 MANUAL Wheelchair Tie Down System x (2)

WHEELCHAIR PASSENGERS SHOULDER BELTS MOUNTED IN FIXED POSITION ON SIDE/REAR WALL

"L" Track Mounted in Side/Rear Wall To Store WC Restraints

GRAB RAILS MOUNTED ON RH & LH SIDE OF PASSENGER ENTRY DOOR

2" Reflective Tape Mounted on Rear Bumper

Wiring Schematic Mounted On Interior Of Electrical Panel Door

Solid White Paint Design

Wide Angle "Fresnal" Lens for Rear Window

Entrance Door Stepwell Light

Exterior Hooded Entrance Door Light

Exterior Manual Lucerix mirrors

Fuel sending unit access plate

Dual Batteries – one under hood & one in side wall compartment with slide out tray

1/4 tank of fuel @ delivery

5/8" Marine grade plywood

6" x 16" Interior Mirror

"Engraved" Vehicle Height Decal or Plate Interior of Bus

International Wheelchair Decal

Roof mounted strobe light with guard
 Run extra wires for mount strobe light

THREE - PIECE EXTERIOR ALUMINUM ROOF

Wheelchair Door & Rear Door Keyed Alike

Driver storage compartment with light & key operated lock
 Driver's Switch Panel Mounted To Right Of Driver On Engine Cover

All Exterior Lights are LED lights

Heavy Duty Aluminum Driver's Step

Stanchion & Modesty Panel Behind Driver

Interior Overhead Ceiling Mounted Grab Rails

Tinted Plexiglass in top half of Modesty Panel Mounted Behind Driver
 Bus Body Base Warranty of (1) Year or 12,000 Miles
 Bus Body Structural Warranty of (5) Years or 75,000 Miles to include water leaks

***** THIS VEHICLE DOES NOT MEET SCHOOL BUS SAFETY STANDARDS AND IS NOT TO BE USED IN A SCHOOL BUS APPLICATION**

***** BUS FOB PALMETTO BUS SALES @ 90 ACCESS RD. - GASTON, SC - OR - BUS CAN BE PICKED UP AT STATE**

FLEET MANAGEMENT LOT @ BOSTON AVE. - COLUMBIA, SC!!

****WE CAN ARRANGE FOR DELIVERY TO YOUR LOCATION FOR A NOMINAL FEE. PLEASE CALL US FOR A QUOTE.**

**** SPECIFICATIONS WRITTEN IN "BLACK BOLD" ARE NEW FOR THIS YEAR ***

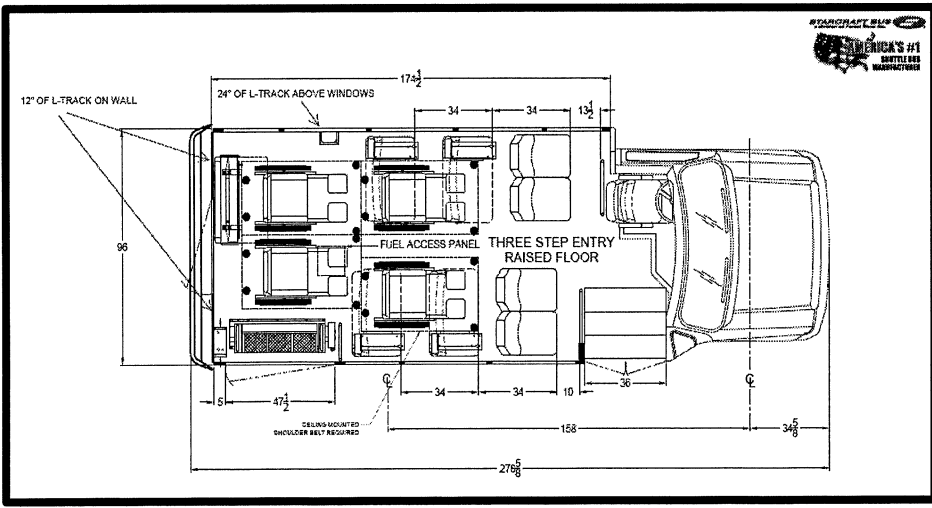
STATE OF SOUTH CAROLINA BASE CONTRACT PRICE	\$ 52,212.00
SC INFRASTRUCTURE MAINTENANCE FEE ON VEHICLE SALES	\$ 500.00
Additional Options	\$ 18,995.00
TOTAL FINAL SELLING PRICE	\$ 71,707.00

WE AGREE TO PURCHASE BUS AS SPECIFIED AND PRICED ABOVE:

 Signed Date

Per SC State Law, State Law – Title 11, Chapter 35 – Article 1 – Section 11-35-45, a late penalty is applicable if not paid within thirty (30) workdays after the acceptance of goods or services, not to exceed fifteen percent each year. The thirty-day period shall not begin until the agency, whether or not the agency processes vouchers through the Comptroller General, certifies its satisfaction with the received goods or services and proper invoice.

4 WHEELCHAIR SCDOT SEATPLAN



ADDITIONAL EQUIPMENT INCLUDED ON THIS BUS

Upgrade to Ford E-450 Chassis	1,545.00	1	\$ 1,545.00
Driver Shield 28x28 Polycarbonate Barrier Installed on Bus	775.00	1	\$ 775.00
Upgrade Chassis to have CHROME APPEARANCE PACKAGE (includes tilt steering & cruise control)	800.00	1	\$ 800.00
Freedman "SHIELD" Driver's Seat In lieu of STD. Ford Driver's Seat	350.00	1	\$ 350.00
Deluxe Jensen AM/FM/CD/CLOCK/BLUETOOTH/USB Radio - P.A. Ready - in lieu of STD Ford Radio	650.00	1	\$ 650.00
One Piece Exterior Roof Construction in lieu of 3-Piece Roof Construction	475.00	1	\$ 475.00
Interior Ceiling/Wall Upgrade - FRP Interior Ceiling & Walls - (Std. Interior is carpeted walls & ceiling)	975.00	1	\$ 975.00
Back Up Camera System	850.00	1	\$ 850.00
Upgrade to TRANS AIR A/C System in lieu of Std. ACC System	600.00	1	\$ 600.00
Upgrade to 60,000 BTU Rear Heater	450.00	1	\$ 450.00
Stainless Steel Wheel Inserts (Bolt on type)	650.00	1	\$ 650.00
Locking Fuel Fill Door	200.00	1	\$ 200.00
3 Step Foldaway Passenger Seat in lieu of Std. Rigid Passenger Seat (price each passenger)	250.00	8	\$ 2,000.00
Upgrade Wheelchair Lift to "BRAUN"	600.00	1	\$ 600.00
Single Wheelchair Door in lieu of Double Doors	350.00	1	\$ 350.00
Add additional Std. Sure Lok wheelchair restraint system with manually operated securement belts (ea.)	350.00	2	\$ 700.00
Upgrade STD. W/C floor securement belts from Sure Lok manual system to Q-Straint QRT 360 auto retractor system (ea.)	875.00	4	\$ 3,500.00
Upgrade W/C restraint system from "L" track floor securement to Slide -N- Click floor securement (ea.)	350.00	4	\$ 1,400.00
Upgrade W/C occupant shoulder belt to include adjustable "L" track securement in side/rear wall ilo fixed securemen	250.00	4	\$ 1,000.00
Wheelchair securement storage bags in lieu of "L" track storage mounted to side wall (ea.)	75.00	4	\$ 300.00
Flat Interior Floor in lieu of Std. floor with wheelwells (required with more than 2 wheelchairs)	825.00	1	\$ 825.00

PALMETTO BUS SALES
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1-800-783-7613
WWW.PALMETTOBUSSALES.COM

STATE OF SOUTH CAROLINA
PURPOSE BUILT VEHICLE

**** STATE CONTRACT #4400019976 ****
CONTRACT VALID 11/27/18 THRU 10/31/21
FORD TRANSIT CHASSIS - MOBILITYTRANS CONVERSION



VAN WITH
STANDARD SLIDER
VAN DOOR



VAN WITH
"OPTIONAL"
BUS DOOR



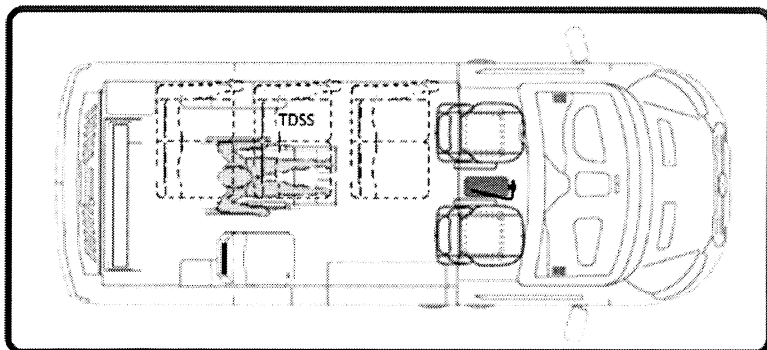
VAN WITH
STANDARD SLIDER
VAN DOOR



VAN WITH
"OPTIONAL"
BUS DOOR



**STANDARD SEAT PLAN WITH STANDARD VAN DOOR & ONE
WHEELCHAIR LOCATION**



VEHICLE SPECIFICATIONS

Ford Transit K1C - 150 XL Medium Roof Wagon Chassis

3.7 Liter V-6 Gasoline Engine

6-Speed Automatic Transmission

130" Wheelbase Chassis

8,550 lbs. GVWR

AIR BAGS THROUGHOUT VAN FOR ALL PASSENGERS

STANDARD VAN SLIDER PASSENGER ENTRY DOOR

Driver side running board/step

Single Rear Wheels

Power Disc Brakes with 4-wheel ABS

(25) Gallon Fuel Tank

Ford 225 Amp. Alternator

ADA brake interlock system with high idle feature

Front and side turn signals/parking lights – wraparound

Front standard Ford OEM driver's air conditioner

Headlights on reminder

Granite gray molded plastic door trim panels

Power Steering

Intermittent windshield wipers

White exterior

(3) Year or 36,000 Miles Ford Chassis Warranty

(5) Year or 60,000 Miles Ford Chassis Warranty on Engine, Transmission & Powertrain

(5) Year / Unlimited Miles Ford Chassis Corrosion Warranty

MOBILITYTRANS VANS - FORD TRANSIT SPECIFICATION FEATURES:

MobilityTRANS Vans "K1C" Ford 150 Transit Van

Medium Roof Height

Van is 18' Long

Ricon 1,000 lb. Wheelchair Lift Mounted In Rear Door Of Vehicle

"L" Track For (1) Wheelchair

Sure Lok "FE" Manual Series Tie Down For (1) Wheelchair

"L" Track mounted on side wall for WC tie down storage

Small overhead storage compartment over driver's head

Interior LED Dome Lights

Wheelchair lift light on lift and entrance door

5/8" Marine Grade plywood sub floor with anti-skid floor covering

Ford OEM Standard Interior headliner & side walls

Underseat Passenger Heater

45,000 BTU Dual Compressor A/C System

FREEDMAN "GO-ES" Passenger Seats with 3-Pt. seat belts for all passengers

(3) Two Passenger Folding Seats mounted behind driver

(1) Single passenger fixed forward facing seat on curb side rear

Front Right Hand Co-Pilot Seat with shoulder seat belt

High Back Driver's Seat with shoulder belt

All seats covered in Gray Vinyl

(2) Seat Belt extenders

Interlock for lift, brake, transmission, door & wheelchair lift with door ajar notification

Moisture Barriers For All Passenger Seats

Vehicle backing alarm

Passenger side running board/step

OEM Tinted Windows
Vehicle height decal
AM/FM Stereo with Four Speakers
Passenger entry door grab rail
Fire Extinguisher, First Aid Kit, Triangle Warning Devices, Seat belt cutter
Reflective tape on rear bumper
Roof mounted strobe light with guard & extra power wire
Fast idle kit
3 ignition keys
3 yr./36,000 mile Standard Ford Chassis Warranty
5 yr./60,000 mile Ford powertrain warranty
5 year Ricon Wheelchair Lift warranty
Solid White Paint Design

***** THIS VEHICLE DOES NOT MEET SCHOOL BUS SAFETY STANDARDS AND IS NOT TO BE USED IN A SCHOOL BUS APPLICATION**

***** THIS VEHICLE IS NOT TO BE USED IN A SCHOOL BUS APPLICATION**

STATE OF SOUTH CAROLINA BASE CONTRACT PRICE	\$ 45,979.00
S.C. SALES TAX	(+) \$ 500.00
ADDITIONAL OPTIONS CHOSEN	\$ 8,363.00
TOTAL FINAL SELLING PRICE	\$ 54,842.00

WE AGREE TO PURCHASE BUS AS SPECIFIED AND PRICED ABOVE:

Signed

Date

Per SC State Law, State Law -- Title 11, Chapter 35 -- Article 1 -- Section 11-35-45, a late penalty is applicable if not paid within thirty (30) workdays after the acceptance of goods or services, not to exceed fifteen percent each year. The thirty-day period shall not begin until the agency, whether or not the agency processes vouchers through the Comptroller General, certifies its satisfaction with the received goods or services and proper invoice.

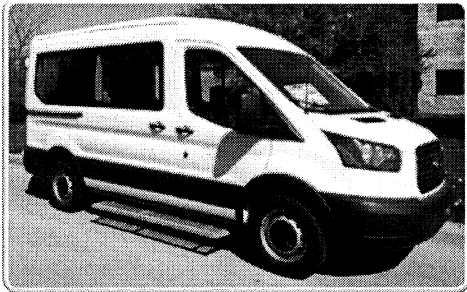
ADDITIONAL EQUIPMENT INCLUDED ON THIS VAN

Chassis GVWR Upgrade to 9,000 lbs.	\$ 2,934.00	1	\$2,934.00
Upgrade Running Board from Std. Galvanized Steel to Heavy Duty Stainless Steel	\$ 450.00	1	\$450.00
Freedman "Go ES" Single Flip-fold Seat in lieu of rigid passenger seat (ea. pass.)	\$ 254.00	1	\$254.00
Power Exterior Mirrors with Short Arm Power Folding and Heat	\$ 650.00	1	\$650.00
Upgrade to BRAUN Wheelchair Lift	\$ 600.00	1	\$600.00
Add additional Std. Sure Lok wheelchair restraint system with "L" Track manually operated securement belts (ea.)	\$ 350.00	1	\$350.00
Upgrade STD. W/C floor securement belts from Sure Lok "L" Track manual system to Q-Straint MAX auto retractor system (ea.)	\$ 600.00	2	\$1,200.00
Upgrade W/C restraint system from "L" track floor securement to Slide -N- Click floor securement (ea.)	\$ 350.00	2	\$700.00
Wheelchair securement storage bags in lieu of "L" track storage mounted to side wall (ea.)	\$ 75.00	2	\$150.00
Upgrade W/C occupant shoulder belt to include adjustable securement in side/rear wall ilo fixed securement (ea.)	\$ 250.00	2	\$500.00
Dark limo tint on windows	\$ 575.00	1	\$575.00

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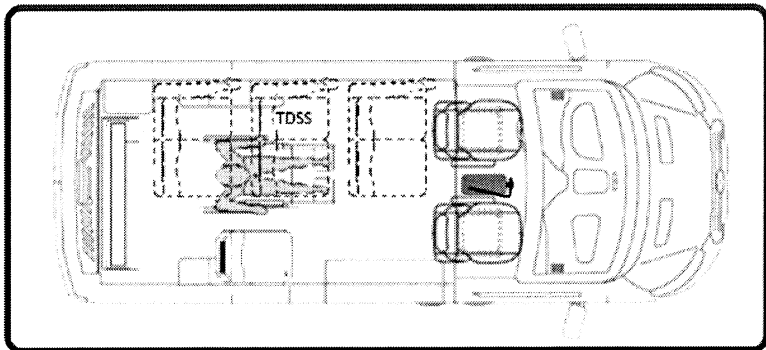
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VAN WITH
"OPTIONAL"
BUS DOOR



STANDARD SEAT PLAN WITH STANDARD VAN DOOR & ONE
WHEELCHAIR LOCATION



VEHICLE SPECIFICATIONS

Ford Transit K1C - 150 XL Medium Roof Wagon Chassis

3.7 Liter V-6 Gasoline Engine

6-Speed Automatic Transmission

130" Wheelbase Chassis

8,550 lbs. GVWR

AIR BAGS THROUGHOUT VAN FOR ALL PASSENGERS

STANDARD VAN SLIDER PASSENGER ENTRY DOOR

Driver side running board/step

Single Rear Wheels

Power Disc Brakes with 4-wheel ABS

(25) Gallon Fuel Tank

Ford 225 Amp. Alternator

ADA brake interlock system with high idle feature

Front and side turn signals/parking lights – wraparound

Front standard Ford OEM driver's air conditioner

Headlights on remote

Granite gray molded plastic door trim panels

Power Steering

Intermittent windshield wipers

White exterior

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(5) Year or 60,000 Miles Ford Chassis Warranty on Engine, Transmission & Powertrain

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Underseat Passenger Heater

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OEM Tinted Windows
Vehicle height decal
AM/FM Stereo with Four Speakers
Passenger entry door grab rail
Fire Extinguisher, First Aid Kit, Triangle Warning Devices, Seat belt cutter
Reflective tape on rear bumper
Roof mounted strobe light with guard & extra power wire
Fast idle kit
3 ignition keys
3 yr./36,000 mile Standard Ford Chassis Warranty
5 yr./60,000 mile Ford powertrain warranty
5 year Ricon Wheelchair Lift warranty
Solid White Paint Design

***** THIS VEHICLE DOES NOT MEET SCHOOL BUS SAFETY STANDARDS AND IS NOT TO BE USED IN A SCHOOL BUS APPLICATION**

***** THIS VEHICLE IS NOT TO BE USED IN A SCHOOL BUS APPLICATION**

STATE OF SOUTH CAROLINA BASE CONTRACT PRICE	\$ 45,979.00
S.C. SALES TAX	(+) \$ <u>500.00</u>
ADDITIONAL OPTIONS CHOSEN	\$ 23,490.00
TOTAL FINAL SELLING PRICE	\$ 69,969.00

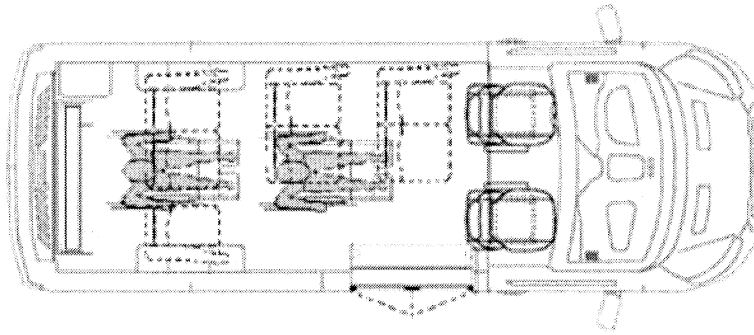
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Signed

Date

Per SC State Law, State Law – Title 11, Chapter 35 – Article 1 – Section 11-35-45, a late penalty is applicable if not paid within thirty (30) workdays after the acceptance of goods or services, not to exceed fifteen percent each year. The thirty-day period shall not begin until the agency, whether or not the agency processes vouchers through the Comptroller General, certifies its satisfaction with the received goods or services and proper invoice.

TN 1157 - 1164 Stock Units - SEAT PLAN FOR THIS VAN - 148 Wheelbase; High Roof; Bus Door; with (2) Wheelchairs



ADDITIONAL EQUIPMENT INCLUDED ON THIS VAN

Chassis GVWR Upgrade to 9,000 lbs. SRW (Required with Addition of Bus Door)	\$ 2,934.00	1	\$2,934.00
Chassis upgrade to 148" wheelbase (Required with Addition of Bus Door)	\$ 1,257.00	1	\$1,257.00
High Roof With Double Leaf Outward Opening Passenger Bus Entry Door (requires chassis GVWR & wheelbase upgrades)	\$ 6,845.00	1	\$6,845.00
Engine Upgrade to Ford Eco-Boost Gasoline Engine	\$ 1,950.00	1	\$1,950.00
24x48 Driver Shield Installed - Behind Driver and Front Passenger Seat	\$ 900.00	1	\$900.00
Cruise Control	\$ 825.00	1	\$825.00
Freedman "Go ES" Single Flip-fold Seat in lieu of rigid passenger seat (ea. pass.)	\$ 254.00	1	\$254.00
Grab handle for top of passenger seat (each)	\$ 75.00	4	\$300.00
Power Exterior Mirrors with Short Arm Power Folding and Heat	\$ 650.00	1	\$650.00
Upgrade to ACC 60K BTU A/C System with 880 CFM	\$2,800.00	1	\$2,800.00
Upgrade to BRAUN Wheelchair Lift	\$ 600.00	1	\$600.00
Add additional Std. Sure Lok wheelchair restraint system with "L" Track manually operated securement belts (ea.)	\$ 350.00	1	\$350.00
Upgrade STD. W/C floor securement belts from Sure Lok "L" Track manual system to Q-Strait MAX auto retractor system (ea.)	\$ 600.00	2	\$1,200.00
Upgrade W/C restraint system from "L" track floor securement to Slide -N- Click floor securement (ea.)	\$ 350.00	2	\$700.00
Wheelchair securement storage bags in lieu of "L" track storage mounted to side wall (ea.)	\$ 75.00	2	\$150.00
Upgrade W/C occupant shoulder belt to include adjustable securement in side/rear wall ilo fixed securement (ea.)	\$ 250.00	2	\$500.00
Dark limo tint on windows	\$ 575.00	1	\$575.00
Exterior Electronic Key Pad For Passenger Entry Door (only available with Bus Door option)	\$ 350.00	1	\$350.00
Roof vent/Escape Hatch	\$ 350.00	1	\$350.00

FFS Provider Short-Term Cash Flow Loan Parameters

- 1) DDSN will loan funds, interest free, to Providers meeting the following criteria as it relates to cash flow shortages caused by and as a direct result of the January 1, 2021 conversion to fee-for-service (FFS) for Bands B and I.
- 2) The Provider must be one of the DSN Boards previously serving as a Financial Manager for at-home consumers funded by the capitated contract as Band B and I.
- 3) The Provider must have an anticipated short-term cash flow shortage caused by the FFS conversion.
- 4) Providers needing assistance will provide the following evidence of needing it:
 - a. Provide a cash flow projection through the end of FY 2021
 - b. Provide details on existing lines of credit
 - i. Total line of credit amount
 - ii. Current balance
 - iii. Interest rate charged
 - c. Provide balance sheet and income statement
- 5) The maximum amount that can be borrowed is one month's operations (calculated based on 2020 audited financial statements and will not include unfunded liabilities in expense such as OPEB and Net Pension Liabilities).
- 6) The Provider must agree to go through a fiscal review of their operations by DDSN Finance/Internal Audit Team and agree to implement some or all of recommended operational adjustments sufficient to provide evidence of the ability to return to fiscal health.
- 7) The Provider must be able to explain what adjustments will be made, their anticipated fiscal impact, and the date of change. This process will provide evidence that the need for cash flow assistance is short-term and is being contained.
- 8) Repayment terms will vary based on each Provider's unique circumstances.
- 9) A promissory note/MOU will be executed by the parties and will be signed by the borrower's Executive Director and Board Chairperson.
- 10) All short-term loans recommended by DDSN Fiscal Staff will be subject to approval by the Finance and Audit Committee and/or the Commission prior to funding can be provided.
- 11) If a provider is denied access to a short-term loan they may appeal the decision to the State Director.
- 12) Quarterly detailed balance sheet and income statements will be required to be submitted until DDSN has determined that the Provider has done what it needed to do to return to fiscal health.

Mary Poole
State Director
Patrick Maley
Deputy Director
Rufus Britt
Associate State Director
Operations
Susan Kreh Beck
Associate State Director
Policy
W. Chris Clark
Chief Financial Officer



3440 Harden Street Extension
 Columbia, South Carolina 29203
803/898-9600
Toll Free: 888/DSN-INFO
Home Page: www.ddsn.sc.gov

COMMISSION
Gary C. Lemel
Chairman
Barry D. Malphrus
Vice Chairman
Robin B. Blackwood
Secretary
Eddie L. Miller
Stephanie M. Rawlinson
David L. Thomas

Reference Number:	200-01-DD
Title of Document:	Cash on Hand Maintained at the Residential Level
Date of Issue:	May 18, 1987
Effective Date:	May 18, 1987
Last Review Date:	February 18, 2021
Date of Last Revision:	February 18, 2021 (REVISED)
Applicability:	DDSN Operated Residential Programs; DSN Boards and Contracted Service Providers of Residential Services

I. PURPOSE

When those who reside in a Department of Disabilities and Special Needs (DDSN) sponsored residential setting are determined to need assistance to manage their money, it may be necessary to store residents' personal funds in the form of cash. This Directive explains specific control procedures for securely handling and preserving those funds.

Cash on hand is the amount money, based on the resident's Financial Plan that may be spent through cash purchases. Cash on hand is defined as the combination of:

- Cash personally held by the resident; and,
- Any additional cash that may be securely maintained on his/her behalf.

II. PROCEDURES

Proper internal controls are vital for protecting the personal funds of every individual who receives residential services from DDSN or from one of its providers. Accordingly, all of the internal controls listed below shall be followed by all providers of residential services:

A. Levels of Cash Maintained

1. A reasonable and prudent cash on hand maximum shall be set for each individual in the residence. The maximum should be based on his/her established financial goals or

priorities and documented in his/her Financial Plan. A resident's cash on hand maximum can only change when his/her Financial Plan is changed.

2. As part of the Financial Planning process, consideration should be given to both the appropriate amount of personally held cash and the appropriate amount of securely maintained cash for an individual, programmatically supported and documented in his/her Financial Plan. Based on the resident's abilities, preferences, priorities and financial goals, the maximum cash on hand for a resident may be less than or greater than \$50. The \$50 maximum should not be used as a default amount and applied to all residents.
3. Any time an individual's securely maintained cash on hand level reaches his/her established maximum, the excess shall be transferred to his/her checking or savings account for safekeeping.

B. Cash Security

1. A locking cash box (or other alternative means to secure the cash held) shall be maintained in a secure location at each residence for the sole purpose of securely and separately maintaining cash for use at each resident's discretion.
2. Access to the cash box shall be limited to staff who have been properly trained.
3. The cash ledgers must be kept in a locked area separate from the actual cash being maintained.
4. Each resident must be provided the means to safely secure their personally held cash on hand. As needed, residents must be taught to utilize the means provided and encouraged to do so.

C. Documentation of Withdrawals

1. Withdrawals for an individual's routine agreed upon disbursement amount as documented in the Financial Plan must be recorded on their cash ledger as "personal cash" and does not require receipts for monies spent.
2. If the amount to be disbursed to the resident will exceed the prior agreed-upon disbursement amount, the Financial Plan must be updated to support the new amount before the actual disbursement occurs.
3. All withdrawals that are not for "personal cash" will require a receipt for documentation. In the event that there is no receipt to support the transaction, then the person designated by the Executive Director of the provider must provide a signed note which explains what was spent, the item or service purchased, and the purchase date. The details will also be entered into the cash ledger.
4. All documentation (receipts or signed note) should be retained and attached to the cash ledger sheet when it is balanced as proof of the purchase.

D. Cash Ledger Sheets

1. Separate cash ledger sheets for each individual in the residence shall be maintained in a location separate from the securely maintained cash. An example of an adequate cash ledger sheet is shown in the Attachment to this Directive. Cash ledger sheets shall contain all of the following information:
 - a. Name and/or other identifying information so that it is clear to whom the cash belongs.
 - b. Transaction dates.
 - c. Cash amounts added/used.
 - d. Running balance of securely maintained cash.
 - e. Initials/signature of the staff member handling the transaction.
 - f. Initials/signature of the individual to whom the cash belongs or another staff member witnessing the transaction.
2. All cash ledger sheets shall be balanced regularly to the securely maintained cash for each individual in the residence. Balancing should be completed at least monthly, at a minimum, and be performed by a staff member who does not normally handle day-to-day cash transactions. Balancing shall be denoted on ledger sheets in the space provided or by writing “*Balanced on (date)*” followed by the staff member’s signature or initials. Staff should not sign the ledger sheets until after physically counting the money to verify that the records are correct and all cash is accounted for.
3. The person balancing the securely maintained cash ledger must review all documentation and compare to the ledger sheet. Documentation should be reviewed for appropriateness. Any documentation that appears to be inappropriate must be researched and the results of the research must be documented. If the research does not clarify the appropriateness of the transaction, then the occurrence must be reported in accordance with provider policy. In the event the cash does not balance or there is any suspicious activity, the occurrence must be reported in accordance with DDSN requirements pertaining to possible critical incidents (100-09-DD Critical Incident Reporting) or exploitation (534-02-DD Procedures for Preventing and Reporting Abuse, Neglect and Exploitation of People Receiving Services from DDSN or a Contract Provider Agency).

Barry D. Malphrus
Vice Chairman

Gary C. Lemel
Chairman

RELATED DIRECTIVES:

200-02-DD: Financial Management of Personal Funds

200-12-DD: Management of Funds for Individuals Participating in Community Residential Programs

To access the following attachments, please see the agency website page “Current Directives” at: <https://ddsn.sc.gov/providers/ddsn-directives-standards-and-manuals/current-directives>

ATTACHMENT: Cash Ledger for Funds Maintained at Residential Level

**CASH LEDGER FOR FUNDS MAINTAINED
AT RESIDENTIAL LEVEL**

PERSON'S NAME:

RESIDENCE:

DATE	DESCRIPTION	DEPOSIT	WITHDRAWAL	CURRENT BALANCE	RESIDENTIAL STAFF INITIALS	PERSON'S INITIALS
-----	<i>Balance brought forward</i>	-----	-----	\$	-----	-----

Ledger Sheet Balanced By: _____

Date Balanced: _____

Comments:

Mary Poole
State Director
Patrick Maley
Deputy Director
Rufus Britt
Associate State Director
Operations
Susan Kreh Beck
Associate State Director
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David L. Thomas

Reference Number:	200-09-DD
Title of Document:	Fees for Residential Services in Intermediate Care Facilities for Individuals with Intellectual Disabilities and Developmental Disabilities (ICFs/IID) Facilities
Date of Issue:	December 1, 1990
Effective Date:	December 1, 1990
Last Review Date:	February 18, 2021
Date of Last Revision:	February 18, 2021 (REVISED)
Applicability:	DDSN Regional Centers; DSN Boards and Contracted Service Providers Operating ICFs/IID

I. PURPOSE

The South Carolina Department of Disabilities and Special Needs (DDSN) is required to establish a cost of care contribution for those served in long-term care facilities such as Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs/IID). DDSN's authority for charging for its services was established by:

1. S.C. Code Ann. § 44-20-350, and
2. The South Carolina Department of Health and Human Services (DHHS) Medicaid Policy and Procedures Manual (DHHS Manual).

This Directive addresses only fees charged for residential services provided in ICFs/IID. Fees for residential services other than those provided in an ICF/IID are addressed in DDSN Directive 250-09-DD: Calculation of Room and Board for Non-ICF/IID Programs.

II. POLICY

A. FEES – ICF/IID PER DIEM

Residential services include room and board and all support services and programs provided as part of an ICF/IID program, except for certain medical services required for the health of an individual or for the medical determination of eligibility for an ICF/IID program.

The fee for residential services is a daily fee. The amount of the daily fee is the current ICF/IID per diem rate as approved in DDSN's Medicaid contract with DHHS. Application of the daily fee will vary depending on the payer, as explained below.

B. PAYERS

Residential services shall be billed in the following priority order:

1. To trusts and third-party insurance;
2. To the individual, as resources allow, and
3. To Medicaid, if the person is Medicaid eligible.

Determination of an individual's ability to pay shall be made according to the regulations governing Medicaid eligibility as outlined in the DHHS Manual. The determination shall be made based on the calculation of recurring income made by DHHS in accordance with an individual's application for Medicaid. This calculation shall be accepted without re-calculation by DDSN personnel. This amount of recurring income shall be used as the basis for DDSN billing a person unless a specific exception is approved, as described below in this Directive.

C. SIMILAR SERVICE RATES

The rate charged to DHHS for service to an individual shall never be greater than that charged for a similar service to someone who pays privately. Any and all amounts received by DDSN from DHHS for services in excess of those rates charged to anyone paying privately for similar services are subject to recoupment by DHHS through withholding and offset or any other appropriate means.

D. THIRD-PARTY LIABILITY

DDSN and community providers must make all reasonable efforts to pursue payment under any health insurance policy which covers the individual. Any insurance proceeds or payment must be shown on the Medicaid claim when submitted to DHHS. If DHHS has paid DDSN prior to receipt of the insurance payment, DDSN shall refund the DHHS payment up to the amount of payment made by DHHS. DDSN and community providers shall advise DHHS of any third-party payer information or resources within ten (10) calendar days of acquiring such information. DDSN and community providers shall make available all financial records necessary for DHHS or its designee to determine if third-party payments have been refunded to Medicaid. DDSN and community provider failure to collect available third-party payments may result in DHHS recoupment of such available payments from funds due to DDSN. DDSN reserves the right to recoup funds from community providers to the extent funds are recouped by DHHS for individuals they serve.

E. BILLINGS TO TRUSTS AND PRIVATE INSURANCE

Billings to trusts and insurance companies should be for the maximum allowable payment up to the full cost of care. If DDSN serves as trustee for an individual's funds, a bill should be submitted to DDSN to be paid through the Regional Banking System. If DDSN does not serve as trustee for an individual's trust, a bill should be sent to the trustee of record. Should an individual have insurance that pays for residential care, a bill shall be submitted to the insurance company. All billings will be handled by the DDSN staff person assigned the claims and collections duties at each Regional Center.

F. BILLINGS AGAINST PERSONAL ASSETS FOR MEDICAID ELIGIBLE INDIVIDUALS WITH RECURRING INCOME – CARE AND MAINTENANCE

If an individual is eligible for Medicaid and has resources sufficient to contribute to the cost of residential services, the individual shall be billed for each month of service. (See Section G for an explanation of factors that may affect this monthly billing.) The amount of this billing generally will not be adjusted on the basis of allowable days.

G. BILLINGS TO INDIVIDUALS NOT ELIGIBLE FOR MEDICAID

Individuals not eligible for Medicaid shall be billed at a fixed monthly rate based on the current Medicaid per diem rate. This fixed monthly rate shall be adjusted whenever the current Medicaid per diem rate is adjusted.

If an individual's financial assets are held by a parent, guardian, or other responsible party, the billing shall be submitted to that party.

H. BILLINGS TO MEDICAID FOR ELIGIBLE PEOPLE

Medicaid shall be billed for each allowable day an individual resides in an DDSN Regional Center or community based ICF/IID. The definition of an "allowable" day is determined by the Medicaid regulations found in the Nursing Home, Home and Community-Based Services, and General Hospital Chapter of the DHHS Manual. Bed hold days will be billed in accordance with the DHHS Manual. Unallowable days shall not be billed.

I. OTHER MATTERS

1. Partial Month Billings

When an individual is admitted to or discharged from an ICF/IID, the billings shall be adjusted to reflect a partial month. This partial month adjustment does not apply to situations that involve therapeutic leave, as allowed by the DHHS Manual.

2. Maximum Accumulation Level for Medicaid Eligibility

To prevent disruption of Medicaid eligibility, staff responsible for assisting individuals with their financial management shall monitor each individual's available resources to ensure that their

accumulated resources do not exceed the amount allowed under Medicaid eligibility guidelines. Current income limits may be found on the DHHS website.

Staff responsible for assisting individuals with their financial management should contact the individual's Interdisciplinary Team when his or her resources approach the maximum level. All countable resources must be carefully identified in accordance with the "Guide for Organizational Representative Payees." The Interdisciplinary Team should first determine if the individual has unmet personal needs. If such a need exists, the purchase(s) should be made, thus ensuring that the individual's funds are initially expended on personal needs. Staff should consider other uses of countable resources such as prepaid burial contracts, burial savings accounts, funding of a Palmetto ABLE Savings Program account, funding of a trust, etc. If, after all personal needs and other permitted uses of resources have been exhausted, an individual still has excess resources, the individual may become ineligible for Medicaid for a period of time. During that period, full cost of care shall be charged. The amount paid on this billing must be sufficient to bring the individual's resources below the maximum asset level. Actual amounts to be paid shall be determined by the regional staff assigned claims and collections duties.

3. Personal Needs Allowances

Each individual, whether they are Medicaid eligible or not, shall retain a portion of income from Social Security, Supplemental Security Income, wages, and other sources for personal needs. This is referred to as their "personal needs allowance." An individual's monthly resources, up to the personal needs maximum, must not be applied to residential or other DDSN billings.

The amount of the personal needs allowance is determined as follows:

Personal Needs Allowance	<ul style="list-style-type: none">• \$100 – Work Therapy Allowance – if the institutionalized individual participates in a work therapy program as a part of the plan of care; or• \$30 – Standard Allowance – if the institutionalized individual does not participate in a work therapy program.
Note: Individuals receive the \$30 personal needs allowance from countable income in addition to any excluded income such as VA Aid and Attendance or the \$90 reduced VA pension.	

4. Individuals with Earned Income – Work Therapy Allowance

If an individual has earned income from work activities or other sources during a month, that individual may retain his or her total income (from both earned and unearned sources) up to the Work Therapy Allowance level of \$100. An individual's monthly income, up to this level, may not be applied to residential or other DDSN billings.

In calculating the funds to be retained by an individual, earned income after taxes and other withholdings shall be used. (NOTE: This is different from DHHS calculations.) This will result in a smaller amount of billings, but it is consistent with the intention of this directive which is to encourage each individual to realize monetary benefit from their work efforts. As a result of using net wages to determine the amount of funds to be retained, income tax returns shall be filed for all individuals who have had income taxes withheld. The DDSN Regional Finance Director,

or community personnel responsible for assisting individuals with their finances, shall assign responsibility for the completion of personal income tax returns for these individuals. The amount of refunded taxes, up to the difference in billings created by using net wages, shall be billed to the individual after his or her tax refund has been received. Any tax refunds received must be forwarded to the Regional Bank.

5. Receipt of Social Security Back Payments

When an individual receives a Social Security “back payment,” the funds shall be used first to maximize the individual’s personal needs allowance for the past 12 months. (See table below for an example of maximizing a personal needs allowance.) Based on the example below, due to back payment received, \$196 would be given to the individual to “maximize” their personal needs allowance for the last 12 months. Then, if there is any outstanding care and maintenance receivable balance, the back payment shall be applied to that balance. If after correcting personal needs allowances and paying any care and maintenance owed, the entire back payment is not used, the individual shall retain the remaining balance. If this balance gives the individual sufficient resources so that he or she may be determined Medicaid ineligible, the resources shall be used in accordance with permitted uses outlined in this Directive.

EXAMPLE OF MAXIMIZATION OF AN INDIVIDUAL’S PERSONAL NEEDS ALLOWANCE				
MONTH	TYPES OF INCOME THIS MONTH	MAXIMUM PERSONAL NEEDS ALLOWANCE	PERSONAL NEEDS ALLOWANCE RETAINED	DIFFERENCE
1	Unearned	\$ 30.00	\$ 30.00	\$ 0.00
2	Unearned	\$ 30.00	\$ 25.00	\$ 5.00
3	Earned & Unearned	\$ 100.00	\$ 43.00	\$ 57.00
4	Earned & Unearned	\$ 100.00	\$ 58.00	\$ 42.00
5	Earned & Unearned	\$ 100.00	\$ 100.00	\$ 0.00
6	Earned & Unearned	\$ 100.00	\$ 100.00	\$ 0.00
7	Earned & Unearned	\$ 100.00	\$ 98.00	\$ 2.00
8	Earned & Unearned	\$ 100.00	\$ 100.00	\$ 0.00
9	Unearned	\$ 30.00	\$ 0.00	\$ 30.00
10	Unearned	\$ 30.00	\$ 0.00	\$ 30.00
11	Unearned	\$ 30.00	\$ 0.00	\$ 30.00
12	Unearned	\$ 30.00	\$ 30.00	\$ 0.00
			TOTAL	\$ 196.00

6. DDSN as Representative Payee

In cases where a parent or other responsible party has been designated by the Social Security Administration (SSA) as Representative Payee for an individual entering a DDSN Residential Program, it is DDSN’s policy and the intent of the SSA that the entire benefit amount received be spent for the benefit of the individual. If a Representative Payee cannot demonstrate to the

Interdisciplinary Team the proper use of these funds for the individual's benefit, DDSN or the community ICF/IID provider shall request to become Representative Payee for the individual.

7. Waiver of Fees

DDSN is authorized to vary the amount of residential service fees if there is programmatic need for additional funds associated with a planned move of an individual to another residential setting. If an adjustment to waive all or a portion of residential fees is required, a request for a waiver with justification should be forwarded by the Interdisciplinary Team through the Regional staff assigned the claims and collections duties to the DDSN Finance Director located at Central Office. The request will be reviewed and considered for approval. If the waiver is approved, it shall be limited to a maximum of six (6) months. Upon approval or denial, the waiver request will be returned to the Regional staff assigned claims and collections duties, who shall in turn forward a copy to the appropriate unit to be placed in the individual's permanent file. The program plan supporting the waiver should be reviewed by the Interdisciplinary Team and the Regional staff assigned claims and collections duties every six (6) months while the waiver is in effect to determine if there is a continued need.

Barry D. Malphrus
Vice Chairman

Gary C. Lemel
Chairman

RELATED DIRECTIVE:

250-09-DD: Calculation of Room and Board for Non-ICFs/IID Programs

Special Committee on Communications Report

Date of Report: February 18, 2012

Scope of the Committee:

The Special Commission Communications was approved by the Commission on January 21, 2021 to include the following scope:

The Communications Committee is focused on preparations and actions across areas of public image to include visibility, professional appearance of meetings, and branding. While not an exhaustive list, these categories encompass the selection and development of the following: Commissioner/Commission name plates, name tags, meeting tablecloths, state seal usage, logo review, hospitality for meetings, website page appearance, social media features, vehicle license plates, plaques, and onboarding initial contact/orientation materials.

Justification for Committee Actions:

Strong, modern branding and communications can visually strengthen a reputation, build creditably and trust with consumers, families, legislators and the community, and bring pride to employees and providers who work tirelessly to serve, protect and advocate for people with disabilities. For government agencies, branding is about managing and strengthening how constituents see them: what is their reputation? How do they make people feel? What assumptions do people have about them? A strong government brand strategy sets the tone for constituents to effectively know who they are, what services they provide, and how they are a trustworthy source of information and support.

The Committee members recognize this and will seek opportunities to strengthen the reputation of DDSN through simple branding and communication tools that for some reason has been overlooked by DDSN leadership as important or necessary. For a state agency that serves the most vulnerable population in our state, it's important that we have clear, modern and professional branding that effectively communicates to the public at the very least what Commissioners do, who we represent and why we serve. One of the reasons Commissioners serve is to strengthen DDSN's reputation and build trust with the public, which directly reflects on the office of the SC Governor whom Commissioners serve under. We saw simple, more effective ways of sharing information about the commissioners on existing DDSN online tools that the public could easily access and have noted below some general branding suggestions for the agency to consider.

Budget Request:

Upon approval of the Commission, the Communications Committee would like to direct staff to purchase the following:

- 10 black tablecloths and 2 tablecloths with logos not to exceed a budget of \$1,300.00 total.
- One gold seal for the conference room not to exceed \$250.00.

- One door sign to identify when the room is reserved for Commission use at \$13.00 each.

Total Requested for Approval of Purchasing: \$1,563

*Additionally, plaques for departing Commission members should not exceed \$75.00 each.

Website:

The Commission page on the website can be updated to look similar to the SCDOT Commission page. Each Commissioner will need to provide Kim McLeod a professional headshot and a short bio of 200 words or less. If you do not already have a head shot, Kim McLeod can take it for you. Once the information is gathered and sent to the IT Department, they can provide a timeline for completion.

**House Legislative Oversight Committee Report on DDSN's
17 Recommendations & DDSN's Corresponding "Actions" (updated 2/3/2021)**

#1: Expand Potential Pool of Direct Care Professionals

Recommendation #1: The Department of Disabilities and Special Needs should seek funding to create a grant program or incentives for providers to expand the pool of Direct Care Professionals through shadowing programs, recognition programs, grassroots campaigns and training efforts designed to expand awareness about the profession and encourage greater participation by potential employees, specifically students preparing to graduate high school.

DDSN Action #1: Program development is 70% complete. In partnership with the SC Department of Education, a 2020 program pilot consisting of two high school sites provided DSP training to 26 students. These students received the SC Basic DSP Certification from SC DDSN. Due to COVID, the complete practicum and DSP State exam could not be fully implemented due to school facility closure in March 2020. The full program will be implemented this school year in the two sites by June 2021. Efforts are on-going for curriculum development and for site expansion to other areas across the state.

#2: Provide Progress Report the Committee

Recommendation #2: The State Director should report to the Committee in six months regarding changes implemented as a result of the Legislative Oversight process and the agency's internal improvement processes. This update should also include the status of additional mechanisms of feedback from stakeholders.

DDSN Action #2: This recommendation pertained to the Oversight Committee adopting all of DDSN's internal 44 improvement recommendation set forth in a DDSN letter to Chairwomen Henderson, dated 8/28/2018. These 44 recommendations represented the thrust of DDSN's change efforts flowing from the House Oversight Review. **Attachment A** to this document is a copy of the aforementioned DDSN letter to Chairwomen Henderson setting forth these 44 recommendations followed by DDSN updated "Action" taken and status (complete or in-progress).

#3: Expand Commissioner Training

Recommendation #3: The Department of Disabilities and Special Needs should further develop training for new Commissioners, including expanded onboarding and continuing education.

DDSN Action #3: DDSN's new personalized onboarding process emphasizes numerous 1:1 briefings by the State Director with new Commissioner's to accelerate knowledge, understanding, and comfort level to be in a position to better engage, direct, and lead executive staff. This process also permits the new Commissioner to make better informed decisions within a DDSN's highly complex operations with many stakeholders. The system, is contingent on the new Commissioner making an appointment to meet with the director assigned to each module. DDSN has built an annual cycle of strategic objectives, tactical objectives, and outcome measures culminating in the Annual Accountability Report to benefit both Commission oversight and external stakeholders. Further, DDSN has built an Enterprise Performance Management System mapping all key processes and functions which then generates monthly/quarterly reporting on Key Performance Indicators to further provide insight into operations for Commissioners through formal briefings and ad hoc requests.

#4: Review Agency Regulatory Environment

Recommendation #4: The Commission should undertake a complete review of the agency's regulatory environment, including existing and needed regulations. If that review reveals regulations that should be promulgated, amended, or repealed, the Commission should proceed through the procedures in Title 1, Chapter 23 of the South Carolina Code of Laws, related to state agency rulemaking.

DDSN Action #4: Complete; see memo dated 2/20/2019 analyzing DDSN's regulatory environment.

#5: Amend DDSN's Suggested Changes to Existing Regulations

Recommendation #5: The Committee should formally communicate to the House Regulations and Administrative Procedures Committee that the Commission on Disabilities and Special Needs has reviewed some regulations and determined they should be amended. This study will be available as a resource whenever the Commission promulgates new regulations or proposes amendments to existing regulations.

DDSN Action #5: Complete. Addressing these 13 regulation edits was rolled into above recommendation #4 pertaining to a complete review of the agency's regulatory environment.

#6: Create a Cabinet Agency

Recommendation #6: The General Assembly should consider making the Department of Disabilities and Special Needs a cabinet agency. Specifically, the Governor, with the advice and consent of the Senate, should appoint the agency head. In addition, the Commission on Disabilities and Special Needs should continue to exist in an advisory capacity. All responsibilities currently assigned to the Commission, should devolve to the Department.

DDSN Action #6: This recommendation is to the General Assembly. During the 2019 Session, Senate Scott introduced bill S. 8, which was referred to the Medical Affairs Committee. No action has been taken; it currently has expired. DDSN has not been asked to provide input since the HLOC review of DDSN.

#7: Develop Criteria for Commission Membership

Recommendation #7: The General Assembly should consider amending S.C. Code Ann. § 44-20-210 to establish knowledge and expertise criteria for membership on the Commission on Disabilities and Special Needs.

DDSN Action #7: During the 2019 session, Representative Taylor introduced bill H.3824, which was referred to 3-M Committee. It has since expired. During the 2021 session, Representatives Taylor and Newton introduced H. 3181. It was referred to the Committee on Labor, Commerce and Industry on Jan. 12, 2021.

#8: Redefine Role of County Boards

Recommendation #8: The General Assembly should consider amending S.C. Code Ann. § 44-20-30 such that the county disabilities and special needs boards serve in an advisory capacity to the county director. All responsibilities currently assigned to county boards, including hiring of the county director, should devolve to the Department. The county disabilities and special needs board office should become a county office of the Department of Disabilities and Special Needs.

DDSN Action #8: This recommendation is to the General Assembly. DDSN has not been asked to provide input since the HLOC review of DDSN.

#9: Clarify Entities Providing Services -- S.C. Code Ann. § 44-20-370 (A)

Recommendation #9: The General Assembly should consider amending S.C. Code Ann. § 44-20-370(A) to reflect that services are offered through private qualified providers as well as county DSN boards. In addition, the Committee recommends the agency develop a definition of “qualified provider,” for inclusion in Title 44, Chapter 20 of the S.C. Code of Laws.

DDSN Action #9: In February 2019, DDSN provided the HLOC recommendation to its General Assembly oversight committees (Senate Medical Affairs Committee & House Medical, Military, Public and Municipal Affairs Committee) to be considered along with DDSN’s commitment and subject matter expert contacts to support the legislative process. In early 2020, both Committees re-contacted to offer any support needed. Contact will be made again during 2021 Session.

#10: Repeal Self Sufficiency Fund -- S.C. Code Ann. § 44-28-10 through § 44-2880

Recommendation #10: The General Assembly should consider repealing S.C. Code Ann. § 44-28-10 through § 44-28-80 because the fund was not established and in 2016, the General Assembly established the South Carolina ABLE savings program, which serves the same purpose, and is made possible by the federal Achieving Better Life Experience Act.

DDSN Action #10: In February 2019, DDSN provided the HLOC recommendation to its General Assembly oversight committees (Senate Medical Affairs Committee & House Medical, Military, Public and Municipal Affairs Committee) to be considered along with DDSN’s commitment and subject matter expert contacts to support the legislative process. In early 2020, both Committees re-contacted to offer any support needed. Contact will be made again during 2021 Session.

#11: Repeal Disability Trust Fund -- S.C. Code Ann. § 44-28-310 through § 44-28370

Recommendation #11: The General Assembly should consider repealing S.C. Code Ann. § 44-28-310 through § 44-28-370 because the fund was never established and in 2016, the General Assembly established the South Carolina ABLE savings program, which serves the same purpose.

DDSN Action #11: In February 2019, DDSN provided the HLOC recommendation to its General Assembly oversight committees (Senate Medical Affairs Committee & House Medical, Military, Public and Municipal Affairs Committee) to be considered along with DDSN’s commitment and subject matter expert contacts to support the legislative process. In early 2020, both Committees re-contacted to offer any support needed. Contact will be made again during 2021 Session.

#12: Make Definitions of Intellectual Disability Consistent -- S.C. Code Ann. § 44-23-10 (22)

Recommendation #12: The General Assembly should consider amending S.C. Code Ann § 44-23-10(22) so that the definition of intellectual disability is consistent with the definition in S.C. Code Ann. § 44-20-30(12).

DDSN Action #12: In February 2019, DDSN provided the HLOC recommendation to its General Assembly oversight committees (Senate Medical Affairs Committee & House Medical, Military, Public and Municipal Affairs Committee) to be considered along with DDSN’s commitment and subject matter expert contacts to support the legislative process. In early 2020, both Committees re-contacted to offer any support needed. Contact will be made again during 2021 Session.

#13: Replace Mental Deficiency with Intellectual Disability -- S.C. Code Ann. § 44-25-20(g)

Recommendation #13: The General Assembly should consider amending S.C. Code Ann. § 44-25-20(g), to replace “mental deficiency” and its definition with “intellectual disability” and its definition as stated in S.C. Code Ann § 44-20-30(12). In addition, the Committee recommends that “mental deficiency” be replaced with “intellectual disability” throughout Title 44, Chapter 25.

DDSN Action #13: In February 2019, DDSN provided the HLOC recommendation to its General Assembly oversight committees (Senate Medical Affairs Committee & House Medical, Military, Public and Municipal Affairs Committee) to be considered along with DDSN’s commitment and subject matter expert contacts to support the legislative process. In early 2020, both Committees re-contacted to offer any support needed. Contact will be made again during 2021 Session.

#14: Correct Inconsistency with Federal Fair Housing Law -- S.C. Code Ann. §6-29-770

Recommendation #14: The General Assembly should consider amending S.C. Code Ann. § 6-29-770 to remove the requirement that notice be given for a home for persons with disabilities, as it violates federal Fair Housing Laws.

DDSN Action #14: In February 2019, DDSN provided the HLOC recommendation to its General Assembly oversight committees (Senate Medical Affairs Committee & House Medical, Military, Public and Municipal Affairs Committee) to be considered along with DDSN’s commitment and subject matter expert contacts to support the legislative process. In early 2020, both Committees re-contacted to offer any support needed. Contact will be made again during 2021 Session.

#15: Adjust Priority List of Persons Who Can Make Health Care Decisions -- S.C. Code Ann. §44-66-30(A)

Recommendation #15: The General Assembly should consider amending S.C. Code Ann. § 44-66-30(A) to give DDSN last priority in health care decisions for persons unable to consent, as “a person given authority to make health care decisions for the patient by another statutory provision.” Section 44-26-40, § 44-26-50, and § 44-26-60(C) should all be amended to refer to the correct priority number in § 44-66-30.

DDSN Action #15: During the 2019 session, Representative Taylor introduced bill H.3825 to address this issue in the House and Senator Young introduced bill S.529 in the Senate. H3825 had a hearing in the 3-M Health and Environmental Affairs Sub-Committee on March 20, 2019. Both bills were consolidated and amended state law effective 7/1/2019.

#16: Add Day Program To -- S.C. Code Ann. §43-35-10(4)

Recommendation #16: The General Assembly should consider amending S.C. Code Ann. § 43-35-10(4) to include day programs in the definition of “facility” in the Omnibus Adult Protection Act.

DDSN Action #16: During the 2019 session, DDSN provided the HLOC recommendation to its General Assembly oversight committees (Senate Medical Affairs Committee & House Medical, Military, Public and Municipal Affairs Committee) to be considered along with DDSN’s commitment and subject matter expert contacts to support the legislative process. In early 2020, both Committees re-contacted to offer any support needed. Contact will be made again during 2021 Session.

#17: Definition of Facility Require Sharing of Case Disposition with Agency - S.C. Code Ann. § 43-35-60

Recommendation #17: The General Assembly should consider amending S.C. Code Ann. § 43-35-60 to require investigating agencies to share specific abuse, neglect, or exploitation case dispositions with the relevant state agency.

DDSN Action #17: During the 2019 session, DDSN provided the HLOC recommendation to its General Assembly oversight committees (Senate Medical Affairs Committee & House Medical, Military, Public and Municipal Affairs Committee) to be considered along with DDSN's commitment and subject matter expert contacts to support the legislative process. In early 2020, both Committees re-contacted to offer any support needed. Contact will be made again during 2021 Session.

ATTACHMENT A



Patrick Maley
Interim State Director
Rufus Britt
Interim Associate State Director
Operations
Susan Kreh Beck
Associate State Director
Policy
Lisa Weeks
Interim Associate State Director
Administration

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August 28, 2018

Chairwoman Phyllis J. Henderson
Healthcare and Regulatory Subcommittee, House Legislative Oversight Committee
522B Blatt Bldg.
Columbia, South Carolina 29201

Re: Department of Disabilities and Special Needs' (DDSN) Recommendations;
House Legislative Oversight Committee Performance Evaluation of DDSN

Dear Chairwoman Henderson,

DDSN is effective in accomplishing its mission of serving persons with intellectual disabilities, autism, head & spinal cord injuries, and conditions related to each of these disabilities. DDSN's service delivery system supports 40,339 eligible consumers with 24,622 consumers currently receiving services. However, DDSN is under stress to keep up with service needs, adequacy of provider reimbursement rates, and improve infrastructure efficiencies to support its efforts.

The below recommendations are structured into eight major issues and corresponding recommendations; a ninth issue/recommendation area encompasses 22 individual improvement initiatives; and a tenth area reports on the results of DDSN's five "internal initiatives" set forth in its May 2017 initial interrogatory to the House Legislative Oversight Committee. The ordering of the recommendations below does not infer a priority order inasmuch as all recommendations need to be addressed.

The below recommendations may appear voluminous, but the agency is recovering from a period of management tentativeness from many years of friction with a variety of stakeholders. Friction can be viewed as negative, but it can also stimulate needed positive change. Getting all the issues "on the table" in detail for complete transparency tends to unite; focuses energy on problem solving; and breaks the cycle of ruminating on past friction points and moving forward. Clear targets creates the transparency for high expectations and accountability to support and motivate the agency towards progress/results. DDSN has opportunities to improve effectiveness primarily through management improving its systems and processes to better support those operating within the service delivery system.

A concern in preparing these DDSN recommendations is the risk of hamstringing incoming State Director Poole's latitude in assessing DDSN's challenges differently, as well as approach to address. In state government, if an agency agrees to do something, it is somehow perceived to be etched in stone forever and must be carried out regardless of the actual changing operational conditions on the ground. I disagree, and I suggest the House Legislative Oversight Committee

would as well. Agencies need a plan, but plans are expected to be periodically revisited and nimbly changed as conditions dictate, to include a new leaders' differing views on issues and solution approaches. Agencies just need to be accountable to justify the "why" for the change and move out in the adjusted direction.

As an aside, one of DDSN's issues has been developing high altitude static strategic plans, but management has been reluctant or lethargic to convert substantial portions of these strategic plans into actionable tactical plans from which to be held accountable. There is no reluctance to commit in this memo. A commitment to a specific, transparent, and measurable plan is needed at this time to regain some of the lost confidence and trust from stakeholders.

ISSUE #1: DDSN's most significant organizational issue is a deficient capitated payment system supporting community service providers known as the "band system." This payment system causes a multitude of problems to include:

- Lack of transparency in non-actuarially based band payments causes systemic distrust and dissatisfaction by providers, advocates, and consumers.
- Lack of residential service standards for staffing (direct care; nurses; 1st line supervisors) prevents establishing appropriate funding levels. Additionally, a lack of a formal/auditable process to establish transparent and accountable staffing levels (mandatory or provider developed) creates a risk of understaffing—proper staffing is the primary factor impacting the health, safety, and welfare of consumers.
- Time consuming and lengthy cost settlement process undermines having recent and reliable data for consideration to adjust the system and justify possible rate increases.
- Does not maximize opportunity for more state funds to obtain Medicaid match.
- Does not incorporate a consumer needs assessment tool to adjust funding to match a consumer's acuity; this is increasingly reducing access for higher needs consumers.
- Undermines DDSN's quality assurance mission by consuming too much time and relationship goodwill with providers on payment issues.
- The band benefits (i.e., vacancy rates, Medicaid ineligible risk, Medicaid billing, capital needs) can be duplicated, if so desired, in a simpler fee-for-service model except for the prospective payment.

RECOMMENDATION #1: DDSN will address its current payment system weaknesses through an evidence based process incorporating stakeholder input and industry best practices. In June 2018, Mercer Healthcare Consultants (Mercer) initiated a review of the DDSN payment system, which includes stakeholder input and incorporating national best practices. Mercer will produce a report due in the Fall 2018 recommending future payment system options to meet the needs of the DDSN service delivery system. Equally important, nearly all stakeholders have arrived at the conclusion the DDSN payment system has to be substantially changed, which is critical to support such a system-wide endeavor. Further, Mercer will update all SC DHHS service rates with DDSN via a second formal report in early 2019.

DDSN ACTION: DDSN conducted an internal assessment recommending DDSN transition from its capitated band system to FFS. The assessment's conclusion was approved by both the DDSN Executive Management and the Commission, which was set forth in a DDSN letter (8/28/2018) to the House Oversight Committee stating, "DDSN's most significant organizational issue is a deficient capitated payment system supporting community service providers known as the "band system." This payment system causes a multitude of problems." The Mercer report confirmed DDSN's internal report and was released in September 2019. DDSN converted Waiver Case Management to fee-for-service (FFS) on 7/1/19. DDSN converted at-home services to FFS on 1/1/21. DDSN's planning to convert residential bands to FFS has been ongoing and expected to be completed in 1-2 years. DDSN can't move forward until SCDHHS revises its rate schedule to provide individual rates for each residential setting.

ISSUE #2: DDSN's most significant operational issue is recruiting/retaining direct care workers at regional centers and in residential community settings. Regional centers wobble between barely manageable to a near crisis as illustrated by currently experiencing a 44% turnover rate. Residential providers' problem has more variability across the state, but turnover still ranges from 20% to 40+%. Adequate staffing levels generally require over-reliance on overtime. This stress on the direct care staff has escalated since 2015. Historically, direct care staffing is challenged during economic

upswings and tends to resolve when the economy slows. However, given the hiring pool demographics and the need for direct care workers throughout the healthcare field as baby boomers age, DDSN cannot rely on an economic downturn as a solution. Short-term plans and long-term plans are needed to ensure direct care staffing meets quality staffing level thresholds with sufficient capacity to lower overtime causing burnout and turnover. We have to continue to work the issue as a crisis.

RECOMMENDATION #2a: DDSN will continue to pursue direct care wage improvements through the legislative appropriation process sufficient to create a full and stable workforce to meet the needs of consumers.

DDSN ACTION: DDSN's FY2020 budget request to increase direct care by \$1/hour was approved and appropriated. This was the 3rd year of a three year strategy.

RECOMMENDATION #2b: DDSN will pursue a career track for direct care, to include a tiered wage system to promote professional advancement and retention.

DDSN ACTION: The first building block of DSP professional advancement career track is DDSN's joint venture with the Department of Education (SCDOE) to establish a DSP high school curriculum and certification to provide immediate employment into \$13/hour jobs with benefits and create a qualified hiring pool of candidates. A pilot was launched in August 2019 at the York County Comprehensive High School (technical school) with Maxibility (York County DSN Board). 24 students enrolled. It was a successful program. As soon as COVID-19 clears, this program will be added to other parts of the state.

The tiered wage system was held in abeyance. Providers hesitant of a central mandate and much more interested in securing the 3rd year of the \$1/hour DSP "across the board" increase. Given all the other FFS changes ongoing, pursuing this idea was deemed not appropriate at the current time.

RECOMMENDATION #2c: DDSN will pursue the use of technology and corresponding policies to support consumers and mitigate the gap in hiring/retaining direct care workers for the foreseeable future.

DDSN ACTION: The first waiver renewal since this report is the upcoming IDR renewal due on 1/1/21. Adding technology to the service array is actively being reviewed and considered.

RECOMMENDATION #2d: DDSN will solidify formalized targeted staffing levels in Regional Centers and the future community residential payment system rates should incorporate staffing level requirements based on consumer acuity.

DDSN ACTION: A formal DSP & nurse target staffing levels (TSL) have been established in Regional Centers.

Consumer acuity will play a role in community residential rates and staffing expectations. It will be pursued during calendar year 2021 and developed into a waiver amendment when fully planned, approved by the Commission, and approved by SCDHHS.

RECOMMENDATION #2e: In conjunction with the development of a new/modified payment system, DDSN will re-examine its portfolio of services and policies with an emphasis on making adjustments consistent with the future likelihood of challenges in hiring/retaining direct care workers.

DDSN ACTION: This recommendation has the same solution/action as recommendation #2c above, which was to leverage technology to lower the stress on the available DSP workforce.

RECOMMENDATION #2f: DDSN will continue to support, mature, and potentially expand a grass roots direct care professional training program provided through a local technical college.

DDSN ACTION: DDSN has established a program with SC Department of Education to strategically place DSP certification curriculum in high schools to increase DSP pool and provide career opportunities for high school students upon graduation.

RECOMMENDATION #2g: DDSN will examine its policies and practices to proactively identify community setting opportunities to serve Regional Center consumers.

DDSN ACTION: DDSN has asked for new high management beds (28) in residential settings in FYs 20 & 21. These requests were not appropriated, which would have assisted addressing this issue. DDSN is seeking 28 new residential beds in its FY22 budget request pending.

DDSN has re-engineered its Critical Needs List (CNL) process to add standardization, objectivity, and a rigorous placement assessment to ensure existing finite resources are used in an optimal manner serving those most in need, to include Regional Center consumers entering the community.

RECOMMENDATION #2h: DDSN will start contingency planning beyond obtaining additional wage increases for direct care workers to safely staff Regional Centers to meet the needs of consumers if the direct care hiring/retention crisis is not reversed.

DDSN ACTION: With FY20 new appropriations, DDSN developed a 12-bed triage residential building at Midlands Regional Center. DDSN made contingency plans to move a building from Whitten, which has the highest DSP shortages over the past several years. This plan was executed in late summer 2020 after Whitten's staffing was negatively impacted by COVID-19. DDSN has intentionally lowered Regional Center census from 647 to 631 during COVID-19 as staffing challenges have increased.

ISSUE #3: DDSN management needs to mature its capabilities to be more proactive with emphasis on a system/process improvement approach to problem solving. General business acumen training needs include factoring financial implications into operation and policy decisions; greater use of information to manage; and enhanced involvement in developing internal operating budgets and contributions to the agency's annual legislative budget requests. In short, DDSN tends to have a reactive posture rather than leaning forward towards continuous improvement.

RECOMMENDATION #3a: DDSN will establish a formal management training program to develop its management in a structured manner in both management/business acumen skills and a continuous improvement management philosophy. Much of DDSN's real and perceived reactive crisis management style can be traced to a lack of management investment in planning and system/process improvement to prevent problems from occurring.

DDSN ACTION: Executive staff was trained in leadership/management through a formal training (PowerPoint available). However, implementation was hands on work with the management team to map major processes and engage managers in process improvement. All major processes have been mapped and monthly/quarterly recurring reporting has been developed with "key performance indicators" to support a continuous improvement organization. Further, an annual enterprise strategy and project improvement system has been built to keep managers engaged in developing their focus, initiative, and skills for continuous improvement.

Implemented agency-wide personnel management training program and completed implementation/compliance with basic personnel management through the state's Employee Personnel Management System (EPMS). All employees' plans will have the same cycle to simplify administrating and training, which coincides with the agency's fiscal year.

RECOMMENDATION #3b: DDSN will redirect audit resources from community contract audits to conduct internal operational audits to provide assurance of effective operations through adequate objectives, process mapping, management information systems, and controls/performance measures.

DDSN ACTION: Internal Audit has helped DDSN through many improvement projects in the past several years and its new role was formalized by the Commission in the Fall 2020 to redirect resources to Central Office issues.

ISSUE #4: There have been legislative hearings, proposed legislation, and public debate as to the proper organizational structure to support DDSN’s mission, to include as a cabinet agency, a component of SC DHHS, or remain as a Commission.

RECOMMENDATION #4: DDSN recommends continuing its mission in its current structure as an independent Commission. A Commission form of governance permits heightened involvement by the families, stakeholders, and consumers through seven volunteer citizen leaders to ensure DDSN executes its mission with excellence to meet the complex needs of a highly vulnerable population. A single mission agency also creates the needed focus to support our highly vulnerable population.

The Commission recognizes stress in the DDSN delivery system over the past several years has caused some to question the proper organizational structure to support its mission. The Commission believes the stress was natural and needed as a precursor to stimulate deep change in DDSN due to complacency as well as resistance to change and transparency. The Commission’s interventions has led to a new State Director being selected along with healthy executive staff turnover, a noticeably calmer operating environment with stakeholders, and management’s proactive posture to engage issues backed up in the system as evident by the recommendations in this memo. The Commission believes its form of governance with greater stakeholder and citizen access and responsiveness can more reliably stimulate positive change than a more bureaucratic form of governance.

DDSN ACTION: Outside of the recent legislative oversight agency reviews, DDSN has not provided any data or be asked to provide testimony on this topic.

ISSUE #5: DDSN does not have a systematic approach to performance management across the agency; some work units lack relevant performance measures or inadequate information to support operational/performance management. DDSN has lost a level of trust and confidence from a variety of stakeholders in the manner it executes its mission, both financially and operationally, as illustrated with legislative oversight questioning the agency’s information accuracy.

RECOMMENDATION #5: DDSN will operate in a more evidenced based manner through the continued use and maturing of its Enterprise Performance Management process and ensure public performance reporting to demonstrate transparency and accountability with accurate and reliable information to its many stakeholders.

DDSN ACTION: DDSN has completed its “1.0” model for an Enterprise Performance Management system (EPM). The purpose of EPM is:

- Performance feedback to work unit supervisor and staff (**most important**);
- “Insight into operations” to sort out the complexity of an operation to ensure staff & supervisor understand how all their activities combine into a tangible result(s) (cost/quantity/quality/time), as well as permits the entire chain of command to understand the key components within key operations & identify early signs of potential issues;
- Work unit accountability and budget justification, as well as a focused tool to simplify maintaining adequate oversight by all levels of management;
- Feeds into risk identification;
- Maintain due diligence organizational control/oversight of \$700 million and 2000 employees to ensure its strategies are achieving intended results (provide a steering wheel & gauges to inform issues and potential actions);
- Enables Commissioners to robustly fulfill their statutory oversight fiduciary duties to citizens, stakeholders, and taxpayers;

- Enables DDSN to meet its SC statutory legal test to, “*establish objectives to accomplish the mission and performance measures that show the degree to which objectives are being met...link program expenditures to key financial and performance results measures.*” (Annual Accountability Report); and
- Ready reference tool to obtain accurate key operational & performance data needed on a day-to-day basis for internal analysis or external reporting. This reporting negates many ad hoc data requests because the reports will be sufficiently current & accurate to meet the vast majority of issues/questions or at least establish a firm starting point for additional inquiry.

Monthly reports include: a) DDSN Eligibility-IDRD, HASCI, EI; b) DDSN Eligibility-Autism; c) Environmental Modifications; d) Waiver Administrative Division; e) Waiver Enrollment; f) HR Personnel On-Board; g) HR Regional Center DSP Recruiting & Hiring; h) Regional Center Budget Execution; i) Regional Center DSP & Nurse Staffing; j) Critical Needs List; k) Residential Placement & Vacancy; l) FY Year-to-Date Expenditures; m) Risk Management; and o) Service Utilization.

Quarterly reports include: a) Abuse, Neglect, and Exploitation; b) Community Provider Performance/Risk Matrix; c) DDSN Eligibility & Consumers Served; d) INFOSEC; e) Facility Management Capital and Maintenance; and f) ICF Risk Matrix from DHEC Reporting (Under Development).

ISSUE #6: DDSN does not have a formalized project management process, which has contributed to a pattern of both real and perceived under-performance in implementing major initiatives.

RECOMMENDATION #6: DDSN will establish a formal project management process for longer term agency-wide initiatives to ensure proper operational planning, proactive communication plans, and timely execution.

DDSN ACTION: DDSN has established a SharePoint site to integrate project management, EPM, and key reference documents. DDSN has established a standard project management template for key long-term projects. DDSN has established a briefing methodology for the entire executive management team more effectively track, monitor, and brief key projects. DDSN has develop a FY project list used to track projects’ progress throughout the FY.

ISSUE #7: DDSN has experienced an inching up of Abuse, Neglect, & Exploitation (ANE) indicators over the past four years, particularly with providers serving high needs consumers. The uptick of these ANE indicators is not a function of inadequate ANE policies or management deficiencies to keep "predator" employees out of the system. Rather, it is a function of "real world" economic factors eroding direct care professionals' (DSP) capacity & capabilities, while the consumer population's increasing behavioral needs require DSPs with higher skill levels. DDSN’s lack of required acuity based direct care staffing standards also contributed to this situation. This is not a crisis, however this capability “gap” is building pressure/stress in the delivery system driving the uptick. This is a national challenge not unique to South Carolina.

RECOMMENDATION #7a: DDSN will continue to deploy and refine its Residential Observation Audit technique to make unannounced residential setting visits to 25% of all settings (approximately 350/annually) and provide monthly reporting to the Commission. Of the first 147 residential settings audited, over 200 consumer and 170 staff (370 total) were interviewed; not one interview reported an ANE climate risk or a report of a previously unreported ANE allegation—most importantly, the consumers felt safe.

DDSN ACTION: The Residential Observation tool has continued and upgraded effective 7/1/20.

RECOMMENDATION #7b: DDSN will continue a robust participation in the National Core Indicators Program (NCI). The NCI has produced annual reports for 20 years and is considered the highest quality measurement tool in the Intellectual Disability service arena. The NCI survey obtains DDSN consumer input through interviews conducted by independent interviewers on wide variety of service areas. In Fiscal Years 15-17, South Carolina providers distinguished themselves in the area of consumer safety by being consistently rated at or near the top on four key safety questions compared to 32 other states.

DDSN ACTION: FY 18 NCI report just released in March 2019. DDSN scored extremely well on the two consumer safety questions, to include the best score in one question (*“Have someone to go to for help if they ever feel scared”*—99% yes).

RECOMMENDATION #7c: DDSN will continue to pursue wage enhancements for direct care workers and establish residential staffing standards based on acuity in its anticipated new payment system to address the current direct care capability gap.

DDSN ACTION: DDSN received its third \$1/hour increase in its FY20 budget, which completed this three year strategy.

RECOMMENDATION #7d: DDSN will develop a formal process to collect “lessons learned” from ANE arrests.

DDSN ACTION: The State Director has established a monthly risk management meeting pertaining to all risks with emphasis on ANE in the community and Regional Centers. DDSN published its first ANE lesson’s learned document in January 2019 regarding ANE arrests during FY 2018. Quarterly bulletins will flow from the data collected in monthly statewide risk meetings. The information will includes lessons learned and preventative measures to lower the risk of similar incidents.

RECOMMENDATION #7e: DDSN will develop statewide policy and awareness training to address direct care workers’ reaction to non-compliant/volatile consumer behaviors which precedes nearly 2/3rd of all ANE incidents leading to an arrest.

DDSN ACTION: Complete. Quarterly provider risk updates disseminated and monthly enterprise risk meetings occurring with outcomes.

RECOMMENDATION #7f: DDSN will examine the direct care worker duties and compliance requirements, which have aggregated overtime. These increased duties may be undermining direct care workers habitative responsibilities, which, in turn, lessons the direct care workers’ ability to positively impact consumers’ behaviors and prevent situations escalating into ANE incidents.

DDSN ACTION: DDSN has reorganized its approach to quality management by creating a Risk Management Department containing its existing Quality Measurement Unit and adding a Quality Improvement Unit. This new unit will take existing measurements indicating deficiencies and translate into aggressive actions to address via training or process improvements. This complex issue has not been addressed to date.

RECOMMENDATION #7g: DDSN will develop recurring safety bulletins based on lessons learned from ANE incidents, particularly vignettes (without attribution) from actual incidents to stimulate learning and continual awareness.

DDSN ACTION: This has been addressed in #7d above.

ISSUE #8: DDSN has determined 22 existing South Carolina statutes impacting the agency would benefit from revisions or elimination to assist the agency in accomplishing its mission.

RECOMMENDATION #8: DDSN requests these 22 SC statutes modifications or eliminations as set forth in Attachment A be adopted by the House Legislative Oversight Committee for legislative action.

DDSN ACTION: The 22 SC statute modification or eliminations were proposed to the House Legislative Oversight Committee (HLOC) in the Fall 2017. Based on the HLOC final recommendations in November 2018, all statute changes have been addressed with two in pending bills, nine hand-carried referrals to appropriate legislative committee, and two on how to position DDSN in the state organizational structure not addressed because it is not in DDSN’s lane.

Per HLOC recommendation #4, DDSN also conducted a review of its regulatory environment, which determined 94.2% of DDSN's \$672 million FY 17/18 budget pertained to Medicaid contracts through SC DHHS. In addition to the external Medicaid non-negotiable requirements, DDSN needs flexibility to timely change its contract requirements with providers to accommodate the unique and complex needs of our consumers, as well as our provider network, which is inconsistent with the time requirements for promulgating and amending regulations. DDSN identified four discrete areas where regulations were feasible without undermining operational effectiveness. These areas were: Eligibility; Research Protocols; Licenses for Community Based housing for Adults; and Appeals of state funded services. DDSN has started the process to establish these regulations through a notice to the General Assembly.

ISSUE #9: DDSN established a defensive posture for many years based on a variety of factors, which has led to a tentativeness to proactively address issues. Improvement initiatives to address backlogged operational issues include:

RECOMMENDATION #9a: DDSN will develop a residential setting building capacity and funding strategy for high needs consumers, as well as timely execution of appropriations to restore legislative confidence. Strategy will include establishing triage beds to address critical cases; enhanced tracking/measuring system capacity, needs, and placement times; and develop a legislative appropriation strategy to better communicate this critical need to justify a consistent future funding stream to keep pace with residential setting needs.

DDSN ACTION: DDSN has revamped its Critical Needs List (CNL) process to add standardization, objectivity, and formal placement assessments to ensure existing finite resources are used in an optimal manner serving those most in need. DDSN has built an accurate tracking/measuring system addressing bed capacity and the critical needs list through a monthly report. DDSN has built a 12-bed triage facility at Midlands Regional Center.

RECOMMENDATION #9b: DDSN will conduct a risk based review of licensing, contract review, residential observations, ANE Program (ANE; CI; Deaths), and other provider contract controls to identify opportunities to lesson or eliminate existing controls and corresponding administrative burden. A critical analysis will yield substantial risk mitigation and administrative cost/burden savings by combining higher quality controls to support the elimination of redundant controls or controls with a low cost/benefit.

DDSN ACTION: The project planning has been complete. This will be presented to the Commission in a work session in the Spring 2021.

RECOMMENDATION #9c: DDSN will implement a Waiver enrollment improvement plan to speed enrollment processing times, reduce the waiting list, and restore confidence to legislative appropriators of DDSN's ability to effectively execute budget enhancements.

DDSN ACTION: DDSN's proposed plan has been accepted by SCDHHS. It will be presented to the Commission in the Spring 2021 and hopefully implemented shortly thereafter. The main ingredients are two-fold. First, require an individual be Medicaid eligible prior to obtaining a waiver slot to enroll. Second, require an individual to have obtained the proper disability assessment prior to obtaining a waiver slot. There are a few other nuanced changes to further speed this process to potentially be completed in 45 days rather than the current 6 months.

RECOMMENDATION #9d: DDSN will compare Regional Center requirements and current budgets to assess adequate funding, equity between centers, and basis for legislative budget request for maintenance of effort resources.

DDSN ACTION: Nurse staffing levels were at approximately 85% of target staffing level (TSL) needs. As a result, 29 additional LPN nurses are needed in DDSN's Regional Centers at a cost of approximately \$700,000.

An analysis of the direct care staffing shortages at Whitten (26%) and Coastal (28%) would require 71 (\$2.3 million) and 50 (\$1.6 million) direct care worker (\$3.9 million), respectively. Currently, the lack of funding does

not need legislative appropriations because, fortunately or unfortunately, Regional Centers have no expectations of sufficient candidates to address these shortages. Midlands and Pee Dee have challenges, but are at the 90+% staffing level.

DDSN maintains maintenance reserves in the form of CPIPs to address Regional Centers' maintenance components that have failed or near failure. However, the funding has not kept up with delayed maintenance short of a crisis, particularly in the interior of the facilities. Delayed maintenance estimate at the four centers is estimated at \$8.6 million with \$5.9 million as a top tier need. The highest priority needs, Tier 1, include such items as electrical grids at Midlands and Coastal, as well as basic interior upkeep such as flooring, furniture, remodeling bathrooms, food service chillers, buses, vans, wheelchairs, hospital beds, blinds, security cameras, campus lighting, gym bleachers, building door/window frames, PT equipment, drainage, and degraded HVACs.

Based on budget analysis, the Regional Centers need rebalancing to provide an equitable starting point for each despite lacking 100% funding for all of its needs. Most importantly, Regional Centers need to have their revenue (ICF Medicaid & client fees) protected from being consumed by other DDSN community delivery system needs via the bands. This will permit the Regional Centers to meet its own needs and avoid creating a guaranteed "one way" settlement with SC DHHS.

RECOMMENDATION #9e: DDSN will develop an "at-risk" inspection protocol by subject matter experts for suspected "failed" residential settings based on Alliant residential observations triggering an "at-risk" inspection. The DDSN Quality Management process understands providers' service levels may fluctuate due to a variety of short-term factors which DDSN can address through traditional audit findings, provider corrective action plans, and technical assistance. However, DDSN does not have a process to address major "failed" residential settings in a manner that both addresses operational deficiencies and addresses provider management's failure to deter similar situations in the future. Additional emphasis needs to be placed on a strategy to improve residential providers systemically on the low end of performance scores.

DDSN ACTION: Complete—the tool was developed during a review of Mentor during 2020. It has subsequently been used on a second provider. DDSN has identified other providers as candidates for this review.

RECOMMENDATION #9f: DDSN will establish at least a \$2 million annual cost settlement escrow account, which has not been done in the past six years creating a contingent liability likely in excess of \$20 million.

DDSN ACTION: DDSN completed its FY 15/16 cost settlement calculation which requires approximately \$1.7 million payback, which is much less than estimated. With five cost settlements pending and using a one-way settlement methodology, DDSN will had additional paybacks, but the \$20 million estimate looks more like a ceiling than an estimated liability. DDSN's net revenue and costs are currently estimated to be zero during FY 19, but any excess revenue (cash) will be escrowed to reserve for this future known liability. As of 2/2/21, DDSN finally has reversed its financial position with adequate reserves to meet most, or a good portion, of any liability developed.

RECOMMENDATION #9g: DDSN will re-engineer its Comprehensive Permanent Improvement Plan (CPIP) capital account funded with ICF consumer fees to minimize excessive capitalization of routine maintenance needs in CPIP preventative maintenance accounts. This prevents unhealthy stockpiling of unused resources; streamlines project prioritization/execution; and improves capacity to execute through delegation of smaller maintenance projects to Regional Centers.

DDSN ACTION: DDSN has established a formal quarterly meeting and report to review CPIP projects and Regional Center maintenance needs. This permitted DDSN to logically wind down CPIP over-funding through maintenance CPIPs and annual consumer fees for maintenance needs. This objective was completed in FY2020.

DDSN has stopped the practice of establishing maintenance CPIPs. The May 2017 SPIRS balance was approximately \$7.7 million dollars. Since that time, CPIPs have been closed, with the 12/31/2018 Treasury

balance of \$2.4 million from closed projects and accumulated interest. The 12/31/2019 SPIRs balance was \$5.3 million, of which \$1.8 million encumbered in pending contracts or obligations. This leaves an available unencumbered balance of \$3.5 million in CPIP funds.

The quarterly meetings requires all Regional Center input. Expenditures in excess of \$25,000 requires both the CFO and ASD Operation approval to ensure funding is targeted at the highest priority needs based on a prioritization list developed through the quarterly reporting/meetings. Delegation of funding has been increased to Regional Centers during the FY. The goal DDSN is moving towards is integrating annual operating funding through internal Regional Center budgets, CPIP funds, and annual consumer fee revenue stream into one system. Then, have one pragmatic master maintenance/capital improvement plan tied to a reasonably projected revenue stream.

RECOMMENDATION #9h: As an interim step to whatever future payment system is approved by the Commission, DDSN will conduct a feasibility study to relieve DSN Boards' as fiscal agents for in-home waiver bands (Band B – ID/RD; Band I – CS) with this function being absorbed by the Central Office Accounting Division. If feasible, this will achieve three outcomes: 1) relieve DSN Boards of this increasingly complex administrative function; 2) simplify QPL billing; and 3) convert \$17 million in residual state funds in B & I Bands not generating a Medicaid reimbursable match to be available to provide initial funding of Mercer community rate increases due in early 2019.

DDSN ACTION: Complete—at-home bands converted to FFS on 1/1/21 and Board Financial Managers no longer have this responsibility.

RECOMMENDATION #9i: DDSN will develop a specific program to lower the current average census of 25 consumers at Correct Care (state funded locked facility) through building additional dedicated community residual high needs capacity (Medicaid match). A reasonable goal would be to remove 15 current Correct Care consumers at a total net service savings of \$1.8 million per year, as well as improve the quality of services for these 15 consumers.

DDSN ACTION: FY 2019 started with approximately 27 Correct Care consumers and the current census is 17.

RECOMMENDATION #9j: DDSN will review all non-service expenses, assess value, and prioritize; appears historical approach has been to renew prior FY's commitment without assessing value and compare to other needs, particularly given limited funds in this area.

DDSN ACTION: DDSN staff conducted contract performance reviews in January & February 2019, which resulted in a complete review by the entire executive staff in early March 2019. Of the \$3.2 million review, \$1.3 million will be eliminated and another \$600,000 will be reduced through specific program reforms. Final reduction plan submitted to the Commission in June 2019 and the reductions began in FY2020.

RECOMMENDATION #9k: DDSN will pursue pre-file legislation prior to the next legislative session to address ambiguity in the Adult Health Care Consent Act.

DDSN ACTION: In early 2019, bills were introduced in both the House and Senate to address the AHCA Act issue. An acceptable amendment to the AHCA ACT was passed into law effective 7/1/2019.

RECOMMENDATION #9l: DDSN will decentralize budget execution from currently residing almost exclusively with the Associate State Director for Administration to other Associate State Directors. Decentralized decision making will make better tradeoffs and more timely decisions when operating within clear resource constraints. This will be particularly beneficial for Central Office and Regional Centers to improve clarity in fixing roles, responsibilities, and accountability to both establish initial FY budget allocations and execution throughout the FY.

DDSN ACTION: Budget roles and responsibilities have been clarified between Regional Centers and Central Office. ASD Operations own all four Regional Center budgets with the requirement to operate within the overall budget. Most importantly, a formal budget development process between Regional Centers and Central Office will occur each June prior to the start of each FY to set an equitable, fact-based Regional Center budget prior to the start of the FY.

RECOMMENDATION #9m: DDSN will develop a mechanism to improve communications with community providers focusing on standardized format, authority level to send, targeted distribution email lists, and a one webpage repository.

DDSN ACTION: In November 2018, DDSN launched a new process (DDSN Executive Memos) to disseminate important information to community providers using a standardized format, authority level to send, targeted distribution email lists, and a one webpage repository.

RECOMMENDATION #9n: DDSN will identify all residential consumers Medicaid ineligible for over 12 months to identify issue(s), which will lead to developing policy to minimize this situation and future occurrences; currently 91 non-Medicaid residential consumers create the opportunity cost loss of \$4.5 million in Medicaid match reimbursements annually.

DDSN ACTION: The project started with 102 state funded residents. 41 have been converted to Medicaid at an annually recurring savings of \$2 million state funds. 22 have been determined to be permanent state funded due to legacy admission without an ability to meet level of care or disability designation. 39 are still be worked. Most importantly, procedures have been adjust to prevent admitting non-Medicaid eligible individuals into waiver services to “close the barn door.”

RECOMMENDATION #9o: DDSN will review Respite Program delivery; respite is key to serving families, yet access and service availability is still an issue.

DDSN ACTION: DDSN Internal Audit and the Respite Program Manager initiated a review of this program in January 2019 which was completed in April 2019. The program has a variety of issues hindering the program’s overall effectiveness. Results can generate immediate short-term improvements, but the problems also require consideration for major program changes to simplify, improve access, quality control, and speed to on-board respite workers. Triage changes have been made and a current proposal for comprehensive change has completed waiting review.

RECOMMENDATION #9p: DDSN will conduct a staffing and capabilities assessment of its financial operations, which have incrementally eroded since the 2010 recession creating a significant organizational risk, particularly with the unique knowledge base required to operate or modify the capitated band system.

DDSN ACTION: DDSN has conducted the analysis. A new CFO position was added to permit the executive to focus on financial matters and three additional financial personnel in preparation for entering fee-for-service. The initial CFO selection has since retired and the new CFO is perhaps the most experience CPA with the band system and the entire DDSN financial system. Lack of band payment system knowledge of the entire system and its idiosyncrasies continues to be a high risk, and retaining personnel with this knowledge is a priority.

RECOMMENDATION #9q: DDSN will review the individual employment program for opportunities to address current areas of ineffectiveness through training, policies, active monitoring, and authorization controls.

DDSN ACTION: Program improvements included establishing a standard activity based reporting system in Therap, formalized performance standards, and training. In FY2020, performance data will be collected by provider to establish statewide benchmarks to target technical assistance and options for contract modification to address low performing providers. The long-term strategy is to develop adequate data to support a fixed fee model to pay for placement results to further strengthen accountability for results.

RECOMMENDATION #9r: DDSN will ensure Autism Program’s eligibility process benchmarks are solidified and training/consulting resources targeted towards DDSN’s core mission. Increase cost effectiveness of Autism residential settings operated by DDSN through filling vacancies or contract with a provider to serve these consumers; if DDSN retains operations, consider moving this function from the Policy Division to the Operations Division.

DDSN ACTION: Autism Eligibility process has established performance benchmarks along with monthly performance reports. Autism consultants have been reassigned to Operations to move away from a teaching/awareness mission and redundancy in providing services already on the statewide Medicaid plan. Their new mission will be for direct support of DDSN consumers and Critical Needs List triage/admission. Autism residential settings (6) will also be reassigned to Operations to bring these houses into compliance with community provider standards. The Autisms private office space in Spartanburg is being closed and the few remaining personnel are being relocated to available space at Whitten at a savings of \$60,000/year.

RECOMMENDATION #9s: DDSN will revitalize the environmental modification process to reduce backlog from high of 200 in early 2018. Additional system refinements needed to coordinate or simplify operational execution between two divisions.

DDSN ACTION: Complete -- Responsibility has been fixed with HASCI Division and staffing increased by two new FTEs with home construction remodeling and CAD drawing system experience. Environmental Modification Program provides a monthly performance report. This program at its worse had a pending backlog of 151 projects with an estimated 3.2 year wait. Adding two dedicated FTEs has currently dropped pending projects to 136 with an estimated wait time of 1.9 year. The unit averages completing 60 projects annually. Waiver participants still have option to have their case manager coordinate these projects so projects can start without delay.

RECOMMENDATION #9t: DDSN will build infrastructure to support new Commission initiative to review new policy and recurring three-year policy updates on a quarterly basis in an efficient. Policies will be stratified by priorities to ease processing by stakeholders.

DDSN ACTION: The new Commission policy process was implemented in the Summer 2020.

RECOMMENDATION #9u: DDSN will shift all employees to a universal performance review cycle (July 1 to June 30) to improve accountability, training, quality, and integrate into an annual equitable assessment to consider personnel merit increases.

DDSN ACTION: Employees converted to the new Employee Performance Management System with a common review cycle coinciding the DDSN’s fiscal year.

RECOMMENDATION #9v: DDSN will examine Early Intervention Program to ensure consumers eligible for Medicaid become enrolled to maximize Medicaid reimbursement; in the recent past, Medicaid enrollment has dropped from 80% to currently at 65%.

DDSN ACTION: This has been informally reviewed without convincing results. SCDHHS implemented a number of changes to improve BabyNet Medicaid eligibility which were supposed to increase these same children entering DDSN’s EI program with a higher Medicaid eligibility percent—it has not worked. This issue remains on Operations’ FY21 Project List to address.

The recommendations contained in this letter have been approved by the DDSN Commission.

Thank you in advance for your consideration of DDSN's recommendations. I am available 24/7 to discuss further and provide any clarifications needed.

Sincerely,

Patrick J. Maley
Interim State Director

Legislative Oversight Committee

Study of the Department of Disabilities and Special Needs *November 2, 2018*



FULL COMMITTEE OPTIONS STANDARD PRACTICE 13	FULL COMMITTEE ACTION(S)	DATE(S) OF FULL COMMITTEE ACTION(S)
(1) Refer the study and investigation back to the Subcommittee or an ad hoc committee for further evaluation; (2) Approve the Subcommittee’s study; or (3) Further evaluate the agency as a full Committee, utilizing any of the available tools of legislative oversight	Study Available for Consideration Study Presentation, Discussion, and Approval	October 5, 2018 October 23, 2018 with opportunity for Members to provide comments open until November 2, 2018

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AGENCY SNAPSHOT

Department of Disabilities and Special Needs

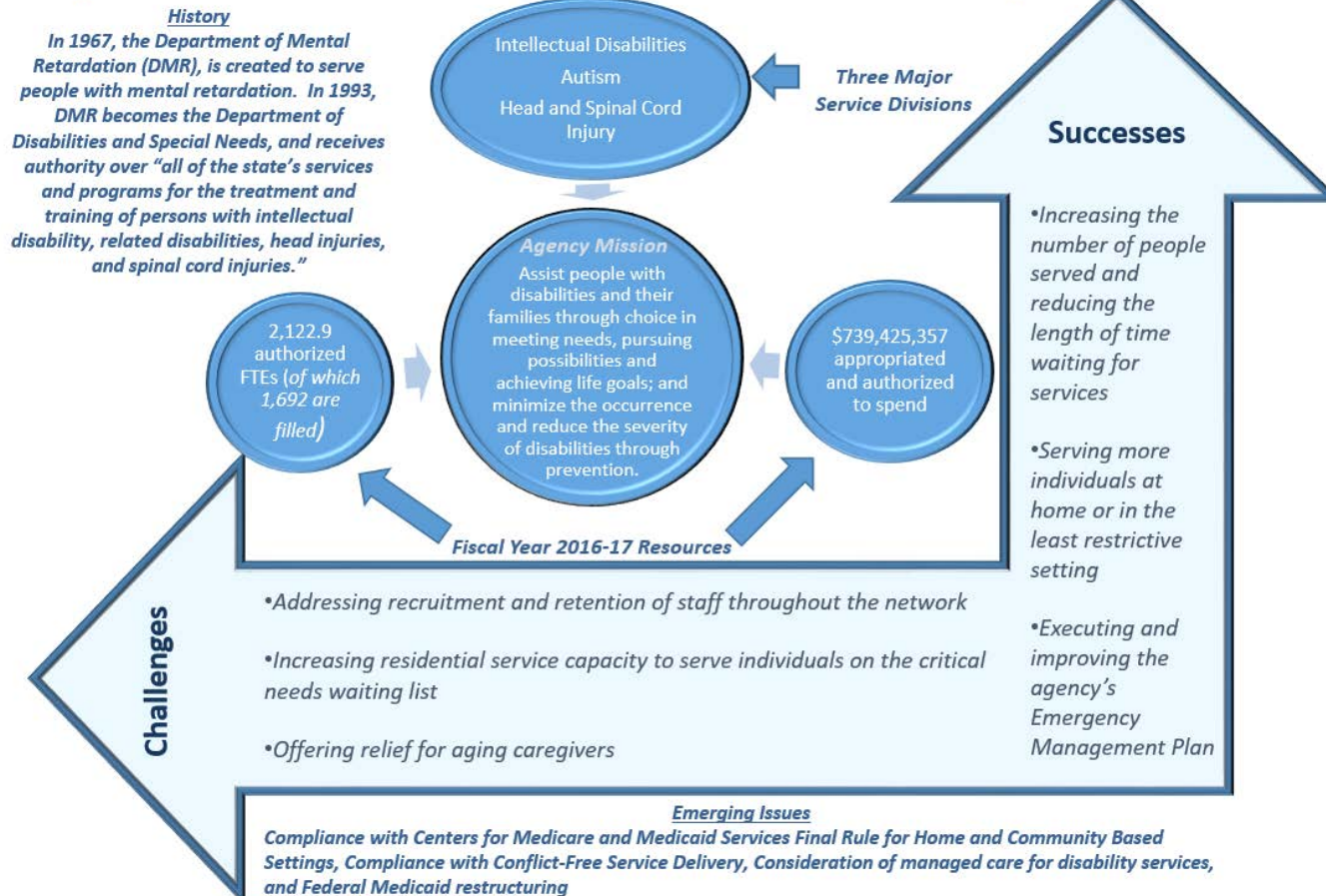


Figure 1. Snapshot of agency that includes its history, mission, resources, successes, challenges, and emerging issues. Challenges, successes, and emerging issues presented are identified by the agency.¹

EXECUTIVE SUMMARY

Purpose of Oversight Study

As stated in S.C. Code of Laws § 2-2-20(B), “[t]he **purpose of these oversight studies** and investigations is to **determine if agency laws and programs** within the subject matter jurisdiction of a standing committee: (1) **are being implemented** and carried out **in accordance with the intent of the General Assembly; and (2) should be continued, curtailed, or eliminated.**” In making these determinations, the Committee evaluates (1) the application, administration, execution, and effectiveness of the agency’s laws and programs, (2) the organization and operation of the agency, and (3) any conditions or

circumstances that may indicate the necessity or desirability of enacting new or additional legislation pertaining to the agency.²

Study Process

The House Legislative Oversight Committee’s (Committee) process for studying the Department of Disabilities and Special Needs (DDSN, agency, or Department) includes actions by the full Committee; Healthcare and Regulatory Subcommittee (Subcommittee); the agency; and the public. A summary of the key dates and actions are listed below in Figure 2.

Legislative Oversight Committee Actions

- January 10, 2017 - Prioritizes the agency for study
- January 18, 2017 - Provides agency with notice about the oversight process
- February 9, 2017-March 13, 2017 - Solicits input from the public about the agency in the form of an online public survey
- March 2, 2017 - Holds **Meeting 1** to obtain **public input** about the agency
- October 23, 2018 - Holds **Meeting 10** to receive a **presentation of, discuss, and approve the study**

Healthcare and Regulatory Subcommittee Actions

- September 18, 2017 - Subcommittee holds **Meeting 2** to discuss agency **history, governance, services, and customers**
- October 10, 2017 - Subcommittee holds **Meeting 3** to discuss **agency finances and responses to questions** from September 18, 2017 meeting
- October 24, 2017 - Subcommittee holds **Meeting 4** to continue to discuss **agency finances and responses to questions** from the September 18, 2017, and October 10, 2017 meetings
- November 6, 2017 - Subcommittee holds **Meeting 5** to discuss **human resources and responses to questions** from the October 24, 2017 meeting
- November 30, 2017 - Subcommittee holds **Meeting 6** to receive testimony from the **Department of Health and Human Services, Vocational Rehabilitation Department, and directors of Disabilities and Special Needs Boards and other providers**
- February 1, 2018 - Subcommittee holds **Meeting 7** to receive testimony about an **internal review of the provider payment system**
- July 30, 2018 - Subcommittee holds **Meeting 8** to receive testimony about the agency’s **performance management**
- August 30, 2018 - Subcommittee holds **Meeting 9** to discuss **study recommendations**

Department of Disabilities and Special Needs Actions

- March 2015 - Submits its **Annual Restructuring and Seven-Year Plan Report**
- September 2016 and 2017 - Submits its **Annual Accountability Reports**, which serve as its **Annual Restructuring Reports**
- May 1, 2017 - Submits its **Program Evaluation Report**
- September 2017 - August 2018 - Meets with and **responds to Subcommittee’s inquiries**

Public’s Actions

- February 9, 2017-March 13, 2017 - Provides input about agency via **online public survey**
- March 2, 2017 - Provides **testimony** to the full Committee
- Ongoing - **Submits written comments on the Oversight Committee’s webpage** on the General Assembly’s website (www.scstatehouse.gov)

Figure 2. Summary of key dates and actions of the study process.

Recommendations

The **Committee has 17 recommendations** arising from its study of the agency. These recommendations fall into four categories: (1) recommendations to the Department of Disabilities and Special Needs; (2) recommendations to the Commission on Disabilities and Special Needs; (3) recommendations to the Committee; and (4) recommendations to the General Assembly.

Table 1. Summary of recommendations arising from the study process.

Recommendations to the Department of Disabilities and Special Needs	
Direct Care Professionals	1.) The Department of Disabilities and Special Needs seek funding to create a grant program or incentives for providers to expand the pool of direct care professionals through shadowing programs, recognition programs, grassroots campaigns and training efforts designed to expand awareness about the profession and encourage greater participation by potential employees, specifically students preparing to graduate high school.
Agency Progress Report	2.) The State Director should report to the Committee in six months regarding changes implemented as a result of the Legislative Oversight process and the agency's internal improvement processes.
Commissioner Training	3.) The Department of Disabilities and Special Needs should further develop training for new Commissioners, including expanded onboarding and continuing education.
Recommendation to the Commission on Disabilities and Special Needs	
Regulations	4.) The Commission on Disabilities and Special Needs should undertake a complete review of the agency's regulatory environment, including existing and needed regulations. If that review reveals regulations that should be promulgated, amended, or repealed, the Commission should proceed through the procedures in Title 1, Chapter 23 of the South Carolina Code of Laws, related to state agency rulemaking.
Recommendation to the House Legislative Oversight Committee	
Regulations	5.) The Committee should formally communicate to the House Regulations and Administrative Procedures Committee that the Commission on Disabilities and Special Needs has reviewed some regulations, and determined they should be amended. This study will be available as a resource whenever the Commission promulgates new regulations or proposes amendments to existing regulations.
Recommendations to the General Assembly	
Cabinet Agency	6.) The General Assembly should consider making the Department of Disabilities and Special Needs a cabinet agency. Specifically, the Governor, with the advice and consent of the Senate, should appoint the agency head. In addition, the Commission on Disabilities and Special Needs should continue to exist in an advisory capacity. All responsibilities currently assigned to the Commission, should devolve to the Department.
Criteria for Commission Membership	7.) The General Assembly should consider amending S.C. Code Ann. § 44-20-210 to establish knowledge and expertise criteria for membership on the Commission on Disabilities and Special Needs.
Role of County Boards	8.) The General Assembly should consider amending S.C. Code Ann. § 44-20-30 such that the county disabilities and special needs boards serve in an advisory capacity to the county director. All responsibilities currently assigned to county boards, including hiring of the county director, should devolve to the Department. The county disabilities and special needs board office should become a county office of the Department of Disabilities and Special Needs.
Service Providers	9.) The General Assembly should consider amending S.C. Code Ann. § 44-20-370(A) to reflect that services are offered through private qualified providers as well as county Disabilities and Special Needs (DSN) boards. In addition, the Committee recommends the agency develop a definition of "qualified provider," for inclusion in Title 44, Chapter 20 of the S.C. Code of Laws.
Self-Sufficiency Fund	10.) The General Assembly should consider repealing S.C. Code Ann. § 44-28-10 through § 44-28-80 because the fund was not established and in 2016, the General Assembly established the South Carolina ABLE savings program, which serves the same purpose, and is made possible by the federal Achieving a Better Life Experience Act.
Disability Trust Fund	11.) The General Assembly should consider repealing S.C. Code Ann. § 44-28-310 through § 44-28-370 because the fund was never established and in 2016, the General Assembly established the South Carolina ABLE savings program, which serves the same purpose.
Intellectual Disability Definition	12.) The General Assembly should consider amending S.C. Code Ann § 44-23-10(22) so that the definition of intellectual disability is consistent with the definition in S.C. Code Ann. § 44-20-30(12). ³⁴

	13.) The General Assembly should consider amending S.C. Code Ann. § 44-25-20(g), to replace “mental deficiency” and its definition with “intellectual disability,” as defined in S.C. Code Ann § 44-20-30(12). In addition, the Committee recommends that “mental deficiency” be replaced with “intellectual disability” through Title 44, Chapter 25.
Federal Fair Housing Law	14.) The General Assembly should consider amending S.C. Code Ann. § 6-29-770 to remove the requirement that notice be given for a home for persons with disabilities, as it violates federal Fair Housing laws. ⁵
Health Care Decision Priority List	15.) The General Assembly should consider amending S.C. Code Ann. § 44-66-30(A) to give DDSN last priority in health care decisions for persons unable to consent, as “a person given authority to make health care decisions for the patient by another statutory provision.” Section 44-26-40, § 44-26-50, and § 44-26-60(C) should all be amended to refer to the correct priority number in § 44-66-30.
Day Programs	16.) The General Assembly should consider amending S.C. Code Ann. § 43-35-10(4) to include day programs in the definition of “facility” in the Omnibus Adult Protection Act.
Case Dispositions	17.) The General Assembly should consider amending S.C. Code Ann. § 43-35-60 to require investigating agencies to share specific abuse, neglect, or exploitation case dispositions with the relevant state agency.

There are **no specific recommendations with regards to continuance of agency programs or elimination of agency programs.**

AGENCY OVERVIEW

History

The **Department of Disabilities and Special Needs provides the Committee with an overview of the agency's history.**⁶ In addition, Committee staff confirms the accuracy of assertions of legislative action.

1916 – 1917 South Carolina conducts a survey of people considered "feebleminded." The survey results recommend establishing a residential institution for people with mental retardation.

1918 The General Assembly authorizes construction of the S.C. State Training School for the Feebleminded in Clinton. The institution is operated as a corporate body under direction of the Board of Regents at the State Hospital.⁷ It has separate management and location from the State Hospital and serves people with only mental retardation.

1952 The State Board of Regents becomes the South Carolina Mental Health Commission. The State Training School falls under the commission's jurisdiction. The General Assembly authorizes construction of Pineland State Training School and Hospital near Columbia. Pineland is an institution for black people with mental retardation operated by the Mental Health Commission.

1954 – 1963 The State Training School in Clinton is renamed Whitten Village in honor of its founder, Dr. Benjamin Whitten.⁸ The General Assembly removes Whitten Village from the jurisdiction of the Mental Health Commission. The institution is governed by its own board of trustees.⁹

1963 The General Assembly authorizes construction of a third institution, the South Carolina Retarded Children's Habilitation Center, in Ladson, just outside Charleston.¹⁰

President John F. Kennedy's administration earmarks federal funds for each state to develop a plan for serving people with mental retardation. Governor Donald Russell appoints an advisory council to plan long-term mental retardation services. The council later becomes the Governor's Interagency Council on Mental Retardation Planning. Its work continues into the administration of Governor Robert E. McNair.

1967 The S.C. Department of Mental Retardation is created in May. Governor Robert McNair appoints the members of DMR's first commission.¹¹

The General Assembly authorizes construction of the S.C. State Training School for the Feebleminded in Clinton. The institution is operated as a corporate body under direction of the Board of Regents at the State Hospital. It has separate management and location from the State Hospital and serves people with only mental retardation.

At that time, approximately 3,700 people with mental retardation receive care in the state's institutions, and nearly 1,300 people are on a waiting list to receive care.

1969 The state is divided into four regions for efficient service delivery in the Coastal, Midlands, Piedmont, and Pee Dee areas of the state. Dr. Charles D. Barnett becomes the State Director.

1970 On April 16, Governor John C. West signs the Mentally Retarded Persons Act into law. The law defines DMR's function and provides structure for delivering a full range of programs for people with intellectual disabilities.

The Restructuring Act of 1993 creates the new Department of Disabilities and Special Needs (DDSN). DDSN's mission is expanded to serve individuals with brain injury, spinal cord injury, or similar disabilities.

The names of the state's institutions are changed to reflect the new regional administration. Pineland State Training School is transferred from the S.C. Department of Mental Health to the new S.C. Department of Mental Retardation and becomes Midlands Center, and the S.C. Retarded Children's Habilitation Center becomes Coastal Center.¹²

1972 – 1973 Coastal Center establishes the first office of legal advocacy for people with mental retardation. The office is established to share responsibility for safeguarding individuals' rights with parents and members of the community. When Protection and Advocacy for the Handicapped is established in 1977, the office is no longer needed.

DMR purchases Live Oak Village, a nursing home in Summerville. Live Oak Village becomes a satellite skilled-nursing facility of Coastal Center.

1974 – 1975 Governor John C. West signs Act 1127 of 1974 into law. The new law sets forth guidelines for the establishment and membership of county mental retardation boards. Laurens and Greenville counties establish the first mental retardation boards. South Carolina developed mental retardation boards to serve all 46 counties. Services provided in the community through the local mental retardation boards offer families an alternative to regional center services.¹³

DMR purchases the Hartsville Nursing Home. The facility is renovated and renamed the Thad E. Saleeby Developmental Center, after former state Representative Thad E. Saleeby.

1988 Dr. Phillip S. Massey becomes the State Director.

1993 The Restructuring Act of 1993 creates the new Department of Disabilities and Special Needs. Three divisions are created within the agency: Mental Retardation Division, Head and Spinal Cord Injury Division and the Autism Division. Mental retardation boards became disabilities and special needs boards. The Program for Individuals with Autism is transferred from the Department of Mental Health to DDSN. DDSN's mission is expanded to serve individuals with brain injury, spinal cord injury or similar disabilities.¹⁴

1996 Dr. Stan Butkus becomes the State Director.

1998 Person-centered services are implemented to increase self-determination and choice of services and service providers.

2002 Committed to offering individuals and families additional choices of qualified providers, DDSN works with the State Budget and Control Board's Material and Management office to issue a nationwide recruitment of new providers of disability services. Some disabilities and special needs boards expand services into other counties and numerous private providers began offering services.

2006 The General Assembly creates the Pervasive Developmental Disorder Program via special proviso to provide Early Intensive Behavioral Intervention to young children on the Autism Spectrum.¹⁵

2009 Dr. Eugene A. Laurent becomes the Interim State Director. Dr. Beverly A.H. Buscemi becomes the State Director.

2011 Governor Nikki R. Haley signs Act 47 which removed the “R” (Retardation) word in South Carolina.¹⁶

2017 -2018 Mr. Pat Maley becomes the Interim State Director. Ms. Mary Poole becomes the State Director.

Legal Obligations

Statute

The Department of Disabilities and Special Needs is primarily governed by Title 44, Chapter 20 of the S.C. Code of Laws. In addition, Title 44, Chapters 38, 21, 23, 26, 28, 44, 66, 28, 25, and 7; Title 6, Chapter 9; Title 40, Chapter 35; Title 43, Chapter 35; and Title 63, Chapter 7 all impact the operations of the Department. In addition, federal statutes related to disabilities, housing, insurance, and education also govern the operations of the department.

In its Program Evaluation Report, the agency provides a list of statutes that impact it.¹⁷ Those statutes are categorized as follows:

- South Carolina Intellectual Disability, Related Disabilities, Head Injuries, and Spinal Cord Injuries Act;
- Head and Spinal Cord Injuries;
- Family Support Services;
- Provisions Applicable to both Mentally Ill Persons and Persons with Intellectual Disability;
- Rights of Clients with Intellectual Disability;
- Self-Sufficiency Trust Fund, Disability Trust Fund, Aid for Developmentally Disabled;
- South Carolina Birth Defects Act;
- Adult Health Care Consent Act;
- Interstate Compact on Mental Health;
- Hospitals, Tuberculosis Camps, and Health Service Districts;
- South Carolina Local Government Comprehensive Planning Enabling Act;
- Long Term Health Care Administrators;
- Omnibus Adult Protection Act;
- Child Protection and Permanency;
- Fair Housing Act (federal);
- American with Disabilities Act (federal) ;
- Rehabilitation Act (federal);
- Medicaid (federal);
- Health Insurance Portability and Accounting Act (HIPPA) (federal); and
- Individuals with Disabilities Education Act (IDEA) (federal).

Regulation

The Department of Disabilities and Special Needs is governed by Section 88 of the S.C. Code of Regulations. In its Program Evaluation Report, the Department provides a list of regulations governing it. Those regulations address license requirements for facilities and programs, recreational camps for persons with intellectual disability, day programs for persons with intellectual disability, and unclassified facilities and programs.

Purpose, Mission, and Vision

Purpose

S.C. Code Ann. § 44-20-20 provides the legislative purpose for creating the Department of Disabilities and Special Needs:

The State of South Carolina recognizes that a person with intellectual disability, a related disability, head injury, or spinal cord injury is a person who experiences the benefits of family, education, employment, and community as do all citizens. It is the purpose of this chapter to assist persons with intellectual disability, related disabilities, head injuries, or spinal cord injuries by providing services to enable them to participate as valued members of their communities to the maximum extent practical and to live with their families or in family settings in the community in the least restrictive environment available.

When persons with intellectual disability, related disabilities, head injuries, or spinal cord injuries cannot live in communities or with their families, the State shall provide quality care and treatment in the least restrictive environment practical.

In order to plan and coordinate state and locally funded services for persons with intellectual disability, related disabilities, head injuries, or spinal cord injuries, a statewide network of local boards of disabilities and special needs is established. Services will be delivered to clients in their homes or communities through these boards and other local providers.

It is recognized that persons with intellectual disability, related disabilities, head injuries, or spinal cord injuries have the right to receive services from public and other agencies that provide services to South Carolina citizens and to have those services coordinated with the services needed because of their disabilities.

South Carolina recognizes the value of preventing intellectual disability, related disabilities, head injuries, and spinal cord injuries through education and research and supports efforts to this end.

The State recognizes the importance of the role of parents and families in shaping services for persons with intellectual disability, related disabilities, head injuries, or spinal cord injuries as well as the importance of providing services to families to enable them to care for a family member with these disabilities.

Admission to services of the South Carolina Department of Disabilities and Special Needs does not terminate or reduce the rights and responsibilities of parents. Parental involvement and participation in mutual planning with the department to meet the needs of the client facilitates decisions and treatment plans that serve the best interest and welfare of the client.

Mission

The agency's mission is to "[a]ssist people with disabilities and their families through choice in meeting needs, pursuing possibilities and achieving life goals; and minimize the occurrence and reduce the severity of disabilities through prevention."¹⁸

Vision

The agency's vision is "to provide the very best services to assist all persons with disabilities and their families in South Carolina."¹⁹

Agency Organization

Governing Body

Pursuant to S.C. Code Ann. § 44-20-210, DDSN is governed by a seven member commission. Each Commissioner represents a congressional district. Commissioners are appointed by the Governor with the advice and consent of the Senate. The appointments are for four year terms; however, a commissioner may serve until a successor is appointed. Commissioners can be removed by the Governor, and the Governor may appoint a new commissioner to the unexpired term. The Commission appoints the State Director.²⁰

The Commission meets approximately twelve times each year. The meetings are broadcast via video conference technology to three regional centers and several community provider locations. Recent minutes of the meetings and accompanying documentation are posted on the agency website. The Commission has three standing committees — Finance and Audit, Policy, and Legislative. These three standing committees meet a minimum of twice a year, but usually more frequently.²¹

Table 2 lists the current commissioners, congressional district represented, and date the member’s term expires.

Table 2. Agency commission members (current as of September 20, 2018).

Congressional District	Position	Current Members	Appointed By	Appointed Date	Expiration Date
1st	Chair	Eva Ravenel*	Governor Nikki R. Haley	8/31/2012	6/30/2016
2nd	Member	Lorri S. Unumb	Governor Henry McMaster	2/8/2018	6/30/2020
3rd	Member	Vicki A. Thompson*	Governor Nikki R. Haley	5/19/2015	6/30/2017
4th	Member	Christopher G. Neeley	Governor Henry McMaster	2/8/2018	6/30/2021
5th	Member	Gary C. Lemel*	Governor Nikki R. Haley	5/19/2015	6/30/2018
6th	Member	VACANT	Governor Nikki R. Haley		
7th	Member	Samuel F. Broughton Jr.*	Governor Nikki R. Haley	4/7/2016	6/30/2018

Table Note: An asterick (*) indicates commissioner is serving in a holdover capacity.

Agency Organizational Units

Every agency has an organization or hierarchy that is reflected in the agency’s organizational chart. Within the organization are separate units. An agency may refer to these units as departments, divisions, functional areas, cost centers, etc. Each unit is responsible for contributing to the agency’s ability to provide services and products.

During the study process the Committee asks the agency about its organization and major operating programs.²² The Department of Disabilities and Special Needs informs the Committee it is comprised of 26 major organizational units, which are described in Table 3. The organization of the agency is shown in Figure 3.

Table 3. DDSN organizational units (current as of May 2017).

Organizational Unit	Fiscal Year	Unit Turnover	Required Certification
The AGENCY HEAD - EXECUTIVE SUITE organizational unit provides key leadership so agency personnel may deliver the established mission of the agency.	2013-14	0%	X
	2014-15	0%	X
	2015-16	0%	X
The OFFICE OF GENERAL COUNSEL is legal counsel for the agency. Duties include representing the agency in state courts, monitoring cases handled by outside counsel, and offering legal advice on various agency issues.	2013-14	0%	✓
	2014-15	0%	✓
	2015-16	0%	✓
The GOVERNMENT AND COMMUNITY RELATIONS organizational unit is the agency's liaison and representative before the Governor's Office, General Assembly, legislative staff, media, stakeholders, and the general public. Responsible for managing constituent concerns, Freedom of Information Act requests, and general inquiries. Advises the State Director and executive staff with regard to policies, regulations, legislation, media communication, and community education.	2013-14	0%	X
	2014-15	0%	X
	2015-16	0%	X
The ADMINISTRATION office consists of the division of the chief financial officer, and the division directors of the units created to ensure fiscal accountability of the agency.	2013-14	0%	X
	2014-15	0%	X
	2015-16	0%	X
The BUDGET office is responsible for the oversight, planning, development, organization and maintenance of the agency's complete budgetary system, totaling approximately \$740M. The division evaluates policies, plans and programs for cost effectiveness and overall fiscal impact. The budget division conducts research and analyses to support decision making and monitors agency expenditures and revenues. The division is responsible for external budgetary policy interpretation and participation in development of internal procedures. The division coordinates with staff outside the agency concerning budgetary and planning requirements.	2013-14	0%	X
	2014-15	0%	X
	2015-16	14.3%	X
The FINANCE AND ACCOUNTING organizational unit ensures revenues and expenditures for the agency are properly processed and accounted for according to generally accepted accounting principles, state laws, and regulations. The division is also responsible for processing all Medicaid claims for eligible services provided to consumers in our network.	2013-14	0%	X
	2014-15	14.3%	X
	2015-16	50%	X
The COST ANALYSIS organizational unit is responsible for developing and maintaining rates paid to providers; developing and reconciling contracts with providers; filing cost reports for the department; and ensuring that providers are paid timely. Also, the unit performs analyses to track expenditures, trends, and contract compliance.	2013-14	40%	X
	2014-15	16.7%	X
	2015-16	33.3%	X
The ENGINEERING AND PLANNING organizational unit ensures that buildings owned by the Department are constructed, renovated, and life cycle maintained in good condition for the health and safety of clients, staff, and others, and in accordance with state laws and regulations. The division is also responsible for procurement of professional design services, procurement and contract	2013-14	0%	✓
	2014-15	0%	✓

Organizational Unit	Fiscal Year	Unit Turnover	Required Certification
administration for construction contracts, and procurement of inspection services related to building systems. The division assists other DDSN divisions and provider organizations with various capital and construction projects related to DDSN's mission.	2015-16	0%	✓
The INFORMATION TECHNOLOGY organizational unit directs and manages the agency's information technology program. This includes planning, policy development, technology procurement, program management, systems development, design and operation of the agency information technology systems. This division is responsible for the agencies office automation, information technology architecture, information technology infrastructure, and records management systems.	2013-14	0%	X
	2014-15	13.3%	X
	2015-16	8.9%	X
The PROCUREMENT organizational unit oversees the following functions agency wide: procurement services, fixed assets, vehicle management, nutrition services, mail services, laundry services, housekeeping services, ground maintenance, regional inventories, drug and alcohol testing for CDL drivers, surplus property, contract administration, copier management, SCEMIS (State Fleet) coordinator, building card access system, recycle program, building maintenance and services, state contracts, p-card administration, and gas card security.	2013-14	91.7%	✓
	2014-15	0%	✓
	2015-16	50%	✓
The OFFICE OF POLICY develops and maintains agency policies. The following divisions are contained within the supervision of the Office of Policy: Autism Division, Eligibility Division, Head and Spinal Cord Injury Division, Intellectual Disability/Related Disabilities Division, Quality Management Division and Waiver Administration Division.	2013-14	0%	X
	2014-15	0%	X
	2015-16	0%	X
The INTELLECTUAL DISABILITIES AND RELATED DISABILITIES organizational unit develops policies, procedures and standards that govern the delivery of services provided through the agency; operates two Medicaid Home and Community Based Waivers; facilitate the coordination of DDSN services with services provided by other state agencies; assist in the qualification of providers of agency services; provide training, assistance and support to the agency's qualified providers.	2013-14	0%	X
	2014-15	0%	X
	2015-16	15.4%	X
The AUTISM division is responsible for providing training and consultation to parents and professionals on matters pertinent to Autism Spectrum Disorder (ASD), and for conducting evaluations to determine the presence of ASD.	2013-14	22.05%	X
	2014-15	5.06%	X
	2015-16	16.34%	X
The HEAD AND SPINAL CORD INJURY division oversees the delivery of services provided through DDSN, operates the Head and Spinal Cord Injury Waiver, provides training and technical support to DDSN qualified providers, and supports and implements prevention and awareness initiatives.	2013-14	50%	X
	2014-15	0%	X
	2015-16	66.7%	X
The QUALITY MANAGEMENT division works to improve the health, safety, and welfare of DDSN's service recipients and monitors compliance with state and federal regulations and Medicaid requirements.	2013-14	0%	X
	2014-15	0%	X
	2015-16	16.7%	X
The ELIGIBILITY division determines DDSN eligibility based on set criteria and completes administrative duties such as determining Level of Care for Medicaid Waivers and Tax Equity and Fiscal Responsibility Act eligibility.	2013-14	20%	X
	2014-15	8.3%	X

Organizational Unit	Fiscal Year	Unit Turnover	Required Certification
	2015-16	0%	X
The OPERATIONS office provides oversight and leadership to the District I and District II Offices, four Intermediate Care Facilities for Individuals with Intellectual Disability (ICF/IID) Residential Regional Centers, the Office of Clinical Services and the Office of Children’s Services. Most areas are directly involved in serving individuals directly or training and monitoring DSN Boards and private providers serving eligible individuals.	2013-14	0%	X
	2014-15	0%	X
	2015-16	0%	X
CHILDREN'S SERVICES is responsible for monitoring and training the DSN Board and private early intervention providers delivering early intervention services to children birth to six years old. Staff serve on numerous interagency committees.	2013-14	0%	X
	2014-15	25%	X
	2015-16	25%	X
CLINICAL SERVICES is responsible for conducting psychological evaluations of individuals charged with a crime who are thought to be unable to competently stand trial. Staff in this unit arrange in-home and residential services for judicially admitted individuals; arrange in-home and residential services for children with dual developmental and psychiatric disabilities; and are involved in numerous interagency initiatives.	2013-14	45%	✓
	2014-15	0%	✓
	2015-16	58.3%	✓
DISTRICT OFFICES I AND II provide training to the DSN Boards and private providers delivering community services to individuals residing in the western (District I) and eastern (District II) halves of the state. Staff respond to individuals who are in crisis. The District I Director supervises the Midlands Regional Center and Whitten Regional Center facility administrators. The District I Office is located on the grounds of Whitten Center. The District II Director supervises the Coastal Regional Center and Pee Dee/Saleeby Regional Center facility administrators. The District II Office is located on the grounds of Coastal Center.	2013-14	0%	X
	2014-15	6.7%	X
	2015-16	0%	X
The MIDLANDS REGIONAL CENTER is a residential ICF/IID facility in Columbia. Staff at this center provide a broad array of medical, therapeutic, recreational, and personal care to individuals with some of the most severe disabilities of any served by DDSN. Services are provided 24 hours per day all year.	2013-14	25.11%	✓
	2014-15	26.91%	✓
	2015-16	32.72%	✓
The PIEDMONT (WHITTEN) REGIONAL CENTER is a residential ICF/IID facility in Clinton. Staff at this center provide a broad array of medical, therapeutic, recreational, and personal care to individuals with some of the most severe disabilities of any served by DDSN. Services are provided 24 hours per day all year.	2013-14	43.86%	✓
	2014-15	39.16%	✓
	2015-16	36.14%	✓
The COASTAL REGIONAL CENTER is a residential ICF/IID facility located in Summerville. Staff at this center provide a broad array of medical, therapeutic, recreational, and personal care to individuals with some of the most severe disabilities of any served by DDSN. Services are provided 24 hours per day all year.	2013-14	20.79%	✓
	2014-15	27.59%	✓
	2015-16	29.45%	✓
The PEE DEE/SALEEBY REGIONAL CENTER is a residential ICF/IID facility in Florence and Hartsville. Staff at this center provide a broad array of medical, therapeutic, recreational, and personal care to individuals with some of the most severe disabilities of any served by DDSN. Services are provided 24 hours per day all year.	2013-14	16.65%	✓
	2014-15	26.11%	✓
	2015-16	27.15%	✓
	2013-14	14.29%	X

Organizational Unit	Fiscal Year	Unit Turnover	Required Certification
The INTERNAL AUDIT organizational unit performs audits of the agency and its contractors' processes and business practices. This unit reports to the DSN Commission.	2014-15	14.29%	X
	2015-16	0%	X
The HUMAN RESOURCES organizational unit designs, implements, and monitors the administration and coordination of the agency's human resources programs. It anticipates and plans for long-term HR needs and trends.	2013-14	20.03%	X
	2014-15	9.76%	X
	2015-16	4.55%	X

Organizational Chart

SC DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS
 AGENCY ORGANIZATIONAL CHART
 OCTOBER 2018

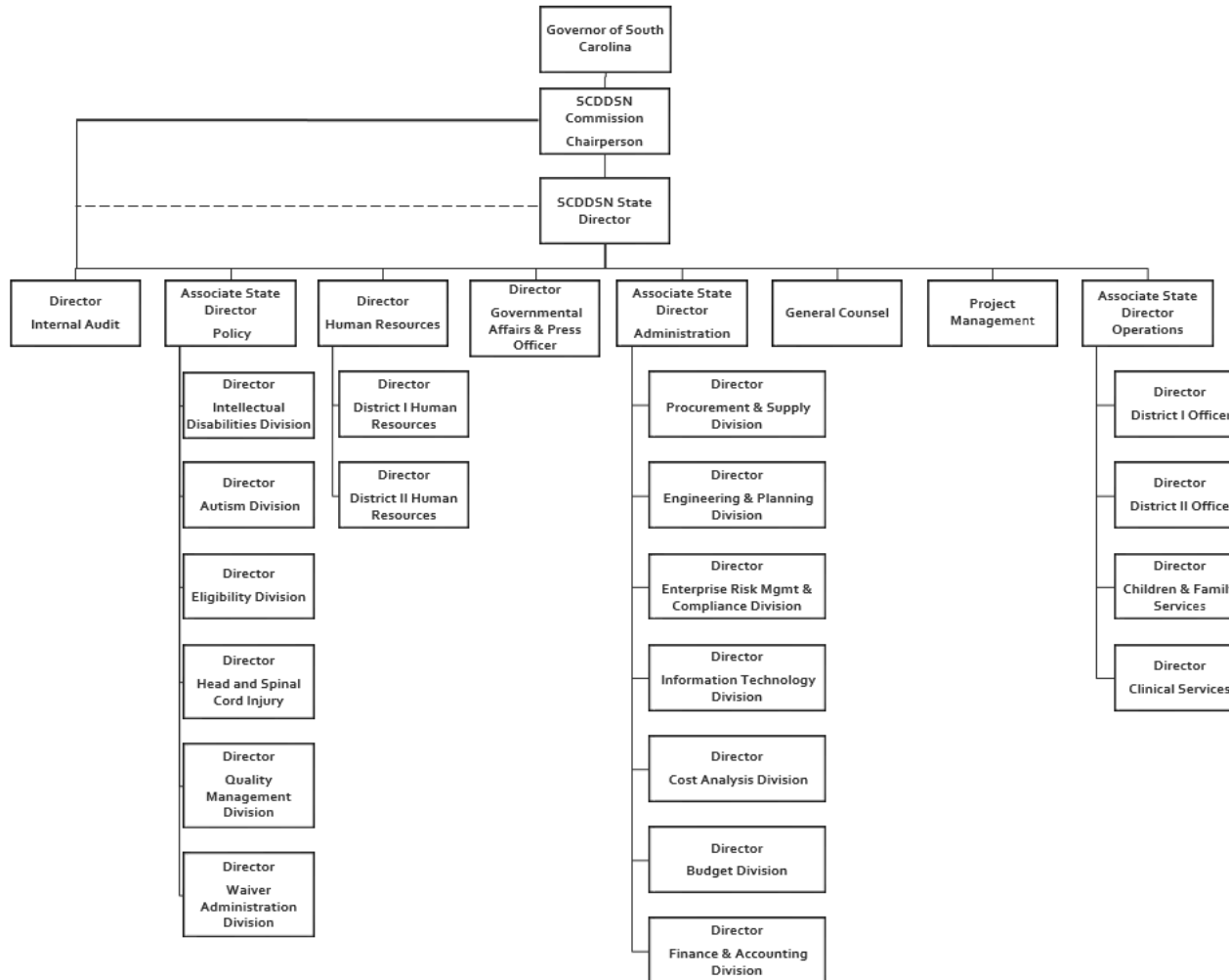


Figure 3. Organizational chart provided by the agency. (Current as of October 5, 2018).²³

Internal Audit Process

In the Program Evaluation Report, the Committee asks the agency to provide information about its internal audit process, if it has one. The agency provides the information below.²⁴

Currently, the agency has an Internal Audit Division (IAD) which employs eight FTEs and one temporary employee. Based on documentation on file within the Division, the first audit report was issued in August 1978. The IAD Director reports administratively to the agency’s State Director and functionally to the DDSN Commission.

The IAD audit universe includes the DDSN provider network, DDSN regional centers, as well as DDSN operations. The vast majority of DDSN funding flows to the provider network and as such the majority of audit resources are devoted to this area. The IAD conducts a systemic risk assessment and based on these results, the IAD Director in consultation with Internal Audit staff determine when an entity is audited. A total of 115 audits are published in fiscal years 2012 through 2016. The IAD recently conducts a self-assessment, the documentation of which is housed in the IAD and is available for review. In 2018, IAD redirects some resources from community contract audits to agency internal operational audits.

Provider Network Structure

Primarily, services to DDSN clients are provided by county-based disabilities and special needs boards and private qualified providers. During the September 18, 2017, Subcommittee meeting, agency staff differentiate between the two types of providers, as described in Table 4.

Table 4. Characteristics of county-based local DSN boards and private qualified providers.

Dimension	County-Based Local DSN Boards	Private Qualified Providers
Legal Structure	<ul style="list-style-type: none"> Public (Must comply with the Freedom of Information Act and other aspects of local government) Independent legal entities from the State Agency 	<ul style="list-style-type: none"> For Profit Not for Profit Independent legal entities from the State Agency
Accountability	<ul style="list-style-type: none"> Through public board appointments, contracts, standards, and state law with state level oversight provided by DDSN Through contractual arrangements, quality assurance reviews, and licensing inspections to ensure quality and strict compliance with standards 	<ul style="list-style-type: none"> Through contracts, standards, directives, and state law with state level oversight provided by DDSN Through contractual arrangements, quality assurance reviews, and licensing inspections to ensure quality and strict compliance with standards
Employees	<ul style="list-style-type: none"> Not state employees DDSN does not have direct authority over any of the local DSN Board employees Can participate in the State Retirement System and in State Insurance Plans 	<ul style="list-style-type: none"> Not state employees DDSN does not have direct authority over any of the local DSN Board employees
Services	<ul style="list-style-type: none"> Provide case management, direct and indirect services and supports to individuals with disabilities 	<ul style="list-style-type: none"> Currently a private entity cannot provide both direct services and case management

<p>Funding and Payment from DDSN</p>	<ul style="list-style-type: none"> • Receive funds from DDSN in a prospective per person per month payment (band payment) to provide or purchase services 	<ul style="list-style-type: none"> • Entities must choose • Receive funds from DDSN in a retrospective payment after services are rendered • The rate paid is equivalent to the payment rate for the DSN County Boards • There is no cost settlement process for the retrospective payment • Funds may be recouped if services are not provided in accordance with contractual requirements
<p>Fiscal Agent</p>	<ul style="list-style-type: none"> • Serve as the fiscal agent for all service recipients that live in the family home in their county <ul style="list-style-type: none"> ○ Pays other providers for services rendered out of the per member, per month band payment ○ Funds up to a certain percentage not expended on services are returned to the Agency 	<ul style="list-style-type: none"> • Not a fiscal agent

The agency also provides a graphical description of the organization of the system designed to provide services and support to DDSN clients.²⁵

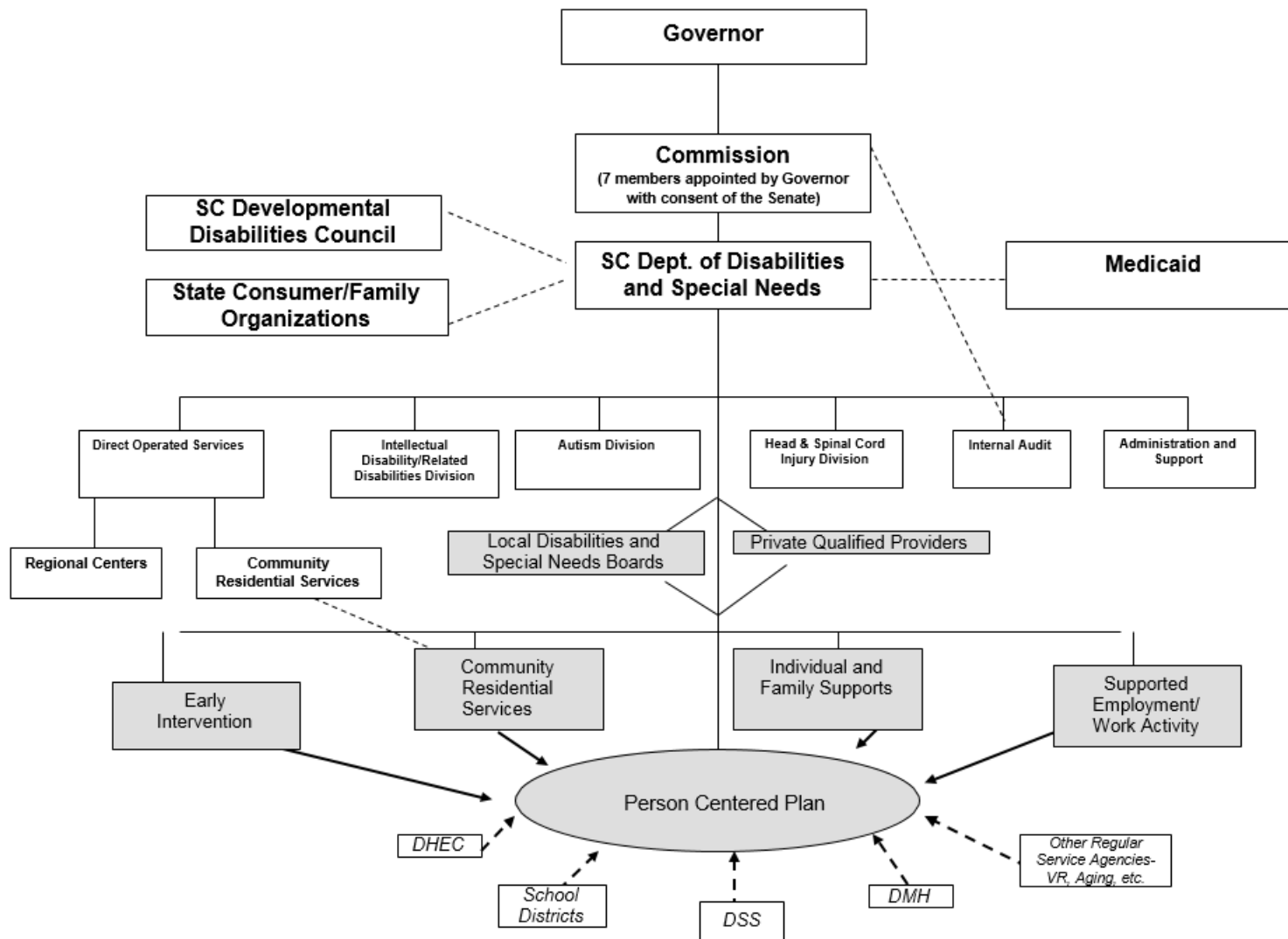


Figure 4. System organization.

Strategic Resource Allocation and Performance

Annually, each agency submits a strategic plan. Of interest to the oversight process is the total resources available to an agency and how the agency allocates human and financial resources across the agency's strategic plan. Tables 5, 7, 9, and 11 illustrate the agency's allocation of its financial and human resources among its goals and strategies in fiscal years 2015-16 and 2016-17. Also of interest during the study process is how the agency measures its performance in implementing the goals, strategies, and objectives of its strategic plan. Tables 6, 8, 10, and 12 show performance in measures associated with each strategic plan section. During the July 30, 2018, meeting DDSN staff provide additional measures used for performance management.

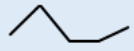
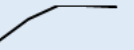

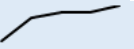
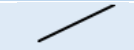
2015-16		2016-17	
Total # of FTEs	Total amount Appropriated and Authorized to Spend	Total # of FTEs	Total amount Appropriated and Authorized to Spend
Authorized: 2,122 Available: 1,987 Utilized: 1,697	\$679,547,683	Authorized: 2,122 Available: 1,987 Utilized: 1,685	\$739,425,357

Goal 1: Prevent disabilities and ameliorate impact of disabilities

Table 5. Goal one (Prevent disabilities and ameliorate impact of disabilities) 2015-16 consumers served, FTEs, and amount spent; 2016-17 FTEs and amount budgeted.

Strategic Plan Part	2015-16			2016-17	
	Number of Consumers Served	Number of FTE Equivalents Utilized	Total Amount Spent	Number of FTE Equivalents Planned to Utilize	Total Amount Budgeted
Strategy 1.1: Greenwood Genetic Center Birth Defect Services Prevent and mitigate birth defects	1,669	<1	\$10,366,281	<1	\$11,811,376
Strategy 1.2: Early Childhood Developmental Delay Services (BabyNet & Early Intervention) Mitigate developmental delays (ages 0-6)	9,098	2	\$23,336,768	2	\$31,479,472
Strategy 1.3: Post-Acute Traumatic Brain or Spinal Cord Injury Rehabilitation Services Ameliorate impact of traumatic brain and spinal cord injuries	54	<1	\$2,692,717	<1	\$3,100,000
Strategy 1.4: Pervasive Developmental Disorder (Autism) Services Mitigate developmental disorders and associated long-term medical costs	1,255 - waiver 6,000 - other	2	\$8,111,577	2	\$10,323,590

Table 6. Goal one associated performance measures.

Performance Measure		FY 12	FY 13	FY 14	FY 15	FY 16	FY 17	National Benchmark
Annual Rate of neural tube defect births Per 10K Live birth	Target:	7	8	8	6.9	6.9	7.5	7
	Actual:	7.2	8.5	6.9	6.9	7.5		
Annual number of children with metabolic disorders receiving curative treatment	Target:	125	190	190	208	208	203	
	Actual:	118	174	208	208	203		
Average percent gain in standardized adaptive behavior domain scores for children in the Pervasive Developmental Disorder Waiver after two years of service	Target:	11%	11%	11%	10.40%			
	Actual:	10.40%	10.40%	10.40%				
Percentage of children over 36 months receiving early intervention services prior to third birthday	Target:	77%	87.50%	87.50%	86.20%	86.20%	87.50%	
	Actual:	75.60%	84.40%	86.20%	86.20%	88.90%		
Number of individuals receiving post acute rehabilitation services	Target:					54	54	
	Actual:				54	61		

Goal 2: Provide services in community integrated and least restrictive settings and promote individual independence

Table 7. Goal two (Provide services in community integrated and least restrictive settings and promote individual independence) 2015-16 consumers served, FTEs, and amount spent; 2016-17 FTEs and amount budgeted.

Strategic Plan Part	2015-16			2016-17	
	Number of Consumers Served	Number of FTE Equivalents Utilized	Total Amount Spent	Number of FTE Equivalents Planned to Utilize	Total Amount Budgeted
Strategy 2.1: In-Home Family Support Services (least restrictive community setting) Serves consumers at home, which is the least restrictive community based setting; promotes community integration, higher quality of life, consumer choice, lower costs, and individual independence	37,330	24	\$66,851,682	25	\$128,148,699
Strategy 2.2: Community Residential Services (residential habilitation services while still in the community) Serves consumers requiring residential habilitation services while still in a community based setting; promotes community integration, higher quality of life, consumer choice, lower costs, and individual independence	4,639	91	\$314,137,241	99	\$339,047,125
Strategy 2.3: Regional Center Residential Services (severe or profound disabilities) Serves fragile consumers with severe or profound disabilities where community based services are not appropriate	666	1,495	\$86,111,572	1,765	\$100,833,502
Strategy 2.4: Adult Development and Employment Support Services Promotes independence, community involvement, and quality of life	6,399 day program 2,359 supported employment	1	\$ 71,934,699	1	\$80,338,186
Strategy 2.5: Service Coordination (case management) Provides consumer advocate and logistical support to ensure consumer needs met	17,237	5	\$ 18,542,692	5	\$22,893,752

Table 8. Goal two associated performance measures.

Performance Measure	Best State		FY 12	FY 13	FY 14	FY 15	FY 16	FY 17	National Benchmark
United Cerebral Palsy Community Inclusion Ranking (National Benchmark)	AZ	Target:	6th	6th	6th	14th	9th	14th	25th
		Actual:	6th	9th	14th	9th	14th		
Number of Children Served in Psychiatric Residential Treatment Facilities		Target:	70	70	55	64	64	45	
		Actual:	75	62	64	64	39		
Number of Children Served in Regional Centers		Target:	4	4	5	5	5	5	
		Actual:	6	6	5	5	4		
Ratio of Persons Served In HCB Waivers Versus ICF/IID	AZ	Target:	8	8.5	8.5	9.6	9.6	9.6	
		Actual:	7.4	8	9.6	9.6	9.8		
Number of Persons Served in Nursing Facilities Per 100,000 General Population and Compare to National Benchmark	OH	Target:	3.8	4	4	4.6	4.6	5	8.9
		Actual:	3.9	4.4	4.6	4.6	5		
Number of Persons Served in 16 + Bed Institutions Per 100K General Population	HI	Target:	20.1	20.1	20.1	19.7	19.7	19.7	25
		Actual:	20.3	20.2	19.7	19.7	19.5		
Number of Persons Served Less Restrictive Residential Settings		Target:					940	926	
		Actual:					926		
Percent of Individuals Receiving Day Services Who are Served in Integrated Employment Settings	WA	Target:	30%	30%	30%	29%	29%	29%	19%
		Actual:	29%	29%	29%	29%	29%		
Number of Individuals Moving from Regional Centers		Target:					24	24	
		Actual:					26		

Goal 3 Protect health, safety, and welfare of individuals served

Table 9. Goal three (Protect health, safety, and welfare of individuals served) 2015-16 consumers served, FTEs, and amount spent; 2016-17 FTEs and amount budgeted.

Strategic Plan Part	2015-16		2016-17		
	Number of Consumers Served	Number of FTE Equivalents Utilized	Total Amount Spent	Number of FTE Equivalents Planned to Utilize	Total Amount Budgeted
Strategy 3.1: Quality Assurance Monitoring of Providers' Compliance with Contract Operational Performance; Consumer Health, Safety and Welfare; and Facility Licensing Standards Ensure quality outcomes consistent with contract requirements with emphasis on consumer health, safety & welfare	All eligible consumers	5	\$1,827,922	6	\$1,883,953
Strategy 3.2: Monitor Providers' Financial Management and Operational Requirements Provide assurance of providers compliance with DDSN contract and policy fiscal requirements	All eligible consumers	8	\$585,352	8	\$658,546

Table 10. Goal three associated performance measures.

Performance Measure		FY 12	FY 13	FY 14	FY 15	FY 16	FY 17
Annual Rate of Substantiated Allegations of Abuse/Neglect/Exploitation Per 100 Served in Community Residential Settings	Target:	quarterly trend analysis	quarterly trend analysis	0	0.07	0.07	0.17
	Actual:	0.3	0.1	0.07	0.07	0.17	
Annual Rate of Substantiated Allegations of Abuse/Neglect/Exploitation Per 100 Served in Regional Centers	Target:	quarterly trend analysis	quarterly trend analysis	0	0.25	0.25	0.28
	Actual:	0	0	0.3	0.3	0.28	
Annual Rate of Critical Incidents Per 100 Served in Community Residential Settings	Target:	15	15	15	19	19	21.1
	Actual:	15.61	16.53	19.14	19.14	21.1	
Annual Rate of Critical Incidents Per 100 Served in Regional Centers	Target:	29	29	29	39	39	45.9
	Actual:	29.6	31.9	40.1	40.1	45.9	
Annual Rate of Fall Related Critical Incidents Per 100 Served in Community Residential Settings	Target:	1.25	1.3	1.3	1.12	1.12	2.11
	Actual:	1.38	1.56	1.12	1.12	2.11	
Annual Rate of Fall Related Critical Incidents Per 100 Served in Regional Centers	Target:	0.45	0.75	0.75	1.12	1.35	1.35
	Actual:	0.53	0.93	1.54	1.54	1.28	
Percentage of Critical Incidents which Measure Consumer Behavioral Adverse Event or Inquiry	Target:						85%
	Actual:					28%	

Goal 4: Meet the needs of the maximum number of eligible individuals through efficient and effective use of available resources

Table 11. Goal 4 (Meet the needs of the maximum number of eligible individuals through efficient and effective use of available resources) 2015-16 consumers served, FTEs, and amount spent; 2016-17 FTEs and amount budgeted.

Strategic Plan Part	2015-16			2016-17	
	Number of Consumers Served	Number of FTE Equivalents Utilized	Total Amount Spent	Number of FTE Equivalents Planned to Utilize	Total Amount Budgeted
Strategy 4.1: Monitor Organizational Effectiveness Through Benchmarks Provides indicators of organizational effectiveness to executive management, oversight, and the public	All eligible consumers	64	\$7,169,393	74	\$8,907,156

Table 12. Goal 4 associated performance measures.

Performance Measure		FY 12	FY 13	FY 14	FY 15	FY 16	FY 17
Entity that Approves Medicaid Waiver Authorization	Target:					DDSN	DDSN
	Actual:					Case Management Providers	
Percent of DDSN Consumers Served by Only DDSN	Target:	93.50%	93.50%	93.50%	93%	93%	93%
	Actual:	93%	92.50%	93%	93%	93.50%	
Percent of DDSN Consumers Served by DDSN and One Other State Agency	Target:					6.10%	6.10%
	Actual:				6.10%	5.70%	
Percent of DDSN Consumers Served by DDSN and More Than One Other State Agency	Target:					0.90%	0.90%
	Actual:				0.90%	0.80%	
Number of Individuals on DDSN Managed HCB Waiver Waiting Lists	Target:	10,500	10,000	10,000	10,300	10,300	12,600
	Actual:	11,212	10,660	10,464	10,464	12,598	
Average Time of Wait (in years) for Individuals Enrolled in ID/RD Waiver	Target:	5	5.5	5.5	3.4	3.4	3.9
	Actual:	6.7	6	3.5	3.5	3.9	
Average Time of Wait (in years) for Individuals Enrolled in CS Waiver	Target:	3.5	3	3	1.4	1.4	1.4
	Actual:	4.1	3.4	1.5	1.5	0.8	
Average Time of Wait (in years) for Individuals Enrolled in HASCI Waiver	Target:	1	0	0	0	0	0
	Actual:	2.2	0	0	0	0	
Percent Growth in Residential Service Capacity Needed to Eliminate Residential Waiting List	Target:					4.50%	5%
	Actual:				4.50%	5%	
Number of Persons with Significant Behavioral Needs Served in DDSN Operated Community Residences	Target:					3	9
	Actual:					0	

Human Resources

The Department of Administration’s Division of State Human Resources provides the numbers of authorized, actual, and filled full time employee (FTE) positions for the last five fiscal years.²⁶ Tables 13, 14, and 15 provide that information. The Authorized Total FTE is as of July 1 of the fiscal year, as stated in the Appropriations Act. The Actual Total FTE is the sum of Filled FTE and Vacant FTE, based on what the agency has entered in South Carolina Enterprise Information System (SCEIS) and is as of June 30. If Actual is more than Authorized, it may be because during the course of the year, the Executive Budget Office authorizes interim FTE positions. The agency typically requests authorization for these positions in the next budget. If Actual is less than Authorized, it is because the agency has not set up all of the Authorized positions in SCEIS yet. Filled FTEs are positions the agency has set up in SCEIS in which someone is actually working. The Division of State Human Resources also provides the total salaries associated with the agency’s filled FTEs. Figure 6 is a chart that shows the agency’s gain/loss of filled FTEs and the gain/loss of salary burden on the agency at the same time.²⁷

Table 13. DDSN Authorized FTE Positions (FY 2013-FY 2017).

	2012-13	2013-14	2014-15	2015-16	2016-17
Total	2,191.40	2,152.40	2,122.90	2,122.90	2,122.90
State	1,497.85	1,483.85	1,462.85	1,462.85	1,462.85
Federal	0.00	0.00	0.00	0.00	0.00
Other	693.55	668.55	660.05	660.05	660.05

Table 14. DDSN Actual FTE Positions (FY 2013-FY 2017).

	2012-13	2013-14	2014-15	2015-16	2016-17
Total	2,144.75	2,111.75	2,074.50	2,046.00	2,048.00
State	1,556.75	1,499.25	1,474.00	1,454.00	1,459.00
Federal	0.00	0.00	0.00	0.00	0.00
Other	588.00	612.50	600.50	592.00	589.00

Table 15. DDSN Filled FTE Positions (FY 2013-FY 2017).

	2012-13	2013-14	2014-15	2015-16	2016-17
Total	1,901.50	1,873.25	1,855.00	1,781.50	1,692.00
State	1,359.00	1,342.25	1,311.00	1,280.50	1,222.50
Federal	0.00	0.00	0.00	0.00	0.00
Other	542.50	531.00	544.00	501.00	469.50

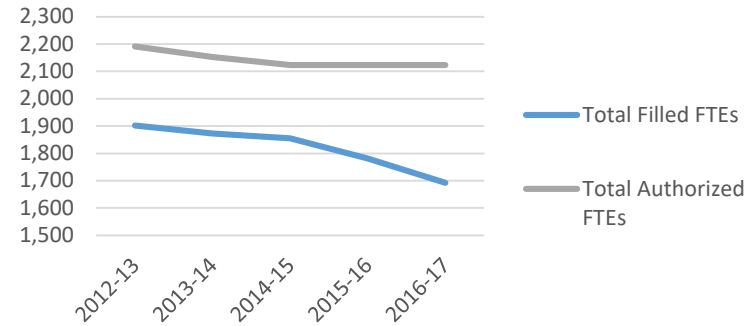


Figure 5. Total Authorized and Filled FTEs (FY 2013-FY 2017).

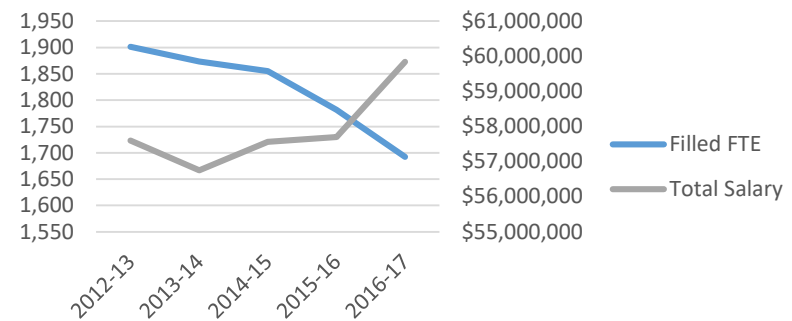


Figure 6. Total Filled FTEs and Total Salary Associated with FTEs (FY 2013-FY 2017).

STUDY PROCESS

Agency Selection

The Department of Disabilities and Special Needs is an agency subject to legislative oversight.²⁸ On January 10, 2017, during the 122nd General Assembly, the Committee prioritizes the agency for study.²⁹

As the Committee encourages **collaboration in its legislative oversight process**, the Committee notifies the following individuals about the agency study: Speaker of the House, standing committee chairs in the House, members of the House, Clerk of the Senate, and Governor.

Subcommittee Membership

The **Healthcare and Regulatory Subcommittee of the House Legislative Oversight Committee studies the agency**.³⁰ The Honorable Phyllis J. Henderson serves as chair. Other Subcommittee Members include:

- The Honorable William “Bill” Bowers;
- The Honorable MaryGail Douglas; and
- The Honorable Bill Taylor.

Agency Reports to Legislative Oversight Committee

During the legislative oversight process, the **Committee asks the agency to conduct self-analysis** by requiring it to complete and submit annual Restructuring Reports, a Seven-Year Plan for cost savings and increased efficiencies, and a Program Evaluation Report. The Committee posts each report on the agency page of the Committee’s website.

Restructuring Report

The Annual Restructuring Report fulfills the requirement in S.C. Code § 1-30-10(G)(1) that annually each agency report to the General Assembly “detailed and comprehensive recommendations for the purposes of merging or eliminating duplicative or unnecessary divisions, programs, or personnel within each department to provide a more efficient administration of government services.” The report, at a minimum, includes information in the following areas - history, mission and vision, laws strategic plan, human and financial resources, performance measures, and restructuring recommendations.

The Department of Disabilities and Special Needs submits its Annual Restructuring Report in March 2015 and on January 11, 2016.³¹ The agency’s 2015-2016 Annual Accountability Report to the Governor and General Assembly, which it submits in September of 2016 serves as its 2017 Annual Restructuring Report.³² The agency’s 2016-2017 Annual Accountability Report to the Governor and General Assembly, which it submits in September of 2017 serves as its 2018 Annual Restructuring Report.³³

Seven-Year Plan for Cost Savings and Increased Efficiencies

S.C. Code § 1-30-10 requires agencies to submit “a seven year plan that provides initiatives and/or planned actions that implement cost savings and increased efficiencies of services and responsibilities

within the projected seven-year period.” The Department of Disabilities and Special Needs submits its plan in March 2015.³⁴

Program Evaluation Report

When an agency is selected for study, the Committee may acquire evidence or information by any lawful means, including, but not limited to, "requiring the agency to prepare and submit to the investigating committee a Program Evaluation Report by a date specified by the investigating committee." S.C. Code §2-2-60 outlines what an investigating committee's request for a Program Evaluation Report must contain. Also it provides a list of information an investigating committee may request. The Committee sends guidelines for the Department of Disabilities and Special Needs' Program Evaluation Report (PER) on February 13, 2017. The agency submits its report on May 1, 2017.

The PER includes information in the following areas - agency snapshot, agency legal directives, strategic plan and resources, performance, agency ideas/recommendations, and additional documents. The **Program Evaluation Report serves as the base document for the Committee's study of the agency.**

Information from the Public

Public input is a cornerstone of the House Legislative Oversight Committee's process.³⁵ There are a variety of opportunities for public input during the legislative oversight process. Members of the public have an opportunity to participate anonymously in a public survey, provide comments anonymously via a link on the Committee's website, and appear in person before the Committee.³⁶ During the study, media articles related to the agency are compiled for member review.

Public Survey

From February 9, 2017, to March 13, 2017, the Committee posts an **online survey to solicit comments from the public about the Department of Disabilities and Special Needs** and four other agencies. The Committee sends information about this survey to all House members to forward to their constituents. Additionally, in an effort to communicate this public input opportunity widely, the Committee issues a statewide media release.³⁷

Four hundred fifty-three respondents to the survey choose to answer questions about DDSN, with at least one response coming from 39 of South Carolina's 46 counties.³⁸ Respondents are primarily from Richland, Lexington, Charleston, Greenville, and Spartanburg Counties.³⁹ These comments are not considered testimony.⁴⁰ As the survey notes, "input and observations from those citizens who [chose] to provide responses are very important . . . because they may help direct the Committee to potential areas for improvement with these agencies."⁴¹ The survey results are posted on the Committee's website. The **public is informed it may continue to submit written comments about agencies online** after the public survey closes.⁴²

Of those survey participants that respond to questions related to DDSN, **66% have a positive or very positive opinion of the agency.**⁴³

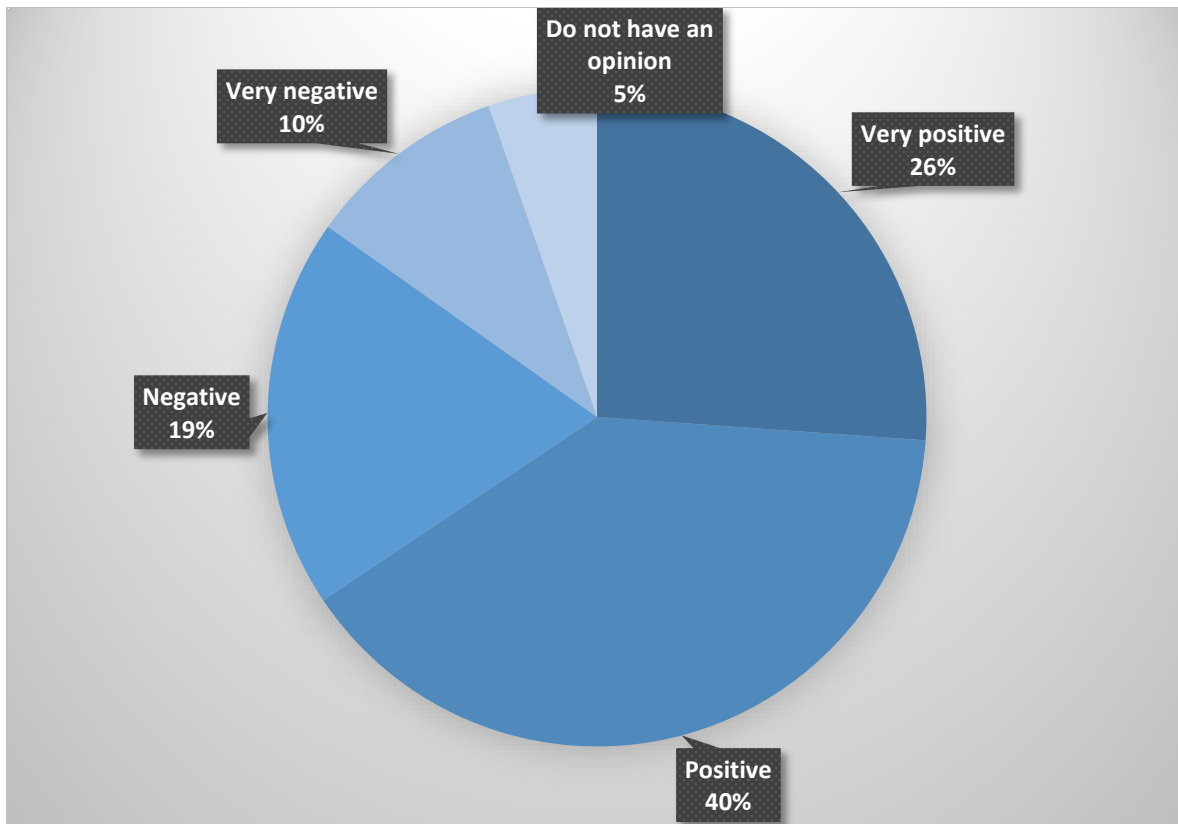


Figure 7. Public opinion of DDSN from public survey.

Over 75% of the public survey respondents base their opinions on personal or business with the agency. There are **comments about the wait list, commission, staff dedication, local board oversight, communications, website, placement in state government, payment system, and funding.**⁴⁴

Public Input via Committee Website

Throughout the course of the study, people are able to submit comments anonymously on the Committee website. The Committee posts comments verbatim to the website, but they are not the comment or expression of the House Legislative Oversight Committee, any of its Subcommittees, or the House of Representatives.⁴⁵ The Committee receives four comments via this method. Topics include personnel policies, wages, and quality of care.

Public Input via In-Person Testimony

During the study, the Committee offers the opportunity for the public to appear and provide sworn testimony.⁴⁶ A press release announcing this opportunity is sent to media outlets statewide on February 26, 2017.⁴⁷ The Committee holds a meeting dedicated to public input about Department of Disabilities and Special Needs and other agencies on March 2, 2017.⁴⁸ Further detail on the public input meeting is in the meetings section of this report.

Meetings Regarding the Agency

The Committee meets with, or about, the agency on three occasions, and the Subcommittee meets with, or about, the agency on eight occasions. All meetings are open to the public and stream live online; also,

the videos are archived and the minutes are available online. A timeline of meetings is set forth in Figure 2, beginning on page seven.

122nd General Assembly (2017-2018)

January 2017

On **January 10, 2017**, the full Committee selects the agency for study.⁴⁹

March 2017

On **March 2, 2017**, the full Committee holds its **first meeting** with the agency. Committee Chairman Wm. Weston J. Newton states the purpose of this meeting is to **receive public testimony** regarding DDSN and other agencies.⁵⁰ Constituents that have had experience with the agency testify.⁵¹

September 2017

On **September 18, 2017**, the Subcommittee holds **Meeting 2** with the agency. The Subcommittee receives testimony and ask questions about the agency's mission, roles, governing structure, provider network, prioritization of services, changing populations, service expansion, waiting lists, quality assurance process, incident management reporting, abuse/neglect/exploitation reporting, provider performance, current challenges, and pending system changes. Members also ask questions about the following, which State Director Buscemi answers:

- Provider choice;
- Medicaid funding;
- Provider personnel policies related to abuse and neglect allegations;
- Employee turnover; and
- Other state systems.⁵²

October 2017

On **October 10, 2017**, the Subcommittee holds **Meeting 3** with the agency. The Subcommittee receives testimony and members ask questions about the agency's finances, governance, and services. Members also ask questions about the following, which State Director Buscemi answers:

- Provider licensing;
- Room and board funding;
- Local board oversight;
- Band payment system; and
- Service suspension.⁵³

On **October 24, 2017**, the Subcommittee holds **Meeting 4** with the agency. The Subcommittee receives testimony from Commission Chair Eva Ravenel and Commissioner Bill Danielson. Members ask the Commissioners about the following:

- Commission role;
- Commission oversight of providers;
- Commission operations;
- Commission training; and
- Band payment system.

State Director Buscemi provides testimony about the band payment system, room and board, national benchmarks, regional centers, and client employment best practices. Members ask questions about the following:

- Tri-Development Center (Aiken board) operation of intermediate care facilities;
- Other state payment systems; and
- Board surplus funds.⁵⁴

November 2017

On **November 6, 2017**, the Subcommittee holds **Meeting 5** with the agency. The Subcommittee receives testimony and members ask questions about the agency's human resources, including turnover. State Director Buscemi also provides testimony about steps taken to address direct support professional turnover.⁵⁵

Associate State Director Susan Beck provides testimony and responds to questions about students transitioning from primarily receiving services in the school system, to receiving services from DDSN. She also provides testimony about abuse, neglect, and exploitation allegations and incident management.

Associate State Director Tom Waring provides testimony and responds to questions about agency computer systems and the compatibility of agency legacy systems with the statewide South Carolina Enterprise Information System (SCEIS).⁵⁶

On **November 30, 2017**, the Subcommittee holds **Meeting 6** with the agency. Department of Health and Human Services Interim Director Joshua Baker provides testimony about Medicaid and DDSN, General Medicaid authority, fee-for-service, coordinated care, and waiver services billing.

Laura Spears, Transition Services Coordinator; Mark Wade, Assistant Commissioner; and Margaret Alewine, Director of Planning and Program Evaluation; from the Department of Vocational Rehabilitation, provide testimony about the transition of DDSN-eligible youth out of school and into the workforce.

Subcommittee members ask questions about the sub-minimum wage and youth enrollment, which Coordinator Spears and different agency representatives answer.

Seven provider executive directors provide testimony about their relationship with the agency and their concerns. Executive directors presented in the following order:

- Thoyd Warren, Sumter County Disabilities and Special Needs;⁵⁷
- Mary Poole, MaxAbilities (York);⁵⁸
- Ralph Courtney, Tri-Development Center (Aiken);
- Gerald Bernard, Charles Lea Center (Spartanburg);
- Susan John, Horry County Disabilities and Special Needs;
- Judy Johnson, Babcock Center (Lexington); and
- Tyler Rex, Thrive Upstate (Greenville).⁵⁹

February 2018

On **February 1, 2018**, the Subcommittee holds **Meeting 7** with the agency. The Subcommittee receives testimony about the provider payment system, from Interim State Director Pat Maley. Mr. Maley provides a report of a payment system study he completed in the fall of 2017, including strengths and weaknesses of the current system, direction for improvement, and input from other states. Subcommittee members ask questions about band rate approval, outliers, administrative costs, and the payment study contracted for by DHHS.⁶⁰

July 2018

On **July 30, 2018**, the Subcommittee holds **Meeting 8** with the agency. The Subcommittee receives testimony about the agency's enterprise performance management system, from Interim State Director Pat Maley. Specifically, he addresses:

- Enterprise Performance Management and information systems being built to measure effectiveness and operations;
- What new performance management system measures;
- Previous year's annual report data and how DDSN will utilize data;
- South Carolina compared to other states;
- DDSN weakness in measuring its own performance and how it is growing and developing new processes to measure data and make it very transparent and descriptive;
- Complaints that DDSN is not honest because when they ask for information they get differing information;
- A series of media articles;
- National Core Indicators; and
- Residential observations targeted at detecting abuse and neglect.

Subcommittee members ask questions about his testimony, Commission oversight when performance is poor, and family participation in decision-making.⁶¹

August 2018

On **August 30, 2018**, the Subcommittee holds **Meeting 9** with the agency to take what the Subcommittee has learned about the agency, and determine if there are any recommendations, either to the agency itself or for changes to the law. Interim Director Maley is available for questions.

Subcommittee members make various motions. A roll call vote is held, and the motions pass. Motion topics include:

- Pilot program to expand pool of direct care professionals;
- Applicant notification;
- Self-sufficiency fund;
- Disability trust fund;
- Definition of intellectual disability;
- Definition of mental deficiency;
- Government entity zoning ordinances;
- Healthcare decision priority list;
- Definition of facility; and
- Sharing of information related to ANE investigations.⁶²

October 2018

On **October 23, 2018**, the full Committee holds **Meeting 10** with the agency. Committee members make motions to amend the report. A roll call vote is held, and the motions pass. Motion topics include:

- Commissioner training; and
- Governance.

The Honorable Phyllis Henderson moves the Committee approve the Subcommittee study. Committee members have until November 2, 2018, to submit statements to be included in the Committee report.

Study Process Completion

Pursuant to Committee Standard Practice 13.4, **Committee members may provide a separate written statement for inclusion with the Committee’s Study report.** The study, and written statements, are published online and the agency, as well as all House Standing Committees, receive a copy. The Committee may offer at least one briefing to members of the House about the contents of the final oversight study approved by the Committee.⁶³ The Committee Chair may provide briefings to the public about the final oversight study.⁶⁴

To support the Committee’s ongoing oversight by maintaining current information about the agency, the agency receives an annual Request for Information.

RECOMMENDATIONS

The following **recommendations include areas** the Committee identifies **for potential improvement**. The **Committee recognizes these recommendations will not satisfy everyone nor address every issue or potential area of improvement at the agency**. These recommendations are based on the agency’s self-analysis requested by the Committee, discussions with the agency during multiple meetings, and analysis of the information obtained by the Committee. This information, including, but not limited to, the Program Evaluation Report, Accountability Report, Restructuring Report and videos of meetings with the agency, is available on the Committee’s website.

Continue

The **Committee does not have any specific recommendations with regards to continuance of agency programs**.

Revise

The **Committee has seventeen recommendations for revisions**. The Committee’s recommendations fall into four categories: (1) recommendations to the Department of Disabilities and Special Needs, (2) recommendation to the Commission on Disabilities and Special Needs, (3) recommendation to the Committee, and (4) recommendations to the General Assembly. An overview of these recommendations is provided in Table 1 on page 8.

Recommendations to the Department of Disabilities and Special Needs

Incentives to Expand the Pool of Direct Care Professionals

The Committee has **one recommendation related to expanding the pool of direct care professionals**, and a summary is set forth in Table 16.

Table 16. Recommendation to the Department of Disabilities and Special Needs.

Recommendation to Department of Disabilities and Special Needs	
Expand Potential Pool of Direct Care Professionals	1.) The Department of Disabilities and Special Needs should seek funding to create a grant program or incentives for providers to expand the pool of Direct Care Professionals through shadowing programs, recognition programs, grassroots campaigns and training efforts designed to expand awareness about the profession and encourage greater participation by potential employees, specifically students preparing to graduate high school.

Throughout the study, DDSN staff present evidence regarding the “shrinking work force to supply staff to serve consumers.”⁶⁵ DDSN staff assert that direct support professional “stability is an important factor to the delivery of quality services” and that high “turnover and recruitment difficulties result in significant vacancies and increased overtime.” Agency steps to address this issue include: providing recruitment/retention grants to providers, surveying direct support professionals on work satisfaction, and implementing changes as a result of the survey.⁶⁶ Also, in the FY 2018 budget, DDSN receives \$9 million in new funding to increase the hiring wage to \$11 per hour, which the agency characterizes as a significant step in addressing competitive wages.⁶⁷ In the FY 2019 budget, DDSN receives \$11.3 million to increase DDSN’s direct care staff starting salaries to \$12 per hour and a 3-4% increase to direct care wages for employees working with the department for at least five years.⁶⁸

The purpose of this recommendation is to add another way to expand the pool of potential employees, by reaching them earlier and allowing them to get first-hand experience prior to applying for a direct support profession position.

Agency Follow Up

Table 17. Recommendation to the Department of Disabilities and Special Needs.

Recommendation to Department of Disabilities and Special Needs	
Provide Progress Report the Committee	2.) The State Director should report to the Committee in six months regarding changes implemented as a result of the Legislative Oversight process and the agency’s internal improvement processes. This update should also include the status of additional mechanisms of feedback from stakeholders.

Commissioner Training

The Committee has **one recommendation related to commissioner training**. A summary is set forth in Table 18.

Table 18. Recommendation to the Department of Disabilities and Special Needs.

Recommendation to Department of Disabilities and Special Needs	
Expand Commissioner Training	3.) The Department of Disabilities and Special Needs should further develop training for new Commissioners, including expanded onboarding and continuing education.

At the October 24, 2017, Subcommittee meeting, Commission Chair Eva Ravenel testifies new Commissioners receive training from agency executive staff, and are encouraged to visit facilities to familiarize themselves with the system.⁶⁹ She also testifies that throughout a new commissioner’s first three to six months, it is her practice to remain in constant contact to ensure the commissioner is grasping the information provided and agency processes.⁷⁰ In response to questions at the October 23, 2018, meeting, State Director Poole notes unlike past commissions, the current commission composition includes people with personal and professional knowledge of the system.⁷¹ She also recommends the agency expand its commission orientation packet, and require commissioners to obtain relevant continuing education.⁷²

Recommendation to the Commission on Disabilities and Special Needs

Regulations

The Committee has **two recommendations related to agency regulations**, one of which is for the DDSN Commission. A summary is set forth in Table 19.

Table 19. Recommendation to the Commission on Disabilities and Special Needs.

Recommendation to Commission on Disabilities and Special Needs	
Review Agency Regulatory Environment	4.) The Commission should undertake a complete review of the agency’s regulatory environment, including existing and needed regulations. If that review reveals regulations that should be promulgated, amended, or repealed, the Commission should proceed through the procedures in Title 1, Chapter 23 of the South Carolina Code of Laws, related to state agency rulemaking.

S.C. Code Ann. § 44-20-220 provides the duties of the Commission on Disabilities and Special Needs, and states “The Commission shall determine policy and promulgate regulations governing the operation of the department and the employment of professional staff and personnel.” The Commission has not proposed a new regulation, amendment or repeal of a regulation in at least two decades.⁷³ In 2017, the Commission approves a set of regulatory change recommendations to the Legislative Oversight Committee. Despite expressing a need, the Commission has yet to take steps to amend or repeal these regulations through the normal agency-initiated regulatory process.

Recommendation to the Legislative Oversight Committee

Regulations

The Committee has **two recommendations related to agency regulations**, one of which is to itself. A summary is set forth in Table 20.

Table 20. Recommendation to the Legislative Oversight Committee.

Recommendation to the House Legislative Oversight Committee	
Review Agency Regulatory Environment	5.) The Committee should formally communicate to the House Regulations and Administrative Procedures Committee that the Commission on Disabilities and Special Needs has reviewed some regulations and determined they should be amended. This study will be available as a resource whenever the Commission promulgates new regulations or proposes amendments to existing regulations

In October 2017, the Commission on Disabilities and Special Needs approves submission of thirteen recommendations for changes to existing regulations to the Legislative Oversight Committee. Despite indicating a need for changes, the Commission does not provide notice of drafting or take any other step in the regulatory process. In anticipation of the eventual action to be taken by the Commission on Disabilities and Special Needs, the Committee seeks to provide a resource for the regulatory process.

Recommendations to the General Assembly

Governing Body’s Role and Criteria for Membership

The Committee has **two recommendations related to DDSN’s associated governing bodies’ roles and one recommendation related to criteria for Commission membership**. A summary is set forth in Table 21.

Table 21. Recommendations to the General Assembly.

Recommendations to the General Assembly	
Create a Cabinet Agency	6.) The General Assembly should consider making the Department of Disabilities and Special Needs a cabinet agency. Specifically, the Governor, with the advice and consent of the Senate, should appoint the agency head. In addition, the Commission on Disabilities and Special Needs should continue to exist in an advisory capacity. All responsibilities currently assigned to the Commission, should devolve to the Department.
Develop Criteria for Commission Membership	7.) The General Assembly should consider amending S.C. Code Ann. § 44-20-210 to establish knowledge and expertise criteria for membership on the Commission on Disabilities and Special Needs.

Redefine Role of County Boards	8.) The General Assembly should consider amending S.C. Code Ann. § 44-20-30 such that the county disabilities and special needs boards serve in an advisory capacity to the county director. All responsibilities currently assigned to county boards, including hiring of the county director, should devolve to the Department. The county disabilities and special needs board office should become a county office of the Department of Disabilities and Special Needs.
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Throughout the study, Subcommittee members remark on the complexity of DDSN, from the structure to payment system. South Carolina is the only state where the intellectual disabilities agency is a standalone agency, governed by a commission of volunteers, and not in the same line of authority as the Medicaid agency.⁷⁴ Other standalone agencies have advisory groups, but they are not charged with determining policy for the agency or statewide system, or hiring the director.⁷⁵ Current Commission Chair Eva Ravenel provides testimony at the October 24, 2017, meeting. When asked how commissioners are appointed, she states “They are appointed by the Governor. I think the Governor is doing it wrong. You need someone who has a knowledge and passion for people with disabilities.”⁷⁶ Structure is not necessarily correlated with performance. Using the United Cerebral Palsy Case for Inclusion rankings, cited by the agency as the “most comprehensive rating of state ID/DD service systems,” three standalone agencies rank above South Carolina’s ranking of 14 nationally, and four rank below it in overall scores.⁷⁷

Agency Recommendations for Statutory Changes

As a part of the PER process, the Committee asks the agency to submit recommendations for statutory changes. These recommendations can be for myriad reasons including to update the Code of Laws to reflect current practices and to remove impediments to accomplishing the agency’s mission. The Committee adopts **nine agency recommendations**, with some modifications. Summaries are set forth in Tables 22-27. The agency’s proposed strikethrough and underline language is included in Appendix A. The agency makes additional recommendations, which the Committee receives for information purposes only. They are in Appendix B.

Table 22. Recommendation to clarify entities providing services.

Subject	Impacted Code Section	Recommendation
Clarify Entities Providing Services	S.C. Code Ann. § 44-20-370 (A)	9.) The General Assembly should consider amending S.C. Code Ann. § 44-20-370(A) to reflect that services are offered through private qualified providers as well as county DSN boards. In addition, the Committee recommends the agency develop a definition of “qualified provider,” for inclusion in Title 44, Chapter 20 of the S.C. Code of Laws.

Private qualified providers account for 15% of service spending in the DDSN system.⁷⁸ Entities become qualified providers by responding to an ongoing solicitation for providers.⁷⁹ County-based disabilities and special needs boards are able to become private qualified providers if there are services the board would like to provide outside of its home county.

Table 23. Recommendations to repeal Self-Sufficiency and Disability Trust Funds.

Subject	Impacted Code Section	Recommendation
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Repeal Self-Sufficiency Fund	S.C. Code Ann. § 44-28-10 through § 44-28-80	10.) The General Assembly should consider repealing S.C. Code Ann. § 44-28-10 through § 44-28-80 because the fund was not established and in 2016, the General Assembly established the South Carolina ABLE savings program, which serves the same purpose, and is made possible by the federal Achieving Better Life Experience Act.
Repeal Disability Trust Fund	S.C. Code Ann. § 44-28-310 through § 44-28-370	11.) The General Assembly should consider repealing S.C. Code Ann. § 44-28-310 through § 44-28-370 because the fund was never established and in 2016, the General Assembly established the South Carolina ABLE savings program, which serves the same purpose.

The Self-Sufficiency Trust Fund is established in 1992 to provide a “life-care planning option to meet the supplemental service needs of individuals with disabilities in order to enable parents and families to plan a more secure future for their disabled dependents without fear of loss of benefits or invasion of trust principal.”⁸⁰ The Disability Trust Fund is established in 1992 to provide “supplemental services to meet the needs of low income and indigent individuals with disabilities.”⁸¹ The South Carolina ABLE Savings Program, established in 2016, authorizes:

[E]stablishment of savings accounts empowering individuals with a disability and their families to save private funds which can be used to provide for disability-related expenses in a way that supplements, but does not supplant, benefits provided through private insurance, the Medicaid program under Title XIX of the Social Security Act, the supplemental security income program under Title XVI of the Social Security Act, the beneficiary’s employment, and other sources; and to provide guidelines for the maintenance of these accounts.⁸²

DDSN recommends repealing the Self-Sufficiency and Disability Trust Funds because they serve the same purpose as the later-enacted ABLE program. Other agencies serving clients qualifying for the two trust funds, including the Department of Mental Health and Vocational Rehabilitation, support repeal. If both sections are repealed, the result is repeal of all of Chapter 28 of Title 44.

Table 24. Recommendations to make definitions of “intellectual disability” consistent.

Subject	Impacted Code Section	Recommendation
Make Definitions of Intellectual Disability Consistent	S.C. Code Ann. § 44-23-10 (22)	12.) The General Assembly should consider amending S.C. Code Ann § 44-23-10(22) so that the definition of intellectual disability is consistent with the definition in S.C. Code Ann. § 44-20-30(12). ⁸³⁸⁴
Replace Mental Deficiency with Intellectual Disability	S.C. Code Ann. § 44-25-20(g)	13.) The General Assembly should consider amending S.C. Code Ann. § 44-25-20(g), to replace “mental deficiency” and its definition with “intellectual disability” and its definition as stated in S.C. Code Ann § 44-20-30(12). In addition, the Committee recommends that “mental deficiency” be replaced with “intellectual disability” throughout Title 44, Chapter 25.

Two nationally recognized entities provide definitions of “intellectual disabilities” similar to the definition the Department recommends. The **American Association of Intellectual and Developmental Disabilities**

defines intellectual disability as follows: “Intellectual disability is a disability characterized by significant limitations in both intellectual functioning and in adaptive behavior, which covers many everyday social and practical skills. This disability originates before the age of 18.”⁸⁵ The **Diagnostic and Statistical Manual of Mental Disorders (DSM)** defines intellectual disability as a “disorder with onset during the developmental period that includes both intellectual and adaptive functioning deficits in conceptual, social, and practical domains.”⁸⁶

Chapter 25 of Title 44 is the Interstate Compact on Mental Health, which South Carolina enters in 1959. Changing the term should not impact the state’s membership, as different states use different terms and definitions, including “mental deficiency, mental retardation, and intellectual disability.”

Table 25. Recommendation to be in compliance with federal fair housing laws.

Subject	Impacted Code Section	Recommendation
Correct Inconsistency with Federal Fair Housing Law	S.C. Code Ann. § 6-29-770	14.) The General Assembly should consider amending S.C. Code Ann. § 6-29-770 to remove the requirement that notice be given for a home for persons with disabilities, as it violates federal Fair Housing Laws. ⁸⁷

In 1988, the protections against housing discrimination in the federal Fair Housing Act are extended to people with disabilities. Case law interpreting the Act state requirements for notice of a group home constitute a discriminatory classification in violation of the Act, when they are not imposed on any other properly zoned residential unit.

Table 26. Recommendation to adjust priority of people/entities making health care decisions.

Subject	Impacted Code Section	Recommendation
Adjust Priority List of Persons Who Can Make Health Care Decisions	S.C. Code Ann. § 44-66-30(A)	15.) The General Assembly should consider amending S.C. Code Ann. § 44-66-30(A) to give DDSN last priority in health care decisions for persons unable to consent, as “a person given authority to make health care decisions for the patient by another statutory provision.” Section 44-26-40, § 44-26-50, and § 44-26-60(C) should all be amended to refer to the correct priority number in § 44-66-30.

The agency requests amendment to the Adult Health Care Consent Act, because in its most recent amendment, an inconsistency is created between DDSN statutes providing authority to use the Act and the Department’s priority in the Act itself. As a result, there is uncertainty in the provider network regarding who to seek consent from for medical treatment, when the client is unable to consent. The agency seeks to be last in the priority order.⁸⁸

Table 27. Recommendations related to the Omnibus Adult Protection Act.

Subject	Impacted Code Section	Recommendation
Add Day Program To	S.C. Code Ann. § 43-35-10(4)	16.) The General Assembly should consider amending S.C. Code Ann. § 43-35-10(4) to include day programs in the definition of “facility” in the Omnibus Adult Protection Act.

Definition of Facility		
Require Sharing of Case Disposition With Agency	S.C. Code Ann. § 43-35-60	17.) The General Assembly should consider amending S.C. Code Ann. § 43-35-60 to require investigating agencies to share specific abuse, neglect, or exploitation case dispositions with the relevant state agency.

Title 43, Chapter 35 is the Omnibus Adult Protection Act. Addition of day programs to the facilities definitions expands the settings subject to requirements in the Act.

The Department of Mental Health agrees with Recommendation 14, and SLED agrees in concept but asks the Committee consider requiring investigative entities to **share closed case dispositions with the relevant state agency**, so the agency can share it with the facility.

Eliminate

The **Committee does not have any specific recommendations with regards to elimination of agency programs.**

SELECTED AGENCY INFORMATION

Department of Disabilities and Special Needs. “Program Evaluation Report, 2017.”

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[https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SurveysforAllAgencies/Results%20from%202017%20Survey%20of%20DDSN;%20Election%20Commission;%20Human%20Affairs%20Commission;%20and%20John%20de%20Ia%20Howe%20School%20\(2_9%20-3_13\).PDF](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SurveysforAllAgencies/Results%20from%202017%20Survey%20of%20DDSN;%20Election%20Commission;%20Human%20Affairs%20Commission;%20and%20John%20de%20Ia%20Howe%20School%20(2_9%20-3_13).PDF) (accessed September 22, 2018).

APPENDICES

Appendix A. Statutory Change Recommendations

Statute	§ 44-20-370 (A)
Explanation of Revision	(Recommendation 6) Amends statute to reflect that services are offered through private qualified providers as well as the county DSN boards.
Recommended Language	<p>A) The department shall:</p> <ol style="list-style-type: none"> (1) Notify applicants when they have qualified under the provisions of this chapter; (2) Establish standards of operation and service for <u>private qualified providers</u> and county disabilities and special needs programs funded in part or in whole by state appropriations to the department or through other fiscal resources under its control; (3) Review service plans submitted by <u>private qualified providers</u> and county boards of disabilities and special needs and determine priorities for funding plans or portions of the plans subject to available funds; (4) Review <u>private qualified providers</u> and county programs covered in this chapter; (5) Offer consultation and direction to <u>private qualified providers and county boards</u>; <p>(B) The department shall seek to develop and utilize the most current and promising methods for the training of persons with intellectual disability, related disabilities, head injuries, and spinal cord injuries. It shall utilize the assistance, services, and findings of other state and federal agencies. The department shall disseminate these methods to <u>private qualified providers and the county boards</u> and programs providing related services.</p>
Statute	§ 44-28-10 through § 44-28-80
Explanation of Revision	(Recommendation 7) Repeals self-sufficiency trust fund because it was never established and the ABLE act is now in effect.
Recommended Language	<p>SECTION 44-28-10. Establishment of fund; purpose.—There is established the Self-Sufficiency Trust Fund, separate and distinct from the general fund, in the State Treasury. The purpose of the Self-Sufficiency Trust Fund is to provide a life care planning option to meet the supplemental service needs of individuals with disabilities in order to enable parents and families to plan a more secure future for their disabled dependents without fear of loss of benefits or invasion of trust principal.</p> <p>SECTION 44-28-20. Definition of “self-sufficiency trust.”—For the purpose of this chapter “a self-sufficiency trust” means a trust created by a nonprofit corporation exempt from federal income taxes pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986 and organized for purposes of providing care or treatment of one or more developmentally disabled, mentally ill, or physically handicapped persons eligible for services of the South Carolina Department of Disabilities and Special Needs, State Department of Mental Health, or the State Agency of Vocational Rehabilitation.</p> <p>SECTION 44-28-30. State Treasurer custodian of trust fund; agreement to specify supplemental care or treatment for each beneficiary.—(A) The State Treasurer is the custodian of the Self-Sufficiency Trust Fund and pursuant to an agreement with the trustee of a self-sufficiency trust may accept money from a self-sufficiency trust in the name of a beneficiary for deposit in the Self-Sufficiency Trust Fund. The treasurer shall maintain a separate account in the Self-Sufficiency Trust Fund for each named beneficiary and shall promptly credit the account of a beneficiary with money received from a self-sufficiency trust on behalf of that beneficiary.—(B) The agreement, naming one or more beneficiaries residing in this State who are developmentally disabled, mentally ill, or physically handicapped, must specify the supplemental care or treatment to be provided for each named beneficiary with the money deposited in the Self-Sufficiency Trust Fund.</p> <p>SECTION 44-28-40. Departments and Agency required to provide care or treatment using monies in fund account; vouchers.—(A) The South Carolina Department of Disabilities and Special Needs, State Department of Mental Health, or the State Agency of Vocational Rehabilitation must provide care or treatment for a beneficiary from monies available from the beneficiary’s account maintained in the Self-Sufficiency Trust Fund.</p>

	<p>—(B) Upon proper certification by the South Carolina Department of Disabilities and Special Needs, the State Department of Mental Health, or the State Agency of Vocational Rehabilitation, the State Treasurer shall process vouchers from the Self-Sufficiency Trust Fund accounts for services provided pursuant to this section.</p> <p>SECTION 44-28-50. Receipt of monies from fund not to reduce, impair, or diminish other benefits. —The receipt by a beneficiary of money from the Self-Sufficiency Trust Fund or of supplemental care or treatment provided with money from the fund may in no way reduce, impair, or diminish the benefits to which the beneficiary is otherwise entitled by law.</p> <p>SECTION 44-28-60. Money not usable for supplemental care and treatment to be returned to depositing trust; interest. —If the State Treasurer after consultation with the South Carolina Department of Disabilities and Special Needs, the State Department of Mental Health, or the State Agency of Vocational Rehabilitation determines that the money in the account of a named beneficiary cannot be used for supplemental care or treatment of the beneficiary in a manner consistent with the agreement or upon request of the trustee of the self-sufficiency trust, the remaining money in the account and any accumulated interest promptly must be returned to the self-sufficiency trust which deposited the money in the Self-Sufficiency Trust Fund.</p> <p>SECTION 44-28-70. Crediting and allocation of interest. —The State Treasurer shall credit interest earned on the Self-Sufficiency Trust Fund to the fund and shall allocate the interest pro rata to the accounts of the named beneficiaries of the fund.</p> <p>SECTION 44-28-80. Departments and Agency to promulgate regulations for implementation and administration of fund. —The South Carolina Department of Disabilities and Special Needs, the State Department of Mental Health, and the State Agency of Vocational Rehabilitation shall promulgate regulations necessary for the implementation and administration of the Self-Sufficiency Trust Fund.</p>
Statute	§ 44-28-310 through § 44-28-370
Explanation of Revision	(Recommendation 8) Repeals disability trust fund because it was never established and the ABLE act is now in effect.
Recommended Language	<p>SECTION 44-28-310. Establishment of fund; purpose. —There is established the Disability Trust Fund, separate and distinct from the general fund, in the State Treasury. The purpose of the Disability Trust Fund is to provide supplemental services to meet the needs of low income and indigent individuals with disabilities.</p> <p>SECTION 44-28-320. Source of monies for fund. —The State Treasurer may accept for deposit in the Disability Trust Fund: —(1) monies left to the Disability Trust Fund by donors of a self-sufficiency trust defined in Article 1 of this chapter at the death of the disabled beneficiary; and —(2) bequests and contributions from private donors, corporations, or foundations.</p> <p>SECTION 44-28-330. Use of monies in fund. —Monies in the Disability Trust Fund must be expended solely to provide supplemental services to meet the need for care or treatment for low income or indigent individuals with developmental disabilities, mental illness, or physical handicaps.</p> <p>SECTION 44-28-340. Interest earned to be credited to fund. —The State Treasurer shall credit earned interest on the Disability Trust Fund to the fund.</p> <p>SECTION 44-28-350. Receipt of monies from fund not to reduce, impair, or diminish other benefits. —The receipt by a beneficiary of money from the trust fund or of supplemental care or treatment provided with money from the trust fund does not in any way reduce, impair, or diminish the benefits to which the beneficiary is otherwise entitled by law.</p>

	<p>SECTION 44-28-360. Departments and Agency required to provide care or treatment to eligible beneficiaries using monies from fund. —The South Carolina Department of Disabilities and Special Needs, State Department of Mental Health, or State Agency of Vocational Rehabilitation must provide care or treatment for the beneficiary from monies available from the Disability Trust Fund. These agencies are responsible only for the beneficiaries that meet their individual eligibility criteria.</p> <p>SECTION 44-28-370. Departments and Agency to promulgate regulations for implementation and administration of fund. —The South Carolina Department of Disabilities and Special Needs, the State Department of Mental Health, and the State Department of Vocational Rehabilitation shall promulgate regulations necessary for the implementation and administration of the Disability Trust Fund.</p>
Statute	§ 44-23-10 (22)
Explanation of Revision	(Recommendation 9) Makes definitions of intellectual disability consistent.
Recommended Language	(22) "Person with intellectual disability" means a person, other than a person with a mental illness primarily in need of mental health services, whose inadequately developed or impaired intelligence and adaptive level of behavior require for the person's benefit, or that of the public, special training, education, supervision, treatment, care, or control in the person's home or community or in a service facility or program under the control and management of the Department of Disabilities and Special Needs, <u>with significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period.</u>
Statute	§ 44-25-20 (g)
Explanation of Revision	(Recommendation 10) Changes mental deficiency to intellectual disability.
Recommended Language	<p>(g) "Mental deficiency" shall mean mental deficiency as defined by appropriate clinical authorities to such extent that a person so afflicted is incapable of managing himself and his affairs, but shall not include mental illness as defined herein.</p> <p><u>"Intellectual disability" means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period.</u></p> <p>*Replace mental deficiency with intellectual disability throughout chapter.</p>
Statute	§ 6-29-770
Explanation of Revision	(Recommendation 11) Removes section of code inconsistent with federal Fair Housing Laws.
Recommended Language	<p>(E) The provisions of this section do not apply to a home serving nine or fewer mentally or physically handicapped persons provided the home provides care on a twenty-four hour basis and is approved or licensed by a state agency or department or under contract with the agency or department for that purpose. A home is construed to be a natural family or such similar term as may be utilized by any county or municipal zoning ordinance to refer to persons related by blood or marriage. Prior to locating the home for the handicapped persons, the appropriate state agency or department or the private entity operating the home under contract must first give prior notice to the local governing body administering the pertinent zoning laws, advising of the exact site of any proposed home. The notice must also identify the individual representing the agency, department, or private entity for site selection purposes. If the local governing body objects to the selected site, the governing body must notify the site selection representative of the entity seeking to establish the home within fifteen days of receiving notice and must appoint a representative to assist the entity in selection of a comparable alternate site or structure, or both. The site selection representative of the entity seeking to establish the home and the representative of the local governing body shall select a third mutually agreeable person. The three persons have forty five days to make a final selection of the site by majority vote. This final selection is binding on the entity and the governing body. In the event no selection has been made by the end of the forty five day period, the entity establishing the home shall select the site without further proceedings. An application for variance or special exception is not required. No person may intervene to prevent the establishment of a community residence without reasonable justification.</p>

Statute	§ 44-66-30(A); § 44-26-40; § 44-26-50; and § 44-26-60(C)
Explanation of Revision	(Recommendation 12) Make entities with authority to make healthcare decisions last in the priority and corrects code references.
Recommended Language	<p>SECTION 44-66-30. Persons who may make health care decisions for patient who is unable to consent; order of priority; exceptions.</p> <p>(A) Where a patient is unable to consent, decisions concerning his health care may be made by the following persons in the following order of priority:</p> <ol style="list-style-type: none"> (1) a guardian appointed by the court pursuant to Article 5, Part 3 of the South Carolina Probate Code, if the decision is within the scope of the guardianship; (2) an attorney-in-fact appointed by the patient in a durable power of attorney executed pursuant to Section 62-5-501, if the decision is within the scope of his authority; (3) a person given priority to make health care decisions for the patient <u>when the agency has taken custody of the patient</u> by another statutory provision; (4) a spouse of the patient unless the spouse and the patient are separated pursuant to one of the following: <ol style="list-style-type: none"> (a) entry of a pendente lite order in a divorce or separate maintenance action; (b) formal signing of a written property or marital settlement agreement; or (c) entry of a permanent order of separate maintenance and support or of a permanent order approving a property or marital settlement agreement between the parties; (5) an adult child of the patient, or if the patient has more than one adult child, a majority of the adult children who are reasonably available for consultation; (6) a parent of the patient; (7) an adult sibling of the patient, or if the patient has more than one adult sibling, a majority of the adult siblings who are reasonably available for consultation; (8) a grandparent of the patient, or if the patient has more than one grandparent, a majority of the grandparents who are reasonably available for consultation; (9) any other adult relative by blood or marriage who reasonably is believed by the health care professional to have a close personal relationship with the patient, or if the patient has more than one other adult relative, a majority of those other adult relatives who are reasonably available for consultation; (10) <u>a person given authority to make health care decisions for the patient by another statutory provision.</u> <p>SECTION 44-26-40. Determination of competency to consent to or refuse major medical treatment.</p> <p>If a client resides in a facility operated by or contracted to by the department, the determination of that client's competency to consent to or refuse major medical treatment must be made pursuant to Section 44-66-20(6) <u>44-66-20(8)</u> of the Adult Health Care Consent Act. The department shall abide by the decision of a client found competent to consent.</p> <p>SECTION 44-26-50. Health care decisions of client found incompetent to consent to or refuse major medical treatment.</p> <p>If the client is found incompetent to consent to or refuse major medical treatment, the decisions concerning his health care must be made pursuant to Section 44-66-30 of the Adult Health Care Consent Act. An authorized designee of the department may make a health care decision pursuant to Section 44-66-30(8) <u>44-66-30(10)</u> of the Adult Health Care Consent Act. The person making the decision must be informed of the need for major medical treatment, alternative treatments, and the nature and implications of the proposed health care and shall consult the attending physician before making decisions. When feasible, the person making the decision shall observe or consult with the client found to be incompetent.</p> <p>SECTION 44-26-60. Health care decisions of minor clients.</p> <p>(A) If the client is a minor, the decisions concerning his health care must be made by the following persons in the following order of priority:</p> <ol style="list-style-type: none"> (1) legal guardian; (2) parent; (3) grandparent or adult sibling; (4) other relative by blood or marriage who reasonably is believed by the health care professional to have a close personal relationship with the client;

	<p>(5) other person who reasonably is believed by the health care professional to have a close personal relationship with the client;</p> <p>(6) authorized designee of the department.</p> <p>(B) If persons of equal priority disagree on whether certain health care must be provided to a client who is a minor, a person authorized in subsection (A), a health care provider involved in the care of the client, or another person interested in the welfare of the client may petition the probate court for an order determining what care is to be provided or for appointment of a temporary or permanent guardian.</p> <p>(C) Priority under this section must not be given to a person if a health care provider, responsible for the care of a client who is unable to consent, determines that the person is not reasonably available, is not willing to make health care decisions for the client, or is unable to consent as defined in Section 44-66-20(6) 44-66-20(8) of the Adult Health Care Consent Act.</p> <p>(D) In an emergency health care may be provided without consent pursuant to Section 44-66-40 of the Adult Health Care Consent Act to a person found incompetent to consent to or refuse major medical treatment or who is incapacitated solely by virtue of minority.</p>
Statute	§ 43-35-10(4)
Explanation of Revision	(Recommendation 13) Adds day programs to the list of facilities that are settings subject to the Omnibus Adult Protection Act (OAPA).
Recommended Language	4) "Facility" means a nursing care facility, community residential care facility, a psychiatric hospital, <u>day program</u> or any residential program operated or contracted for operation by the Department of Mental Health or the Department of Disabilities and Special Needs.
Statute	§ 43-35-60
Explanation of Revision	(Recommendation 14) Requires investigating entities to share specific case dispositions with the relevant state agency.
Recommended Language	Unless otherwise prohibited by law, a state agency, an investigative entity, and law enforcement may share information related to an investigation conducted as a result of a report made under this chapter. <u>An investigative entity and law enforcement shall share specific case dispositions with the relevant state agency.</u> Information in these investigative records must not be disclosed publicly.

Appendix B. Agency Recommendations Received for Information Purposes Only

Recommendations Internal Changes Included in PER

1. Internal Change: Evaluation of Abuse, Neglect, and Exploitation (ANE) reporting and follow up system.

- The Legislative Audit Council (LAC) reviewed DDSN in 2014 and made several recommendations related to the ANE system. Last year DDSN asked the South Carolina Inspector General (SIG) to conduct a review of one of the private providers, S.C. Mentor. In this review the SIG made several recommendations about the South Carolina statewide ANE system. Most of the recommendations related to ANE centered around improving timely investigation and ensuring appropriate follow through of ANE allegations by the individual service provider and DDSN.
- DDSN hosted meetings with state agencies involved in the statewide ANE reporting and investigation process to discuss the potential implementation of the recommendations. DDSN does not have authority to unilaterally change this statewide process; it requires the cooperation of multiple agencies. This multi-agency group has referred several recommendations to the Adult Protection Coordinating Council as the entity best suited for further discussion and possible decision making on some of the recommendations. A specific recommendation of South Carolina having a single point of entry for all reports of potential ANE, regardless of the location or age of the vulnerable individual is being specifically discussed in multiple agency work groups.
 - DDSN staff are currently participating in meeting with the Institute of Medicine and Public Health to establish an Adult Abuse Registry. The need for an Adult Abuse Registry has been noted in several prior reviews of DDSN and other agencies supporting vulnerable adults. DDSN also continues representation on the Adult Protection Coordinating Council where a sub-group is working on the need for a single contact point for all allegations of abuse, neglect or exploitation towards vulnerable adults. The current system is complex and requires different entities to receive reports, depending on the age of the person affected or where the person lives.
 - DDSN staff are currently reviewing Standard of Care related data from the State Long-Term Care Ombudsman's office to improve transparency in the data shared with the public. Based on Federal guidelines, the SLTCOP uses 101 classifications for Standard for Care violations. DDSN is organizing similar complaint types into 7 distinct categories for internal reporting purposes. This information can then be used to target specific agency training aimed at improving consumer satisfaction and the overall quality of care.
- DDSN has modified some of the agency process to implement other aspects of the recommendations of the SIG or LAC and others are still under consideration.
 - a) **Stage of analysis;** Recommendations are complete; some internal changes have been implemented; some are still under consideration; and others require discussion, approval and implementation by multiple entities, including state agencies or local law enforcement.
 - b) **Objectives and Associated Performance measures impacted and predicted impact;**
 - Annual Rate of Substantiated Allegations of Abuse/Neglect/Exploitation Per 100 Served in Community Residential Settings: The recommendations center around ways to improve the existing statewide ANE system, which included better program review and enhanced resources improve

timeliness of investigative closures and follow through from the provider and DDSN. These have the potential to improve the overall reporting and investigation of ANE allegations. If recommendations result in improved response and follow through and remediation of the circumstances surrounding allegations of ANE, potentially, the likelihood of repeated situations resulting in allegations of ANE will be lessened.

- Annual Rate of Substantiated Allegations of Abuse/Neglect/Exploitation Per 100 Served in Regional Centers: Many of the recommendations centered around those allegations that result in referrals to Local Law Enforcement (LLE). Most allegations of ANE at the regional centers are investigated by the South Carolina Law Enforcement Division (SLED) unless the allegation involves a minor, in which case the investigation will be referred to the South Carolina Department of Social Services (DSS). The response time for these investigations are generally quicker than LLE. However, other changes in the overall statewide system could affect the Regional Centers as well.

c) Costs of the objectives that will be impacted and the anticipated impact;

- Objective 3.1.8: The annual rate of substantiated ANE per 100 served will be less than 0.07% in community residential settings and 0.25% in Regional Centers. Changes internal to DDSN or to the statewide system of reporting and investigation of ANE have potential to impact the reporting and tracking of the allegations as well as the quality of care resulting in the number of allegations.

d) On which objective(s) the agency plans to utilize additional available funds if the change saves costs, or obtain funds if the change requires additional funds, and how the objective(s) receiving or releasing the funds will be impacted;

- The cost of implementation is not yet known.

e) Anticipated implementation date: Still under consideration and review; unknown.

2. Internal Change: *Changes to the Tracking and Reporting of Critical Incidents*

- DDSN tracked medically-oriented "critical incidents" and determined that they account for about 60% of all Critical Incident Reports submitted through the agency's web-based reporting system. Based on the fact that DDSN serves a population that is aging in place and some are receiving end of life care in their residential settings, DDSN will transition the medically-oriented events to Therap General Event Reporting (GER). The events that will be transitioned to Therap include hospitalizations, emergency room visits, illnesses such as flu or pneumonia, and major medical events (cardiac events, stroke, uncontrolled seizures, and admission to ICU or CCU). These events are medical in nature and are not the result of any action or inaction by staff supporting the DDSN service recipient.
- Falls, choking incidents, and any accidents involving serious injury will continue to be reported as "Critical Incidents." This will allow for better reporting of true "critical incidents" and better assist DDSN in supporting provider agencies with training and technical assistance with prevention efforts.

a) Stage of analysis: DDSN has already changed how these critical incidents are reported to the DSN Commission and other stakeholders. The change the data collection utilizing Therap will occur in summer 2017.

b) Objectives and Associated Performance measures impacted and predicted impact:

- Annual Rate of Critical Incidents Per 100 Served in Community Residential Settings: Shifting reporting and tracking of more routine medical incidents will allow the agency and providers to more appropriately focus on true critical incidents. This will likely afford more opportunity to engage in prevention efforts and remediation after an incident and therefore reduce the overall number of incidents.
 - Annual Rate of Critical Incidents Per 100 Served in Regional Centers: Shifting reporting and tracking of more routine medical incidents will allow the agency and providers to more appropriately focus on true critical incidents. This will likely afford more time and opportunity to engage in prevention efforts and remediation after an incident and therefore reduce the overall number of incidents.
 - Annual Rate of Fall Related Critical Incidents Per 100 Served in Community Residential Settings: This measure will continue to be measured through the Critical Incident Management System, but shifting the reporting and tracking of less critical, routine medical incidents will allow the agency and providers to more appropriately focus more severe incidents.
 - Annual Rate of Fall Related Critical Incidents Per 100 Served in Regional Centers: This measure will continue to be measured through the Critical Incident Management System, but shifting the reporting and tracking of less critical, routine medical incidents will allow the agency and providers to more appropriately focus more severe incidents.
- c) **Costs of the objectives that will be impacted and the anticipated impact:**
- Objective 3.1.6: Annual rate of falls leading to injury per 100 consumers served in community residential and Regional Centers will be less than 1.12. This data will continue to be measured through the Critical Incident Management System, but shifting the reporting and tracking of less critical, routine medical incidents will allow the agency and providers to more appropriately focus more severe incidents.
 - Objective 3.1.7: Annual rate of critical incident report per 100 consumers should not exceed 19 in residential settings and 39 in Regional Centers. Shifting reporting and tracking of more routine medical incidents will allow the agency and providers to more appropriately focus on true critical incidents. This will likely afford more opportunity to engage in prevention efforts and remediation after an incident and therefore reduce the overall number of incidents.
 - Objective 3.1.8: Modify the critical incident reporting program to focus collection on relevant incidents and eliminate benign incidents; establish criteria for proactive inquiry; and establish criteria for proactive inquiry; and establish performance benchmarks within 90 days after initiating modified process.
Performance measure for this new initiative.
- d) **On which objective(s) the agency plans to utilize additional available funds if the change saves costs, or obtain funds if the change requires additional funds, and how the objective(s) receiving or releasing the funds will be impacted:** There is no anticipated cost to the agency. This is a shift in how data is tracked and reported utilizing functions in the new electronic record system DDSN is implementing statewide.
- e) **Anticipated implementation date:** Late summer 2017

3. Internal Change: Direct Service Operations – DDSN to develop and directly operate six small community based group homes for eighteen individuals with significant behavioral challenges.

- Historically DDSN has utilized the community network of local Disabilities and Special Needs Boards and Qualified residential providers to develop and operate community services. This service network currently provides a wide array of community residential services to approximately 4,725 individuals.
- This action is being taken due to the growing number of individuals on the DDSN Critical Needs List and the increase in the average time that an individual placed on the Critical Needs List has to wait to access residential services. The individuals placed on the Critical Needs List typically require out-of-home residential services to address their needs. The growth in the Critical Needs List and increased wait time to access residential services

is attributable to a growth in the number of individuals with significant behavioral needs and a limited interest by the existing community service network to serve individuals with significant behavioral needs.

- DDSN approached residential service providers specializing in supporting individuals with significant behavioral needs operating in other states but was unsuccessful in getting additional providers to come to South Carolina. While DDSN could opt to serve some of these individuals with significant behavioral needs in the DDSN operated regional centers, this would be contrary to the federal and state requirement to serve people with disabilities in the least restrictive community setting possible. To ensure availability of appropriate residential settings for individuals with significant behavioral needs DDSN will open and directly operate a small quantity of homes in the community.

a) **Stage of analysis:** Change is in the beginning stages and is projected to be completed late summer 2018.

b) **Objectives and Associated Performance measures impacted and predicted impact:** This initiative will create more community based residential options for individuals with significant behavioral needs.

- Ratio of Persons Served in HCB Waivers Versus ICF/IID will be at least 9.6 to 1 – By serving individuals with significant behavioral challenges in community waiver funded homes instead of regional centers, the ratio of persons served in HCB Waivers versus ICFs/IID will be strengthened.
- Number of Persons Served Per 100,000 General Population in 16 + Bed Facilities will be lower than the National Average– By serving individuals with significant behavioral challenges in community waiver funded homes instead of regional centers, the number of persons served in 16 + bed facilities will be prevented from increasing.
- Average Length of Wait for Individuals Place on Critical Needs List will be less than 60 Days - As additional community residential services for persons with significant behavioral challenges are developed, this will allow those individuals with significant behavioral challenges to be served from the Critical Needs List more quickly.
- Develop 6 DDSN directly operated community homes – this initiative is this performance objective.

c) **Costs of the objectives that will be impacted and the anticipated impact:**

- Strategy 2.2: Community Residential Services (residential habilitation services while still in the community)– Directly operating community residential services for persons with significant behavioral needs will avoid the higher costs associated the more restrictive ICF/IID facilities. DDSN will operate these homes at the same rate paid to community providers for this population, therefore the incurred cost is the same to the agency. This avoids placement of individuals into more restrictive and therefore more costly settings; generating savings which may be utilized by the agency and community provider network to serve more individuals.

d) **On which objective(s) the agency plans to utilize additional available funds if the change saves costs, or obtain funds if the change requires additional funds, and how the objective(s) receiving or releasing the funds will be impacted:** DDSN will operate these homes at the same rate paid to community providers for this population, therefore the incurred cost is the same to the agency for Community residential services expansion for this population. This does avoid placement of individuals into more restrictive and therefore more costly settings. In doing so, this generates cost reductions which may be redirected by the agency and community provider network to serve more individuals.

e) **Anticipated implementation date:** August 2018

4. Internal Change: Plan Review and Service Authorization - Move the approval of the Case Management Annual Support Plan and Medicaid Waiver Service Requests away from Case Management providers and to the DDSN Central Office.

- Currently, each waiver participant’s case manager is responsible for assessing, planning and authorizing waiver services for the participant. For most waiver services, the authority to approve the plan of care, including the amount of service a participant may receive, lies with the case manager. The State (DDSN and DHHS) conducts reviews of plans but do not approve plans prior to implementation.
- Bestowing this authority on the case manager, is not consistent with 42 CFR§441.301(b)(1)(i) and creates potential inconsistency and a conflict of interest in that case managers and/or Medicaid Targeted Case Management (MTCM) providers may, to address the same need, determine that differing amounts of waiver services are required to address the need. While some variances are to be expected, having this authority could be used by an MTCM provider to attract or maintain clientele. The current waiver documents also include the service of Waiver Case Management which, when implemented by DHHS, would put the Case Managers in a position to be authorizing the delivery of the service which they are being paid to provide.
- DDSN is in the process of developing policies and procedures for a system in which the Annual Plan and any changes throughout the year must be approved by DDSN Staff. This system change will benefit Case Management providers through increased system efficiencies and less opportunity for errors that result in recoupment of Medicaid funds. It will also benefit the individuals served through creating an approval environment that is consistent in its approval methodology and free of any potential operational conflict including the authorization of Waiver Case Management.

a) **Stage of analysis:** Change is in the final stages and will be implemented late summer 2017.

b) **Objectives and Associated Performance measures impacted and predicted impact:** This change will create a more consistent approval process for individuals served across the state while also minimizing the errors in the Support Plan that cause recoupment of funds. This also removes some of the inherent conflict of interest present in the case of a Case Manager approving their own level of service and authorizing themselves to provide that service as required by CMS.

- Percent of Total Served Supported in Home and Compare to National Benchmark - As services are approved more consistently, the Measure of Average Annual Per Person HCB Waiver Cost may change as a more consistent approval process is utilized. The agency ensures that people are served at the most appropriate level and service dollars are used to support individuals appropriately in their homes avoiding more expensive residential placement whenever possible.
- Number of Persons Served Per 100,000 General Population and Compare to National Benchmark - As services are approved more consistently, the Measure of Average Annual Per Person HCB Waiver Cost may change as a more consistent approval process is utilized and therefore more individuals may be served with the same amount of funds.
- Average Annual Per Person HCB Waiver Costs and Compare to National Benchmark - As services are approved more consistently, the Measure of Average Annual Per Person HCB Waiver Cost may change as a more consistent approval process is utilized and therefore more individuals may be served with the same amount of funds.
- Number of Individuals on DDSN Managed HCB Waiver Waiting Lists - As services are approved more consistently, the Measure of Average Annual Per Person HCB Waiver Cost may change as a more consistent approval process is utilized and therefore more individuals may be served with the same amount of funds.
- Begin Centralization of Annual Service Authorizations by DDSN – this initiative is this performance objective.

c) **Costs of the objectives that will be impacted and the anticipated impact:**

- Strategy 2.1: In-Home Family Support Services (least restrictive community setting)– Approving waiver services at the central level will insure that services are utilized as intended, help prevent abuse and allow for more equitable distribution of funds/services.
 - Strategy 4.1: Monitor organizational effectiveness through benchmarks – This will help ensure the in-home supports are appropriate and therefore help increase maximum utilization.
- d) **On which objective(s) the agency plans to utilize additional available funds if the change saves costs, or obtain funds if the change requires additional funds, and how the objective(s) receiving or releasing the funds will be impacted:** Savings generated from this initiative will be utilized by the DDSN community provider network to maintain financial solvency and assure consumers are receiving the appropriate services commiserate with identified needs.
- e) **Anticipated implementation date:** August 2017

5. Internal Change: DDSN Outcome-based Provider Evaluation

- DDSN is committed to understanding and responding to strategies that help improve organizational performance. Activities in this area are based on the work of the Council on Quality and Leadership (CQL). The strategies are based upon the organization, assessment and synthesis of reliable and valid data from multiple sources and have at their core common values and principles. The logic of the organizing principles is to help us understand, implement and produce results for our primary customers and their families
 - The application of the Basic Assurances® involves two broad evaluation strategies – evaluation of both the system and the organizational practice. The modified system will comprise three components: (1) Periodic Review-Each residential and day service provider will be reviewed on a three year rotation, beginning with residential providers scoring below 85% on the Contract Compliance Review; (2) Development of Quality Enhancement Plan- After the Basic Assurances® Review, the Contractor will review the provider’s Quality Enhancement Plan, designed to move the provider towards person-centered services; and (3) Intermittent Review-after each provider has their initial review, the Contractor will monitor the provider’s Quality Enhancement Plan that develops for the Basic Assurance findings.
- a) **Stage of analysis:** DDSN has completed the changes necessary to issue the 5 year RFP for the contract with a Quality Improvement Organization (QIO) and will be submitting to the State Procurement Office of the State Fiscal Accountability Authority in early May 2017. The State Procurement Office should post the RFP for bidding in the summer of 2017.
- b) **Objectives and Associated Performance measures impacted and predicted impact:**
- Average overall contract compliance review score - While the actual percentage of the scores may not change, the review process will be increasingly focused on meaningful outcome measures of provider performance and less so on administrative compliance.
 - Annual number of community service providers with less than 70 % contract compliance review key indicator in one review area (total six possible review areas) – the increased focus on outcome and process measurements are expected to increase the overall level of compliance across multiple areas measured.
- c) **Costs of the objectives that will be impacted and the anticipated impact:** DDSN anticipates the overall cost of the contract with the QIO to increase due to the increased requirement of using Basic Assurances® as part of the quality review process.

- Strategy 2.2: Community residential Services (residential habilitation service while still in the community) – this initiative is expected to increase focus on process and consumer outcomes and therefore increase the overall provision of services statewide.
 - Strategy 3.1: Quality assurance monitoring of providers’ compliance with contract operational performance; consumer health, safety and welfare, and facility licensing standards - this initiative is expected to increase focus on process and consumer outcomes and therefore increase the overall provision of services statewide.
 - Strategy 4.1: Monitor organizational effectiveness through benchmarks - this initiative is expected to increase focus on process and consumer outcomes and therefore increase the overall provision of services statewide.
- d) **On which objective(s) the agency plans to utilize additional available funds if the change saves costs, or obtain funds if the change requires additional funds, and how the objective(s) receiving or releasing the funds will be impacted:** DDSN anticipates the overall cost of the contract with the QIO to increase due to the increased requirement of using Basic Assurances® as part of the quality review process. This increase in cost will be absorbed in the basic operating costs of the agency.
- e) **Anticipated implementation date:** Fall of 2017

Agency Recommendations for Regulatory Changes (PER Addendum, October 8, 2017)

1. License requirement for facilities and programs

Impacted Section	S.C. Code of Regulations 88-105 through 88-920 et seq.
Rationale	The former Department of Mental Retardation is now the Department of Disabilities and Special Needs.
Recommendation	Should be amended to change the name of the agency from the South Carolina Department of Mental Retardation to the Department of Disabilities and Special Needs throughout the regulations.
Other Impacted Entities	None

2. Scope

Impacted Section	S.C. Code of Regulation 88-105A
Rationale	Should be amended to denote programs receiving funds through DDSN and to rename the Department.
Recommendation	A. No program receiving funds through DDSN shall be operated in part or in full for the care, maintenance, education, training or treatment of more than two persons with intellectual disability unless a license is first obtained from the South Carolina Department of Mental Retardation <u>Department of Disabilities and Special Needs</u> . “In part” shall mean a program operating for at least ten (10) hours a week.
Other Impacted Entities	None

3. Recreational Camp

Impacted Section	S.C. Code of Regulations 88-110 D(1)
Rationale	Should be repealed as DDSN no longer licenses recreational camps or Sheltered Workshops.
Recommendation	D. The license will specify the name of the licensee, the maximum number of participants to be present at the facility at one time and the type of program it is determined to be. The program type is designated as follows: (1) Recreation Camp; (a) Residential; (b) Day; (5) Sheltered Workshop;
Other Impacted Entities	None

4. Applications for License

Impacted Section	S.C. Code of Regulations 88-120 A and B
Rationale	Should be amended to have applications going to the Department of Disabilities and Special Needs.
Recommendation	A. Applications for license shall be made to the Department. appropriate regional office of the South Carolina Department of Mental Retardation, Community Program Division: — (1) Coastal Region — Suite 907— Summerall Center — 19 Hagood Street — Charleston, South Carolina 29403 — (2) Midlands Center — 8301 Farrow Road. — Columbia, South Carolina 29203 — (3) Pee Dee Center — Post Office Box 3209 — Florence, South Carolina 29502 — (4) Whitten Center — Post Office Drawer 239 — Clinton, South Carolina 29325 B. Applicants will be provided the appropriate forms for licensing upon request from one of the above locations <u>the Department.</u>
Other Impacted Entities	None

5. Waivers

Impacted Section	S.C. Code of Regulations 88-130 A and B
Rationale	Should be amended to change Commissioner to Department throughout.
Recommendation	A. The Commissioner-Department may waive compliance with one or more of the requirements of these regulations if, in his <u>the Department's</u> judgment, the waiver would not endanger the safety of the participants, staff, or the public,

	<p>and would not reduce significantly the quality or quantity of the services to be provided.</p> <p>B. To request a waiver, the applicant or licensee must make a written application to the Commissioner Department which includes the justification for the request for a waiver and must first be reviewed by the appropriate regional superintendent Department staff with approval by the state director.</p>
Other Impacted Entities	None

6. Definitions

Impacted Section	S.C. Code of Regulations 88-210
Rationale	Should be amended to reflect current definitions.
Recommendation	<p>88-210 Definitions.</p> <p>For the purpose of these regulations the following definitions apply:</p> <p>A. Agency—An organization either public or private which is operated by a board of directors or other governing body and which offers programs to persons with intellectual disability.</p> <p>B. Applicant—Any agency who has applied for a license from the Department.</p> <p>C. Client—A person with intellectual disability who has been deemed eligible for services by the Department and who is participating in a program in the State or is on the waiting list for services from the Department.</p> <p>The Department is required to provide community and residential service programs similar to those provided to persons with intellectual disability to substantially handicapped epileptic, cerebral palsied, autistic, and other developmentally disabled individuals whose treatment and training needs approximate those of the persons with intellectual disability. Eligibility for services shall be determined by the Department. It is intended that the Department not duplicate other State agency programs or develop service modalities which normally would be considered to be the legal and programmatic mandate of another State agency.</p> <p>D. Commissioner Director—The chief administrator of the Department of Mental Retardation Disabilities and Special Needs or his designee.</p> <p>E. Department—The South Carolina Department of Mental Retardation. (SCDMR)</p> <p>F. Developmental Period—The period of time between conception and the twenty-second birthday.</p> <p>G. Governing Board—The individuals or group that have legal responsibility for the agency or organization which operates the day program.</p> <p>H. License—A document issued by the Department to an agency operating a program indicating that the licensee is in compliance with the provisions set forth in these regulations and other standards as specified in these regulations.</p> <p>I. Licensee—The agency who holds the primary responsibility for providing services and compliance with these regulations.</p> <p>J. Licensor—The Department of Mental Retardation Disabilities and Special Needs.</p> <p>K. Mental Retardation—Refers to significantly sub-average general intellectual functioning resulting in or associated with concurrent impairments in adaptive</p>

	<p>behavior and manifested during the developmental period. Intellectual disability" means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period.</p> <p>L. Participant—Any person with intellectual/<u>related</u> disability, <u>autism or head and spinal cord injury</u> who is participating in a program licensed by the Department.</p> <p>M. Regional Office—The SCDMR office which performs the license survey and issues the license.</p> <p>N. Permit—a written permit, issued by the health authority permitting the food service, camp, swimming pool or natural bathing area to operate under S. C. Department of Health and Environmental Control regulations.</p>
Other Impacted Entities	None

7. *Recreational Camps for Persons with Intellectual Disability.*

Impacted Section	S.C. Code of Regulations 88-310 through 88-395
Rationale	Repeal the regulations as DDSN does not license Recreational Camps for Persons with Intellectual Disabilities.
Recommendation	<p>88-310 Definitions.</p> <p>—A. Activity Specialist—An individual who has skills in and is responsible for conducting camper participation activities such as arts and crafts, swimming, sports, camping, etc.</p> <p>—B. Aquatic Guard—A waterfront staff member who is responsible to the aquatic supervisor for the supervision of campers during any aquatic activities.</p> <p>—C. Aquatic Supervisor—Is in charge at a waterfront for supervising the entire swimming program including, but not limited to, free swim, swim lessons, swimming ability tests, boating, waterfront play and who is also responsible for the supervision of the aquatic guards.</p> <p>—D. Camper—A person with intellectual disability who is attending either a licensed Recreation Residential Camp or a Recreation Day Camp.</p> <p>—E. Campsite—The land, including the natural and man-made features, where the camp program is being offered.</p> <p>—F. Comprehensive Plan—The plan of operation that sets forth all aspects of the camp program including the major program emphasis and the range of participants to be served.</p> <p>—G. Counselor—An individual who directly supervises the campers and who is responsible to the camp director.</p> <p>—H. Counselor in Training—An individual who participates in a specific camper leadership development program, but has no direct supervision or responsibility for campers.</p> <p>—I. Recreation Day Camp—A program of recreation activities for the camper with intellectual disability with an emphasis on outdoor and camping activities that utilize trained leadership and the natural or man-made outdoor surroundings to contribute to the camper’s mental, physical, and social growth and which provides services for less than twenty four hours a day.</p>

~~— J. Recreation Residential Camp— A program of recreation activities for the camper with intellectual disability with an emphasis on outdoor and camping activities that utilize trained leadership and the natural or man-made outdoor surroundings to contribute to the camper's mental, physical and social growth and which provides four or more consecutive twenty-four hour periods of camp programming at one or more campsites.~~

~~Code Commissioner's Note~~

~~Pursuant to 2011 Act No. 47, Section 14(B), the Code Commissioner substituted "intellectual disability" for "mental retardation" and "person with intellectual disability" or "persons with intellectual disability" for "mentally retarded." At the Code Commissioner's discretion, the substitution was not made for the formal reference to the South Carolina Department of Mental Retardation in this regulation.~~

~~88-315 Campsite.~~

~~— The Campsite will meet the appropriate requirements of the Rules and Regulations Governing Camps as published by the South Carolina Department of Health and Environmental Control.~~

~~88-320 Supervision.~~

~~— Each camp program shall be under the supervision of a qualified camp director. The director shall designate other staff persons to be in charge during temporary absences. The director is in charge of the camp the entire period campers are present.~~

~~88-325 Personnel.~~

~~— A. A residential camp director shall meet the following requirements:~~

~~— (1) Be at least 21 years of age;~~

~~— (2) Possess an earned baccalaureate degree in recreation, business administration, special education or a related field;~~

~~— (3) Have at least two year's experience in camp programs.~~

~~— B. A Day camp director shall meet the following criteria:~~

~~— (1) Be at least 21 years of age;~~

~~— (2) Possess an earned baccalaureate degree in recreation, business administration, special education or a related field;~~

~~— (3) Have at least one year experience in camp programs.~~

~~— C. Counselors shall:~~

~~— (1) Have at least a tenth grade education;~~

~~— (2) Be at least sixteen years of age.~~

~~— D. Activity Specialists shall:~~

~~— (1) Have at least an eighth grade education;~~

~~— (2) Be at least sixteen years of age;~~

~~— (3) Have training or experience in the program speciality which they will be teaching.~~

~~— E. Counselors in training shall:~~

~~— (1) Have at least an eighth grade education;~~

~~— (2) Be 14 years of age.~~

~~— F. Aquatic supervisor will:~~

- ~~— (1) Be at least 17 years of age;~~
- ~~— (2) Have a current water safety instructor certificate from the American Red Cross;~~
- ~~— G. Aquatic guard will be currently certified by the American Red Cross as an Advanced Lifesaver or in Lifeguard Training.~~
- ~~— H. All camp staff will participate in a pre-camp training session. The training session content and participation will be documented.~~

~~88-330 Size of Staff.~~

- ~~— A. There shall be one staff member, excluding dietary, transportation, counselors-in-training, and janitorial staff, for each five campers in a residential program.~~
- ~~— B. There shall be one staff member, excluding dietary, transportation, counselors-in-training and janitorial staff for each ten campers in a day camp program depending on functioning level and needs of campers.~~
- ~~— C. Upon consideration of the ages, the severity of handicapping conditions, and the services needed by the campers, the Department may approve or require a different staff/camper ratio, but in no case shall there be less than one staff member for each ten campers. Counselors-in-training may not be considered in calculating the staff/camper ratio.~~
- ~~— D. The approved staff/camper ratio shall be maintained during all periods when campers are present.~~

~~88-335 Personnel Records.~~

- ~~— A. The camp shall maintain records on each camp employee which contains at a minimum the following:~~
 - ~~— (1) Full name;~~
 - ~~— (2) Address;~~
 - ~~— (3) Age;~~
 - ~~— (4) Training;~~
 - ~~— (5) Education;~~
 - ~~— (6) Work Experience;~~
 - ~~— (7) Other qualifications;~~
 - ~~— (8) The names and telephone numbers of persons to be notified in the event of emergency;~~
 - ~~— (9) Documented evidence of freedom from tuberculosis at the time of employment (dated within one month from date of first day of camp);~~
 - ~~— (10) A signed statement indicating they have never been charged or convicted of a crime of abuse or neglect.~~

~~88-340 General Health.~~

- ~~— A. Health information shall be maintained on every camper which shall include:~~
 - ~~— (1) A health status questionnaire on a form approved by the Department, completed and signed by the camper's parent or guardian within ninety (90) days prior to camp.~~
 - ~~— (2) A report of a physical examination performed by a licensed physician within twelve months preceding entry into camp, or a statement, signed by the camper's parent/guardian, that having been advised that examination by a physician is~~

required, the parent/guardian requests that this requirement be waived and state reason in writing.

— B. Every camp shall have a written policy which provides for daily health surveillance of campers and staff. If a camper or staff member is suspected of having a communicable disease, he shall be isolated and medical treatment obtained.

— C. Health records shall be readily available to all camp personnel and shall include:

— (1) Camper's name, address, telephone number of parent/guardian or person to contact in case of emergency;

— (2) Authorization for emergency medical care signed by the parent/guardian of each camper;

— (3) Written authorization to administer any medication signed by the parent/guardian;

— (4) A list of known allergies or drug reactions.

— D. Injury and Illness Reports

— (1) If an injury or illness is judged by the camp director to be serious, the camp health director shall be notified immediately and the camper's parent/guardian will then be notified. A record of each contact or each attempt to contact the parent/guardian shall be maintained. The camp director will be responsible for obtaining the necessary medical services and informing the appropriate regional office within 5 hours of injury or illness.

— (2) A medical log shall be maintained which contains a list of dates, names of patients, ailments, and treatments prescribed.

— (3) A report for each serious injury, illness, abuse, neglect or fatality which occurs at camp shall be recorded in a critical incident log which shall be submitted for review by the regional office staff of the Department and other authorized personnel.

— E. Health Staff

— (1) A residential camp shall have on duty at all times campers are present, a camp health director who is one of the following:

— (a) Currently certified by the American Red Cross in Advanced First Aid and Emergency Care;

— (b) A licensed physician;

— (c) A registered nurse;

— (d) A licensed practical nurse;

— (e) A licensed Emergency Medical Technician.

— (2) A day camp shall have on duty at all times campers are present, a camp health director who is one of the following:

— (a) Currently certified by American Red Cross in Basic or Standard First Aid;

— (b) A licensed physician;

— (c) A registered nurse;

— (d) A licensed practical nurse;

— (e) A licensed Emergency Medical Technician.

— F. Medication

— (1) Medication prescribed for campers or staff members shall be kept in the original containers bearing the pharmacy label which shows drug name, the prescription number, date filled, physician's name, direction for use, and patient's name.

— (2) Medication shall be stored in a locked container.

- (3) The health director shall:
 - (a) Record all incoming medication;
 - (b) Inventory all medication daily;
 - (c) Be responsible for proper maintenance and storage of all medication.
- (4) When any medication is administered to a camper, the date, dosage, time and name of staff member administering the medication shall be recorded in the medical log.
- (5) When no longer needed, medications shall be returned to parents/guardian or other authorized persons and a record of the disposition of unused medication shall be maintained which includes the camper's name, the drug name, the prescription number, the amount disposed of, the name of the staff disposing of the medication and the manner and date of disposition.

88-345 General Safety.

- A. Equipment and facilities used in a camp program shall be of good quality and designed to minimize the likelihood of injury.
- B. Potentially hazardous equipment such as archery equipment, shall be placed in locked storage when not in use. The camp director shall designate a person to be responsible for safe keeping of potentially hazardous equipment.
- C. Power equipment shall not be stored, operated or left unattended without proper safeguards. All power tools will be stored in a locked place which is not accessible to campers. Campers will not use power equipment unless supervised by a qualified person.
- D. Equipment used for arts and crafts shall be in good repair and properly installed.
- E. Playground equipment shall be securely anchored, safe and in good repair.
- F. All watercraft shall be equipped with US Coast Guard approved personal flotation devices of types I, II, or III which are prescribed for the specific type of craft and number and age of occupants. Each camper aboard a watercraft shall wear an approved life jacket.
- G. All swimming and diving areas shall be provided with a bell or whistle, two assist poles and a ring buoy that are in good usable condition.
- H. All piers, floats and platforms shall be in good repair.
- I. All potentially hazardous camp activities such as archery, aquatics, and riding shall be supervised by a qualified activity specialist. Camps which provide such activities shall submit with the license application a description of the safety practices which are designed to minimize the likelihood of injury.

88-350 Emergency Procedures.

- A. Emergency procedures for serious accidents, illness, lost camper, missing swimmer, and for evacuation in case of fire or natural disaster will be prominently posted at the campsite.
- B. Appropriate telephone numbers for emergency services will be legible and prominently posted at the camp site.
- C. Each staff member of the camp shall be informed in advance of his duties in case of emergency. Documentation of staff training and evidence of staff awareness of his duties shall be on file at the camp site.

~~—D. Fire and emergency drills shall be conducted the first day of camp and documented at least once each camp period or once every week.~~

~~—E. Coordination with county Disaster Preparedness Office is required and must be documented.~~

~~88-355 General Sanitation Requirements.~~

~~—The camp shall meet the requirements of the S. C. Department of Health and Environmental Control's Regulation 61-39. A current S. C. Department of Health and Environmental Control inspection report and plan for correction of deficiencies shall be maintained in the camp's records. Campgrounds, pools and natural bathing areas which are permitted by the S. C. Department of Health and Environmental Control will be deemed to have met this requirement.~~

~~88-360 Housing in Residential Camps.~~

~~—All housing facilities in a residential camp shall meet the appropriate requirements of SCDHEC.~~

~~88-365 Nutrition and Food Service.~~

~~—A. In camps where central food service facilities are provided, the facilities shall be constructed and operated in accordance with S. C. Department of Health and Environmental Control Regulation 61-25. A current permit and inspection report shall be maintained in the camp.~~

~~—B. Each camp shall establish written procedures for its nutrition and food service program. These policies shall include meal patterns, meal hours, types of food served, staff responsibilities during the meal time and the administration of the food service program.~~

~~—C. When a camper needs a special diet, it shall only be administered according to the orders of a licensed physician. Records of special diets and menus will be kept at the camp. Separate arrangements shall be made by camper's parent/guardian for any special diets beyond the capability of the camp.~~

~~—D. Menus shall be planned at least a week in advance and shall be dated as to the week of use. The current week's menus shall be posted in the food preparation area. Substitutes shall be noted on the menus in writing. After use, the menus shall be kept on file for the period of the camping session.~~

~~—E. Mealtimes shall be scheduled to meet the camper's needs and spaced so there are no more than fourteen hours between evening meal and breakfast. At least three nutritionally balanced meals shall be served in a residential camp each full day of operation.~~

~~—F. Meals shall be prepared as close to serving time as possible and served in portions appropriate to the nutritional needs of the camper.~~

~~88-370 Transportation.~~

~~—A. Responsibility for campers being transported~~

~~—(1) When a camp provides transportation for a camper, it shall also provide staff supervision other than the driver on the vehicle between the pickup site and the delivery site.~~

~~—(2) Travel time of campers to and from day camps shall not exceed two hours per one way trip.~~

~~— (3) Ten hours travel time shall be the maximum permitted in any twenty four (24) hour period for campers when traveling to and from field trips.~~

~~— B. Responsibilities in Transit~~

~~— (1) Only that number of campers for whom there is seating space shall be transported in a vehicle. The maximum capacity of the vehicle shall clearly be indicated and posted in the vehicle.~~

~~— (2) In all vehicles used, seats, benches and or wheelchairs must be securely fastened to the floor. Open body or stake bed vehicles are not permitted for transportation of passengers.~~

~~— (3) All vehicles (except school buses) should have seatbelts which are used by all passengers and drivers when vehicle is in motion.~~

~~— C. Responsibility for Drivers and Vehicles~~

~~— (1) Vehicle operators shall:~~

~~— (a) Be licensed drivers;~~

~~— (b) Have a proven good driving record.~~

~~— (2) All road vehicles shall be equipped with a first aid kit, fire extinguisher, flares and/or reflectors.~~

~~— (3) All road vehicles shall be maintained in safe operating condition as evidenced by a vehicle maintenance schedule. All vehicles will have a current safety inspection sticker.~~

~~— (4) Campers shall not be allowed to repair or assist in the repair of any vehicle if there is danger of injury to the camper either by the process of repair or from the environment in which the repair is to be conducted.~~

~~88-375 Program.~~

~~— A. A comprehensive plan of operation shall be developed. It shall include a statement of major program emphases designed for camper development. A written outline of the methods by which the programs for camper development are to be conducted shall be included in the comprehensive plan.~~

~~— B. The program shall have a broad spectrum of activities and experiences appropriate to the campers' levels of abilities and needs. All components of the camp's environment shall offer opportunities by which campers shall learn and broaden their bases of experience.~~

~~— C. If in the comprehensive plan the purpose of the camp is to include any carry-over of goals from the individual education plan designed by the school or the individual program plan designed by the day program, the camp must obtain program recommendations from the regular program prior to camp start-up.~~

~~— D. The rationale for separating the campers into groups must be outlined in the plan and approval obtained from the Department.~~

~~88-380 Waterfront Activity.~~

~~— A. Waterfront Staff~~

~~— (1) When swimming or when watercraft activities are in progress, the aquatic activity supervisor shall be in attendance to supervise the program.~~

~~— (2) The aquatic staff shall not be engaged in recreational swimming or boating while on waterfront duty.~~

— (3) One aquatic supervisor or one aquatic guard shall be on duty for every ten, or fraction thereof, campers in the water. Other staff members shall be present and on duty to maintain the staff/camper ratio required in R. 88-330 A, B, C and D.

— (4) When waterfront activities are occurring at more than one location simultaneously there will be at least one aquatic guard present for every ten campers at each location.

— (5) The aquatic supervisor shall ensure that the ratio is adjusted to meet such factors as water conditions, number and types of swimmers, and functional level of the swimmers.

— B. Swimming Areas

— (1) The swimming area shall be maintained in a clean and safe condition. Any known hazard such as rocks, holes or hidden dangers shall be properly safeguarded and posted.

— (2) The permanent swimming area of a camp shall have a delineation of areas for non-swimmers, intermediates, and advanced swimmers, in accordance with the standards of the American Red Cross or Boy Scouts of America.

— (3) Lifesaving equipment shall be provided at all swimming areas and placed so it is immediately available in case of an emergency.

— (4) Swimming at sites other than the permanent camp waterfront is prohibited except by prior written approval from the Department.

— C. Swimming Procedures

— (1) Swimming ability tests either recognized by American Red Cross or Boy Scouts of America will be administered to each camper at the beginning of the camping session. Campers will then be confined to an area equal to their identified swimming ability or to areas requiring lesser skills.

— (2) A method approved in writing by the Department for the supervision and checking of swimmers shall be written by the camp director and enforced by the aquatic staff. The method used shall require each swimmer to be checked at least every ten minutes. A written "lost swimmer" plan shall be established and all staff members shall know in advance exactly what their duties are in case of an emergency at the waterfront.

— (3) Swimming is prohibited during the hours of darkness in the ocean, lakes, or rivers. Nighttime swimming in lighted swimming pools shall be prohibited unless the activity is included as part of the comprehensive plan.

— (4) There shall be provided a regularly scheduled ten-minute relief break each hour for waterfront staff and a rotation of assigned areas will occur every hour. Guards shall not leave their assigned areas until properly relieved.

— D. Seizure Client Procedures

— (1) The camp shall have written permission from parents/guardians for clients with seizures to engage in any waterfront or aquatic activities.

— (2) All seizure clients will be clearly visually identifiable while engaging in any aquatic activity.

— (3) Staff shall be knowledgeable of client reactions to seizure, and written procedures for care shall be visibly posted within the waterfront area.

88-385 General Care of Campers.

— A. Policies and practices for managing the behavior of a camper shall be clearly stated and furnished in writing to all employees of the camp.

Other Impacted Entities	<p>—B. A camper shall not be subjected to any of the following as a means of punishment:</p> <ul style="list-style-type: none"> —(1) Corporal punishment; —(2) Food deprivation; —(3) Abusive physical exercise. <p>—C. If the camp permits the involuntary removal of a camper from social contact with others, there shall be a written policy which has been approved by DMR which describes the conditions under which and the manner in which it shall be done. Each such incident shall be documented.</p> <p>—D. Policies and procedures for removal of a camper from the camp will be clearly outlined in writing and contain provisions for:</p> <ul style="list-style-type: none"> —(1) Naming camp staff authorized to make decision to remove; —(2) Consultation and approval from regional office prior to dismissal or removal; —(3) Conditions which would cause the action to occur which will include: <ul style="list-style-type: none"> —(a) Danger to self or others; —(b) Medical causes; —(c) Severe behavior disruptions; —(d) Family intervention. <p>88-390 Confidentiality.</p> <p>—All information in a camper's record shall be considered privileged and confidential. Staff shall not disclose or knowingly permit the disclosure of any information concerning the client or family directly or indirectly to any unauthorized person.</p> <p>88-395 Reserve Clause.</p> <p>—The Department reserves the right to require a camp to correct or eliminate any specific condition not covered in these regulations if the correction or elimination of such condition is deemed necessary for the preservation of life and the prevention of injury or illness at the camp.</p>
Other Impacted Entities	None

8. Personnel

Impacted Section	S.C. Code of Regulations 88-410(2)
Rationale	Amend to reflect current staff qualifications, ratios and supervision.
Recommendation	<p>2) Direct Care Staff - The direct care staff will meet the following qualifications:</p> <ul style="list-style-type: none"> (a) Be at least eighteen years old. (b) Have a valid high school diploma or its <u>certified equivalent</u>. <p>B. Participant/Staff Ratios</p> <ul style="list-style-type: none"> (1) There will be at least the following minimum participant/staff ratio for each program: (a) Child Development Center—5:1; (b) Adult Activity Center—7:1; (c) Work

	<p>Activity Center —7:1; (d) Sheltered Workshop —10:1.</p> <p><u>Ratios for each program should be determined based on each participant’s supervision needs as outlined in DDSN Directives with a minimum participant/staff ratio of 7:1.</u></p> <p>(2) Upon consideration of the ages, the severity of handicapping conditions, and the services needed by the participants, <u>the support needs and the of the participant,</u> the Department may approve a different participant/staff ratio.</p> <p>D. Supervision of Clients</p> <p>(1) A designated responsible staff member must be present and in charge at all times a participant is present. The staff member left in charge must know how to contact the Director at all times.</p> <p>(1) At no time shall any participant be without supervision unless a specified activity which allows for an adult participant's independent functioning is planned and documented. Each participant will be supervised as needed based on DDSN Directives to allow for maximum independence.</p>
Other Impacted Entities	None

9. Evaluations

Impacted Section	S.C. Code of Regulation 88-430
Rationale	Amend to reflect current practice.
Recommendation	<p>psychological evaluations will be required according to the following schedule:</p> <p>(1) Children shall be evaluated by using a restrictive test of intelligence administered by a licensed or certified psychologist once upon entry into a day program and once more between ages three and five or prior to matriculation to Headstart or public school unless entry into the program occurs after the age of two years.</p> <p>(2) Adults shall be tested using a restrictive test of intelligence administered by a licensed or certified psychologist on program entry, re-entry or at age twenty two (22) whichever occurs first, unless there is a valid psychological evaluation completed within three years of admission on record.</p> <p>B. Social History A social history which includes basic information on participant's personal history, family situation and specific problem areas will be completed on admission to the day program and updated annually thereafter. Information from the parents/guardian will be included in the history. The update shall indicate any change in the family situation or living environment that may affect participant's progress and need for continued enrollment.</p> <p>C. Assessment of Skills Each participant in both adult and child programs will be assessed using an approved assessment tool(s) within thirty (30)</p>

	<p>calendar days of enrollment and annually thereafter. The assessment of needs will contain evaluations in the following areas:</p> <p>(1) Children:</p> <p>(a) Sensory motor skills; 1. Gross motor; 2. Fine motor;</p> <p>(b) Communication and language; (c) Social interaction/play;</p> <p>(d) Self-help skills; (e) Cognitive skills; (f) Behavior needs. (2) Adults:</p> <p>(a) Self care (e.g., hygiene, appearance, nutrition, eating habits, dressing, toileting, physical fitness, sex education etc.)</p> <p>(b) Community Living Skills (e.g., budgeting, shopping, cooking, laundry, telephone usage, transportation, appropriate use of leisure etc.)</p> <p>(c) Communication (e.g., speech, language, sign language, or other communication skills etc.)</p> <p>(d) Socialization (e.g., appropriate behaviors for successful interaction with others, recreation and leisure)</p> <p>(e) Vocational (e.g., physical capabilities, psychomotor skills, work habits, job-seeking skills, knowledge of work practices, work related skills etc.)</p> <p>(f) Education (e.g., academic and cognitive skills etc.) (g) Behavioral needs (behavioral management plans)</p> <p>(h) Motor Development (e.g. gross motor, fine motor and perceptual motor needs)</p> <p><u>The participant must be evaluated and determined eligible for DDSN services pursuant to Department Directives. The participant must be determined to require or likely benefit from day services.</u></p>
Other Impacted Entities	None

10. Programs

Impacted Section	S.C. Code of Regulations 88-430
Rationale	Amend to reflect current practice and consistent with new federal regulations.
Recommendation	<p>A. Plan-Each participant will have a written plan developed and approved by the <u>Individual Support program</u> team within thirty days of admission for adults and for children and annually thereafter. The plan will be based on the professional evaluations, regional recommendations, the assessment of skills, parent/guardian and/or community residence staff conferences, staff and client recommendations and discussed in a team meeting. The date and signature of all team members will be documented on the plan. <u>The plan will be based on an assessment of the participant's abilities, interests, preferences and needs. The date and signature of those in attendance will be documented.</u></p> <p>(1) The plan will contain written, individualized, long range and short-range goals which are time limited and measurable</p> <p>1) The plan will contain written objectives which <u>may</u> include a training</p>

~~schedule and/or ongoing supports~~ and the method of evaluation of progress.

(3) ~~The plan will contain documented evidence of parent/guardian involvement in the meeting.~~

The plan will document the participant's, Individual Support team, and the legal guardian's (if applicable) involvement in the meeting.

(4) Summary notations of progress made toward goals are made monthly by staff involved in the training and/or ongoing supports. The notes will be signed and dated.

(5) When a goal is reached a new goal will be set.

(6) When the participant is observed to be making no progress in reaching a goal after three months of working on the same goal, the methodology and objective will be reviewed and evaluated ~~by the team with the participant~~ and a new goal will be set, the methodology or objective changed or the recommendation may be made to continue the goal. If no progress has been made after ~~one year the goal or methodology will be changed.~~ six (6) months, the methodology or objective is to be re-evaluated or recommendation to the Individual Support Team for a new goal to be written.

(7) The plan will be reviewed and updated by the ~~program~~ Individual Support team at least annually with input from the participant and their legal guardian (if applicable).

(9) ~~The plan will address the participant's movement toward a less restrictive program and include goals and objectives which will help him progress to a higher level program toward their personal goals in the least restrictive environment.~~

B. Services

(1) The services offered at the program will be ~~directed toward the identified needs of the participant.~~ based on the participant's abilities, interests, preferences and needs.

~~He/She~~ will be involved in activities which will help ~~him~~ him/her progress toward goals identified in the plan. Activities should be age appropriate and allow for choices by the participant.

(2) ~~The services for children will include the following:~~ (a) ~~Gross motor development;~~

(b) ~~Fine motor development;~~

(c) ~~Communication and language;~~ (d) ~~Socialization;~~

(e) ~~Self help skills;~~

(f) ~~Cognitive development;~~

(g) ~~Behavior management;~~

(3) The services for adults will include but not be limited to the following:

(a)) Activities of daily living, AAC, WAC;

(b) Independent living skills, AAC, WAC;

(c)) Socialization, AAC, WAC;

(d) Recreation/Leisure Skills, AAC, WAC;

(e)) Habilitation/Vocational/Work Related, AAC, WAC, ~~and SW;~~

(f) Behavior management, AAC, WAC, ~~SW;~~

	<p>(g) Physical development, AAC, WAC; (h) Communication/Language, AAC, WAC; (4) The program may offer the services at the home of the participant, in the community, in the center, or any other appropriate site which can be arranged by the program and which is deemed appropriate by the <u>Individual Support team</u>.</p> <p>C. <u>Hours of the Program</u> (1) Each program will have a current activity schedule posted (2) The schedule will reflect the hours the facility is open and the hours the program offers supervised services. (3) The schedule must reflect the scheduled activities of the day.</p>
Other Impacted Entities	None

11. Records

Impacted Section	S.C. Code of Regulations 88-440
Rationale	Amend to reflect current practice
Recommendation	<p>B. Participant-A record shall be maintained for each participant which contains, as a minimum, the items listed below. All documents and entries shall be legible, dated, and signed by the person making the entry. If symbols are used, explanatory legends must be provided.</p> <p>(1) Report of a medical examination which was performed not more than twelve (12) months prior to admission; (2) Report of psychological evaluation(s) as required by R. 88-430A; (3) Report of Social History which is updated annually, as available; (4) Current Individual Program Plan as required by R88-435 A; (5) Monthly summary notations of progress; (6) Record of unusual behavior incidents which are recorded at the time of occurrence; (7) Record of illness and accidents; (8) Authorization for emergency medical service; (9) Record of critical incidents.</p> <p>C. Confidentiality All information in a participant's record shall be considered privileged and confidential. Staff shall not disclose or knowingly permit the disclosure of any information concerning the client or his family directly to any unauthorized person. <u>Compliance with HIPAA</u></p>
Other Impacted Entities	None

12. Application for License of an Unclassified Program.

Impacted Section	S.C. Code of Regulations 88-915
Rationale	Amend to reflect current practice
Recommendation	B. Name and address of the Administrator <u>Executive Director</u>

Other Impacted Entities	None
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13. *Determination by the Department.*

Impacted Section	S.C. Code of Regulations 88-920
Rationale	Amend to reflect current language
Recommendation	<p>(1) Provides a beneficial service to its developmentally disabled clients <u>participants</u>.</p> <p>(4) Does not exploit the developmentally disabled, participants, their families or the public.</p>
Other Impacted Entities	None

Patrick Maley
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August 28, 2018

Chairwoman Phyllis J. Henderson
Healthcare and Regulatory Subcommittee, House Legislative Oversight Committee
522B Blatt Bldg.
Columbia, South Carolina 29201

Re: Department of Disabilities and Special Needs' (DDSN) Recommendations;
House Legislative Oversight Committee Performance Evaluation of DDSN

Dear Chairwoman Henderson,

DDSN is effective in accomplishing its mission of serving persons with intellectual disabilities, autism, head & spinal cord injuries, and conditions related to each of these disabilities. DDSN's service delivery system supports 40,339 eligible consumers with 24,622 consumers currently receiving services. However, DDSN is under stress to keep up with service needs, adequacy of provider reimbursement rates, and improve infrastructure efficiencies to support its efforts.

The below recommendations are structured into eight major issues and corresponding recommendations; a ninth issue/recommendation area encompasses 22 individual improvement initiatives; and a tenth area reports on the results of DDSN's five "internal initiatives" set forth in its May 2017 initial interrogatory to the House Legislative Oversight Committee. The ordering of the recommendations below does not infer a priority order inasmuch as all recommendations need to be addressed.

The below recommendations may appear voluminous, but the agency is recovering from a period of management tentativeness from many years of friction with a variety of stakeholders. Friction can be viewed as negative, but it can also stimulate needed positive change. Getting all the issues "on the table" in detail for complete transparency tends to unite; focuses energy on problem solving; and breaks the cycle of ruminating on past friction points and moving forward. Clear targets creates the transparency for high expectations and accountability to support and motivate the agency towards progress/results. DDSN has opportunities to improve effectiveness primarily through management improving its systems and processes to better support those operating within the service delivery system.

A concern in preparing these DDSN recommendations is the risk of hamstringing incoming State Director Poole's latitude in assessing DDSN's challenges differently, as well as approach to address. In state government, if an agency agrees to do something, it is somehow perceived to be etched in stone forever and must be carried out regardless of the actual changing operational conditions on the ground. I disagree, and I suggest the House Legislative Oversight Committee would as well. Agencies need a plan, but plans are expected to be periodically revisited and nimbly changed as conditions dictate, to include a new leaders' differing views on issues and solution approaches. Agencies just need to be accountable to justify the "why" for the change and move out in the adjusted direction.

As an aside, one of DDSN's issues has been developing high altitude static strategic plans, but management has been reluctant or lethargic to convert substantial portions of these strategic plans into actionable tactical plans from which to be held accountable. There is no reluctance to commit in this memo. A commitment to a specific, transparent, and measurable plan is needed at this time to regain some of the lost confidence and trust from stakeholders.

ISSUE #1: DDSN's most significant organizational issue is a deficient capitated payment system supporting community service providers known as the "band system." This payment system causes a multitude of problems to include:

- Lack of transparency in non-actuarially based band payments causes systemic distrust and dissatisfaction by providers, advocates, and consumers.
- Lack of residential service standards for staffing (direct care; nurses; 1st line supervisors) prevents establishing appropriate funding levels. Additionally, a lack of a formal/auditable process to establish transparent and accountable staffing levels (mandatory or provider developed) creates a risk of understaffing—proper staffing is the primary factor impacting the health, safety, and welfare of consumers.
- Time consuming and lengthy cost settlement process undermines having recent and reliable data for consideration to adjust the system and justify possible rate increases.
- Does not maximize opportunity for more state funds to obtain Medicaid match.
- Does not incorporate a consumer needs assessment tool to adjust funding to match a consumer's acuity; this is increasingly reducing access for higher needs consumers.
- Undermines DDSN's quality assurance mission by consuming too much time and relationship goodwill with providers on payment issues.
- The band benefits (i.e., vacancy rates, Medicaid ineligible risk, Medicaid billing, capital needs) can be duplicated, if so desired, in a simpler fee-for-service model except for the prospective payment.

RECOMMENDATION #1: DDSN will address its current payment system weaknesses through an evidence based process incorporating stakeholder input and industry best practices. In June 2018, Mercer Healthcare Consultants (Mercer) initiated a review of the DDSN payment system, which includes stakeholder input and incorporating national best practices. Mercer will produce a report due in the Fall 2018 recommending future payment system options to meet the needs of the DDSN service delivery system. Equally important, nearly all stakeholders have arrived at the conclusion the DDSN payment system has to be substantially changed, which is critical to support such a system-wide endeavor. Further, Mercer will update all SC DHHS service rates with DDSN via a second formal report in early 2019.

ISSUE #2: DDSN's most significant operational issue is recruiting/retaining direct care workers at regional centers and in residential community settings. Regional centers bobble between barely manageable to a near crisis as illustrated by currently experiencing a 44% turnover rate. Residential providers' problem has more variability across the state, but turnover still ranges from 20% to 40+%. Adequate staffing levels generally require over-reliance on overtime. This stress on the direct care staff has escalated since 2015. Historically, direct care staffing is challenged during economic upswings and tends to resolve when the economy slows. However, given the hiring pool demographics and the need for direct care workers throughout the healthcare field as baby boomers age, DDSN cannot rely on an economic downturn as a solution. Short-term plans and long-term plans are needed to ensure direct care staffing meets quality staffing level thresholds with sufficient capacity to lower overtime causing burnout and turnover. We have to continue to work the issue as a crisis.

RECOMMENDATION #2a: DDSN will continue to pursue direct care wage improvements through the legislative appropriation process sufficient to create a full and stable workforce to meet the needs of consumers.

RECOMMENDATION #2b: DDSN will pursue a career track for direct care, to include a tiered wage system to promote professional advancement and retention.

RECOMMENDATION #2c: DDSN will pursue the use of technology and corresponding policies to support consumers and mitigate the gap in hiring/retaining direct care workers for the foreseeable future.

RECOMMENDATION #2d: DDSN will solidify formalized targeted staffing levels in Regional Centers and the future community residential payment system rates should incorporate staffing level requirements based on consumer acuity.

RECOMMENDATION #2e: In conjunction with the development of a new/modified payment system, DDSN will re-examine its portfolio of services and policies with an emphasis on making adjustments consistent with the future likelihood of challenges in hiring/retaining direct care workers.

RECOMMENDATION #2f: DDSN will continue to support, mature, and potentially expand a grass roots direct care professional training program provided through a local technical college.

RECOMMENDATION #2g: DDSN will examine its policies and practices to proactively identify community setting opportunities to serve Regional Center consumers.

RECOMMENDATION #2h: DDSN will start contingency planning beyond obtaining additional wage increases for direct care workers to safely staff Regional Centers to meet the needs of consumers if the direct care hiring/retention crisis is not reversed.

ISSUE #3: DDSN management needs to mature its capabilities to be more proactive with emphasis on a system/process improvement approach to problem solving. General business acumen training needs include factoring financial implications into operation and policy decisions; greater use of information to manage; and enhanced involvement in developing internal operating budgets and contributions to the agency's annual legislative budget requests. In short, DDSN tends to have a reactive posture rather than leaning forward towards continuous improvement.

RECOMMENDATION #3a: DDSN will establish a formal management training program to develop its management in a structured manner in both management/business acumen skills and a continuous improvement management philosophy. Much of DDSN's real and perceived reactive crisis management style can be traced to a lack of management investment in planning and system/process improvement to prevent problems from occurring.

RECOMMENDATION #3b: DDSN will redirect audit resources from community contract audits to conduct internal operational audits to provide assurance of effective operations through adequate objectives, process mapping, management information systems, and controls/performance measures.

ISSUE #4: There have been legislative hearings, proposed legislation, and public debate as to the proper organizational structure to support DDSN's mission, to include as a cabinet agency, a component of SC DHHS, or remain as a Commission.

RECOMMENDATION #4: DDSN recommends continuing its mission in its current structure as an independent Commission. A Commission form of governance permits heightened involvement by the families, stakeholders, and consumers through seven volunteer citizen leaders to ensure DDSN executes its mission with excellence to meet the complex needs of a highly vulnerable population. A single mission agency also creates the needed focus to support our highly vulnerable population.

The Commission recognizes stress in the DDSN delivery system over the past several years has caused some to question the proper organizational structure to support its mission. The Commission believes the stress was natural and needed as a precursor to stimulate deep change in DDSN due to complacency as well as resistance to change and transparency. The Commission's interventions has led to a new State Director being selected along with healthy executive staff turnover, a noticeably calmer operating environment with stakeholders, and management's proactive posture to engage issues backed up in the system as evident by the recommendations in this memo. The Commission believes its form of governance with greater stakeholder and citizen access and responsiveness can more reliably stimulate positive change than a more bureaucratic form of governance.

ISSUE #5: DDSN does not have a systematic approach to performance management across the agency; some work units lack relevant performance measures or inadequate information to support operational/performance management. DDSN has lost a level of trust and confidence from a variety of stakeholders in the manner it executes its mission, both financially and operationally, as illustrated with legislative oversight questioning the agency's information accuracy.

RECOMMENDATION #5: DDSN will operate in a more evidenced based manner through the continued use and maturing of its Enterprise Performance Management process and ensure public performance reporting to demonstrate transparency and accountability with accurate and reliable information to its many stakeholders.

ISSUE #6: DDSN does not have a formalized project management process, which has contributed to a pattern of both real and perceived under-performance in implementing major initiatives.

RECOMMENDATION #6: DDSN will establish a formal project management process for longer term agency-wide initiatives to ensure proper operational planning, proactive communication plans, and timely execution.

ISSUE #7: DDSN has experienced an inching up of Abuse, Neglect, & Exploitation (ANE) indicators over the past four years, particularly with providers serving high needs consumers. The uptick of these ANE indicators is not a function of inadequate ANE policies or management deficiencies to keep "predator" employees out of the system. Rather, it is a function of "real world" economic factors eroding direct care professionals' (DSP) capacity & capabilities, while the consumer population's increasing behavioral needs require DSPs with higher skill levels. DDSN's lack of required acuity based direct care staffing standards also contributed to this situation. This is not a crisis, however this capability "gap" is building pressure/stress in the delivery system driving the uptick. This is a national challenge not unique to South Carolina.

RECOMMENDATION #7a: DDSN will continue to deploy and refine its Residential Observation Audit technique to make unannounced residential setting visits to 25% of all settings (approximately 350/annually) and provide monthly reporting to the Commission. Of the first 147 residential settings audited, over 200 consumer and 170 staff (370 total) were interviewed; not one interview reported an ANE climate risk or a report of a previously unreported ANE allegation—most importantly, the consumers felt safe.

RECOMMENDATION #7b: DDSN will continue a robust participation in the National Core Indicators Program (NCI). The NCI has produced annual reports for 20 years and is considered the highest quality measurement tool in the Intellectual Disability service arena. The NCI survey obtains DDSN consumer input through interviews conducted by independent interviewers on wide variety of service areas. In Fiscal Years 15-17, South Carolina providers distinguished themselves in the area of consumer safety by being consistently rated at or near the top on four key safety questions compared to 32 other states.

RECOMMENDATION #7c: DDSN will continue to pursue wage enhancements for direct care workers and establish residential staffing standards based on acuity in its anticipated new payment system to address the current direct care capability gap.

RECOMMENDATION #7d: DDSN will develop a formal process to collect "lessons learned" from ANE arrests.

RECOMMENDATION #7e: DDSN will develop statewide policy and awareness training to address direct care workers' reaction to non-compliant/volatile consumer behaviors which precedes nearly 2/3rd of all ANE incidents leading to an arrest.

RECOMMENDATION #7f: DDSN will examine the direct care worker duties and compliance requirements, which have aggregated overtime. These increased duties may be undermining direct care workers' habilitative responsibilities, which, in turn, lessens the direct care workers' ability to positively impact consumers' behaviors and prevent situations escalating into ANE incidents.

RECOMMENDATION #7g: DDSN will develop recurring safety bulletins based on lessons learned from ANE incidents, particularly vignettes (without attribution) from actual incidents to stimulate learning and continual awareness.

RECOMMENDATION #7h: DDSN will continue to mature its ANE Program data collection through similar enhancements as refining Critical Incident classifications clarifying issues of concern and the provider rating system.

ISSUE #8: DDSN has determined 22 existing South Carolina statutes impacting the agency would benefit from revisions or elimination to assist the agency in accomplishing its mission.

RECOMMENDATION #8: DDSN requests these 22 SC statutes modifications or eliminations as set forth in Attachment A be adopted by the House Legislative Oversight Committee for legislative action.

ISSUE #9: DDSN established a defensive posture for many years based on a variety of factors, which has led to a tentativeness to proactively address issues. Improvement initiatives to address backlogged operational issues include:

RECOMMENDATION #9a: DDSN will develop a residential setting building capacity and funding strategy for high needs consumers, as well as timely execution of appropriations to restore legislative confidence. Strategy will include establishing triage beds to address critical cases; enhanced tracking/measuring system capacity, needs, and placement times; and develop a legislative appropriation strategy to better communicate this critical need to justify a consistent future funding stream to keep pace with residential setting needs.

RECOMMENDATION #9b: DDSN will conduct a risk based review of licensing, contract review, residential observations, ANE Program (ANE; CI; Deaths), and other provider contract controls to identify opportunities to lesson or eliminate existing controls and corresponding administrative burden. A critical analysis will yield substantial risk mitigation and administrative cost/burden savings by combining higher quality controls to support the elimination of redundant controls or controls with a low cost/benefit.

RECOMMENDATION #9c: DDSN will implement a Waiver enrollment improvement plan to speed enrollment processing times, reduce the waiting list, and restore confidence to legislative appropriators of DDSN's ability to effectively execute budget enhancements.

RECOMMENDATION #9d: DDSN will compare Regional Center requirements and current budgets to assess adequate funding, equity between centers, and basis for legislative budget request for maintenance of effort resources.

RECOMMENDATION #9e: DDSN will develop an “at-risk” inspection protocol by subject matter experts for suspected “failed” residential settings based on Alliant residential observations triggering an “at-risk” inspection. The DDSN Quality Management process understands providers’ service levels may fluctuate due to a variety of short-term factors which DDSN can address through traditional audit findings, provider corrective action plans, and technical assistance. However, DDSN does not have a process to address major “failed” residential settings in a manner that both addresses operational deficiencies and addresses provider management’s failure to deter similar situations in the future. Additional emphasis needs to be placed on a strategy to improve residential providers systemically on the low end of performance scores.

RECOMMENDATION #9f: DDSN will establish at least a \$2 million annual cost settlement escrow account, which has not been done in the past six years creating a contingent liability likely in excess of \$20 million.

RECOMMENDATION #9g: DDSN will re-engineer its Comprehensive Permanent Improvement Plan (CPIP) capital account funded with ICF consumer fees to minimize excessive capitalization of routine maintenance needs in CPIP preventative maintenance accounts. This prevents unhealthy stockpiling of unused resources; streamlines project prioritization/execution; and improves capacity to execute through delegation of smaller maintenance projects to Regional Centers.

RECOMMENDATION #9h: As an interim step to whatever future payment system is approved by the Commission, DDSN will conduct a feasibility study to relieve DSN Boards’ as fiscal agents for in-home waiver bands (Band B – ID/RD; Band I – CS) with this function being absorbed by the Central Office Accounting Division. If feasible, this will achieve three outcomes: 1) relieve DSN Boards of this increasingly complex administrative function; 2) simplify QPL billing; and 3) convert \$17 million in residual state funds in B & I Bands not generating a Medicaid reimbursable match to be available to provide initial funding of Mercer community rate increases due in early 2019. This \$17 million in state dollars to fund new rates would create a Medicaid match to generate \$40 million additional service dollars in the community residential delivery system.

RECOMMENDATION #9i: DDSN will develop a specific program to lower the current average census of 25 consumers at Correct Care (state funded locked facility) through building additional dedicated community residual high needs capacity (Medicaid match). A reasonable goal would be to remove 15 current Correct Care consumers at a total net service savings of \$1.8 million per year, as well as improve the quality of services for these 15 consumers.

RECOMMENDATION #9j: DDSN will review all non-service expenses, assess value, and prioritize; appears historical approach has been to renew prior FY’s commitment without assessing value and compare to other needs, particularly given limited funds in this area.

RECOMMENDATION #9k: DDSN will pursue pre-file legislation prior to the next legislative session to address ambiguity in the Adult Health Care Consent Act.

RECOMMENDATION #9j: DDSN will decentralize budget execution from currently residing almost exclusively with the Associate State Director for Administration to other Associate State Directors. Decentralized decision making will make better tradeoffs and more timely decisions when operating within clear resource constraints. This will be particularly beneficial for Central Office and Regional Centers to improve clarity in fixing roles, responsibilities, and accountability to both establish initial FY budget allocations and execution throughout the FY.

RECOMMENDATION #9m: DDSN will develop a mechanism to improve communications with community providers focusing on standardized format, authority level to send, targeted distribution email lists, and a one webpage repository.

RECOMMENDATION #9n: DDSN will identify all residential consumers Medicaid ineligible for over 12 months to identify issue(s), which will lead to developing policy to minimize this situation and future occurrences; currently 91 non-Medicaid residential consumers create the opportunity cost loss of \$4.5 million in Medicaid match reimbursements annually.

RECOMMENDATION #9o: DDSN will review Respite Program delivery; respite is key to serving families, yet access and service availability is still an issue.

RECOMMENDATION #9p: DDSN will conduct a staffing and capabilities assessment of its financial operations, which have incrementally eroded since the 2010 recession creating a significant organizational risk, particularly with the unique knowledge base required to operate or modify the capitated band system.

RECOMMENDATION #9q: DDSN will review the individual employment program for opportunities to address current areas of ineffectiveness through training, policies, active monitoring, and authorization controls.

RECOMMENDATION #9r: DDSN will ensure Autism Program's eligibility process benchmarks are solidified and training/consulting resources targeted towards DDSN's core mission. Increase cost effectiveness of Autism residential settings operated by DDSN through filling vacancies or contract with a provider to serve these consumers; if DDSN retains operations, consider moving this function from the Policy Division to the Operations Division.

RECOMMENDATION #9s: DDSN will revitalize the environmental modification process to reduce backlog from high of 200 in early 2018. Additional system refinements needed to coordinate or simplify operational execution between two divisions.

RECOMMENDATION #9t: DDSN will build infrastructure to support new Commission initiative to review new policy and recurring three-year policy updates on a quarterly basis in an efficient. Policies will be stratified by priorities to ease processing by stakeholders.

RECOMMENDATION #9u: DDSN will shift all employees to a universal performance review cycle (July 1 to June 30) to improve accountability, training, quality, and integrate into an annual equitable assessment to consider personnel merit increases.

RECOMMENDATION #9v: DDSN will examine Early Intervention Program to ensure consumers eligible for Medicaid become enrolled to maximize Medicaid reimbursement; in the recent past, Medicaid enrollment has dropped from 80% to currently at 65%.

In DDSN's May 2017 submission to the House Legislative Oversight Committee, it set forth five "internal initiatives" to improve. These five initiatives are set forth below with an update on progress/results located on Attachment B:

- Evaluation of Abuse, Neglect, and Exploitation reporting and follow up system.
- Changes to the tracking and reporting of critical incidents.
- Direct service operations.
- Plan review and service authorization.
- DDSN outcome-based provider evaluation.

The recommendations contained in this letter have been approved by the DDSN Commission.

Thank you in advance for your consideration of DDSN's recommendations. I am available 24/7 to discuss further and provide any clarifications needed.

Sincerely,



Patrick J. Maley
Interim State Director

CONTACT INFORMATION

Committee Contact Information

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You may visit the South Carolina General Assembly Home Page (<http://www.scstatehouse.gov>) and click on "Citizens' Interest" then click on "House Legislative Oversight Committee Postings and Reports". This will list the information posted online for the Committee; click on the information you would like to review. Also, a direct link to Committee information is <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php>.

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ENDNOTES

¹ Visual Summary Figure 1 is compiled from information in the Department of Disabilities and Special Needs study materials available online under "Citizens' Interest," under "House Legislative Oversight Committee Postings and Reports," and then under "Department of Disabilities and Special Needs" <https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyPHPFiles/DisabilitiesandSpecialNeeds.php> (accessed September 25, 2018).

² S.C. Code of Laws § 2-2-20(C).

³ 2011 Act No. 47. Acts from 1980 to the present are available on the General Assembly's website under "Archives" and then under "Act Lists" https://www.scstatehouse.gov/sess119_2011-2012/bills/687.htm (accessed September 25, 2018). Hereinafter, "2011 Act No. 47."

⁴ 2016 Act No. 225. Acts from 1980 to the present are available on the General Assembly's website under "Archives" and then under "Act Lists" Acts from 1980 to the present are available on the General Assembly's website under "Archives" and then under "Act Lists" https://www.scstatehouse.gov/sess119_2011-2012/bills/687.htm (accessed September 25, 2018).

⁵ Federal court cases have held that a zoning ordinance requiring notice to neighbors of a group home's existence constitutes a discriminatory classification in violation of the federal Fair Housing Act when it is not imposed on any other properly zoned residential unit. See *Potomac Group Home Corp. v. Montgomery County*, 823 F. Supp. 1285, 1296-97 (D. Md. 1993); see also *Larkin v. Michigan Dep't of Social Services*, 89 F.3d 285, 292 (6th Cir. 1996). Hereinafter, "Federal Court Cases."

⁶ S.C. House of Representatives, House Legislative Oversight Committee, "Agency Program Evaluation Report (May 1, 2017)," under "Committee Postings and Reports," under "House Legislative Oversight Committee," and under "Department of Disabilities and Special Needs" https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DisabilitiesandSpecialNeeds/DDSN%20PER%205_2_17%20PDF.pdf (September 25, 2018). Hereinafter, "Agency PER."

⁷ 1918 Act No. 398.

⁸ 1954 Act No. 685.

⁹ 1957 Act No. 234.

¹⁰ 1963 Act No. 314.

¹¹ 1967 Act No. 228.

¹² 1970 Act No. 1070.

¹³ 1974 Act No. 1127.

¹⁴ 1993 Act No. 181. Acts from 1980 to the present are available on the General Assembly's website under "Archives" and then under "Act Lists" Acts from 1980 to the present are available on the General Assembly's website under "Archives" and then under "Act Lists" https://www.scstatehouse.gov/sess110_1993-1994/bills/3546.htm (accessed September 25, 2018).

¹⁵ 2007 Act No. 65. Acts from 1980 to the present are available on the General Assembly's website under "Archives" and then under "Act Lists" Acts from 1980 to the present are available on the General Assembly's website under "Archives" and then under "Act Lists" https://www.scstatehouse.gov/sess117_2007-2008/bills/20.htm (accessed September 25, 2018).

¹⁶ 2011 Act No. 47.

¹⁷ Agency PER, p. 39.

¹⁸ South Carolina Department of Disabilities and Special Needs, "Our Mission," under "About DDSN," <https://www.ddsn.sc.gov/about/Pages/OurMission.aspx> (accessed September 25, 2018).

¹⁹ Ibid.

²⁰ S.C. Code of Laws, § 44-20-210.

²¹ Agency PER.

²² Ibid.

²³ S.C. House of Representatives, House Legislative Oversight Committee, "2017-2018," under "Committee Postings and Reports," under "Legislative Oversight," under "Department of Disabilities and Special Needs," and under "Structure/Employees," <https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DisabilitiesandSpecialNeeds/2017-2018%20Organizational%20Chart.pdf>. (accessed October 6, 2018). When it is received, the updated organizational chart will be posted on the Legislative Oversight Committee's page dedicated to DDSN.

²⁴ Agency PER.

²⁵ The DDSN Commission is not accountable to the Governor outside of the Governor's appointment of Commission members.

²⁶ S.C. House of Representatives, House Legislative Oversight Committee, "State HR Dashboard - DDSN (September 6, 2017)," under "Committee Postings and Reports," under "Legislative Oversight," under "Department of Disabilities and Special Needs," and under "Structure/Employees," [https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DisabilitiesandSpecialNeeds/State%20HR%20Dashboard%20-%20DDSN%20\(September%206,%202017\).pdf](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DisabilitiesandSpecialNeeds/State%20HR%20Dashboard%20-%20DDSN%20(September%206,%202017).pdf) (accessed September 25, 2018).

²⁷ Ibid.

²⁸ S.C. Code of Laws, § 2-2-10(1).

²⁹ S.C. House of Representatives, House Legislative Oversight Committee, "January 10, 2017 Meeting Minutes," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Department of Disabilities and Special Need" and under "Meetings," <https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/FullCommitteeMinutes/January102017.pdf> (accessed September 25, 2018). A video of the meeting is available on the General Assembly's Website under "Archives," and then under "Video Archives."

³⁰ S.C. House of representatives, House Legislative Oversight Committee, "Subcommittees -2018," under "Committee Information," under "House Legislative Oversight Committee," https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/Subcommittee_2018_71518.pdf (accessed September 25, 2018).

³¹ Department of Disabilities and Special Needs, "2016 Annual Restructuring Report," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Department of Disabilities and Special Need" and under "Oversight Reports and Studies,"

<https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2016%20ARR/2016%20ARR%20-%20Extension%20-%20DDSN.PDF> (accessed September 25, 2018). Hereinafter, “2016-Agency ARR.”

Department of Disabilities and Special Needs, “2015-16 Agency Accountability Report,” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Department of Disabilities and Special Need” and under “Oversight Reports and Studies,”

<https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DisabilitiesandSpecialNeeds/Reports%20&%20Audits%20-%20Reports%20and%20Reviews/Accountability%20Report%20-%202015-2016.pdf> (accessed September 25, 2018). Hereinafter, “2015-16 Agency Accountability Report.”

³¹ Department of Disabilities and Special Needs, “2016-17 Agency Accountability Report,” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Department of Disabilities and Special Need” and under “Oversight Reports and Studies,”

<https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DisabilitiesandSpecialNeeds/Reports%20&%20Audits%20-%20Reports%20and%20Reviews/Accountability%20Report%20-%202016-2017.pdf> (accessed September 25, 2018). Hereinafter, “2016-17 Agency Accountability Report.”

³² 2016-17 Agency Accountability Report.

³³ Ibid.

³⁴ 2016 - Agency ARR.

³⁵ A brochure about the House Legislative Oversight’s Committee process is available online. Also, there are ongoing opportunities to request notification when meetings are scheduled and to provide feedback about state agencies under study that can be found online.

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/Brochure%205.18.17.pdf> (accessed September 25, 2018).

³⁶ S.C. House of Representatives, House Legislative Oversight Committee,

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed September 25, 2018).

³⁷ S.C. House of Representatives, House Legislative Oversight Committee, “Press Release announcing Public Survey (February 9, 2017),” under “Department of Disabilities and Special Needs,” under “Public Survey & Public Input via LOC Webpage,”

[https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DisabilitiesandSpecialNeeds/Media%20Release%20-%20Public%20Survey%20Open%20\(Febuary%209,%202017\)%20\(pdf\).pdf](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DisabilitiesandSpecialNeeds/Media%20Release%20-%20Public%20Survey%20Open%20(Febuary%209,%202017)%20(pdf).pdf) (accessed September 25, 2018). Hereinafter, “Press Release Announcing Public Survey (February 9, 2017).”

³⁸ S.C. House of Representatives, House Legislative Oversight Committee, “Results of Survey of the Department of Disabilities and Special Needs; State Election Commission; Human Affairs Commission; and John de la Howe School (February 9, 2017 - March 13, 2017),” under “Citizens’ Interest,” under “Patriots Point Development Authority,” and under “Department of Disabilities and Special Needs

“[https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SurveysforAllAgencies/Results%20from%202017%20Survey%20of%20DDSN;%20Election%20Commission;%20Human%20Affairs%20Commission;%20and%20John%20de%20la%20Howe%20School%20\(2_9%20-3_13\).PDF](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SurveysforAllAgencies/Results%20from%202017%20Survey%20of%20DDSN;%20Election%20Commission;%20Human%20Affairs%20Commission;%20and%20John%20de%20la%20Howe%20School%20(2_9%20-3_13).PDF) (accessed September 25, 2018).

Hereinafter “Results of 2017 Survey.”

³⁹ Ibid.

⁴⁰ Committee Standard Practice 10.4.

⁴¹ Results of 2017 Survey.

⁴² S.C. House of Representatives, House Legislative Oversight Committee, “Submit Public Input,” S.C. House of representatives, House Legislative Oversight Committee, “Read a brochure about the Committee,” under “Citizens’ Interest,” under “Agency Oversight by House Legislative Oversight Committee,” and under “Public Participation” <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed September 25, 2018).

⁴³ Results of 2017 Survey.

⁴⁴ Ibid.

⁴⁵ Committee Standard Practice 10.4.2 allows for the redaction of profanity.

⁴⁶ Also, the chair of either the Committee or Healthcare and Regulatory Subcommittee has the discretion to allow testimony during meetings.

⁴⁷ Press Release Announcing Public Survey (February 9, 2017).

⁴⁸ S.C. House of Representatives, House Legislative Oversight Committee, “March 2, 2017 Meeting Minutes,” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” and under “Full Committee Minutes,”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/FullCommitteeMinutes/March%202,%202017%20Minutes%20\(Public%20Input%20for%20Archives%20and%20History,%20DDSN,%20John%20de%20la%20Howe\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/FullCommitteeMinutes/March%202,%202017%20Minutes%20(Public%20Input%20for%20Archives%20and%20History,%20DDSN,%20John%20de%20la%20Howe).pdf) (accessed September 25, 2018). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. Hereinafter, “March 2, 2017 meeting.”

⁴⁹ S.C. House of Representatives, House Legislative Oversight Committee, “January 10, 2017 Meeting Minutes,” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” and under “Full Committee Minutes,”

<https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/FullCommitteeMinutes/January102017.pdf> (accessed September 25, 2018). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

⁵⁰ March 2, 2017 meeting. Agencies in attendance: Department of Archives and History; Department of Disabilities and Special Needs; and John de la Howe School.

⁵¹ Ibid.

⁵² S.C. House of Representatives, House Legislative Oversight Committee, Healthcare and Regulatory Subcommittee “September 18, 2017 Meeting Minutes,” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Department of Disabilities and Special Needs,” and under “Meetings,”

<https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DisabilitiesandSpecialNeeds/September%2018,%202017%20Meeting%20Minutes-%20DDSN.pdf> (accessed September 26, 2018). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

⁵³ S.C. House of Representatives, House Legislative Oversight Committee, Healthcare and Regulatory Subcommittee “October 10, 2017 Meeting Minutes,” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Department of Disabilities and Special Needs,” and under “Meetings,”

https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DisabilitiesandSpecialNeeds/Meeting%20Minutes%2010_10.pdf (accessed September 26, 2018). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

⁵⁴ S.C. House of Representatives, House Legislative Oversight Committee, Healthcare and Regulatory Subcommittee “October 24, 2017 Meeting Minutes,” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Department of Disabilities and Special Needs,” and under “Meetings,”

<https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyPHPFiles/DisabilitiesandSpecialNeeds.php> (accessed September 26, 2018). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. Hereinafter, “October 24, 2017 meeting.”

⁵⁵ S.C. House of Representatives, House Legislative Oversight Committee, Healthcare and Regulatory Subcommittee “November 6, 2017 Meeting Minutes,” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Department of Disabilities and Special Needs,” and under “Meetings,”

<https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyPHPFiles/DisabilitiesandSpecialNeeds.php> (accessed September 26, 2018). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

⁵⁶ Ibid.

⁵⁷ Thoyd Warren is appointed President and CEO of Babcock Center in June of 2018.

⁵⁸ Mary Poole is appointed DDSN State Director on July 19, 2018.

⁵⁹ S.C. House of Representatives, House Legislative Oversight Committee, Healthcare and Regulatory Subcommittee “November 30, 2017 Meeting Minutes,” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Department of Disabilities and Special Needs,” and under “Meetings,”

<https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyPHPFiles/DisabilitiesandSpecialNeeds.php> (accessed September 26, 2018). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

⁶⁰ S.C. House of Representatives, House Legislative Oversight Committee, Healthcare and Regulatory Subcommittee “February 1, 2018 Meeting Minutes,” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Department of Disabilities and Special Needs,” and under “Meetings,”

[https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/HealthcareSub/2.1.18%20Meeting%20Minutes%20\[DDSN\].pdf](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/HealthcareSub/2.1.18%20Meeting%20Minutes%20[DDSN].pdf) (accessed September 26, 2018). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

⁶¹ S.C. House of Representatives, House Legislative Oversight Committee, Healthcare and Regulatory Subcommittee “July 30, 2018 Meeting Minutes,” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Department of Disabilities and Special Needs,” and under “Meetings,” https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/HealthcareSub/Meeting%20Minutes%207_30_18.pdf (accessed September 27, 2018). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

⁶² August 30, 2018 meeting minutes; minutes will be posted after approval at the next subcommittee meeting. A video of the meeting is available on the General Assembly’s website, under “Archives,” then “Video Archives,” <http://www.scstatehouse.gov/video/archives.php> (September 25, 2018). Hereinafter, “August 30, 2018 meeting.”

⁶³ Committee Standard Practice 14.1.

⁶⁴ Committee Standard Practice 14.2.

⁶⁵ Department of Disabilities and Special Needs, “Agency Presentation and Supplemental Information to the September 18, 2017, Healthcare and Regulatory Subcommittee Meeting,” <https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DisabilitiesandSpecialNeeds/DDSN%20Presentation%20and%20Supplemental%20Information.pdf> (accessed September 25, 2018). Hereinafter, “Agency Presentation - September 18, 2017.”

⁶⁶ Department of Disabilities and Special Needs, “Agency Presentation to the November 6, 2017, Healthcare and Regulatory Subcommittee Meeting,” ⁶⁶ Department of Disabilities and Special Needs, “Agency Presentation and Supplemental Information to the September 18, 2018, Healthcare and Regulatory Subcommittee Meeting,” <https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DisabilitiesandSpecialNeeds/DDSN%20Presentation%20and%20Supplemental%20Information.pdf> (accessed September 25, 2018) (accessed September 25, 2018).

⁶⁷ Agency Presentation - September 18, 2017.

⁶⁸ S.C. House of Representatives, Ways and Means Committee, “FY 2018-19 Budget Briefing,” [https://www.scstatehouse.gov/CommitteeInfo/Ways&MeansBudgetDocuments/FY2018-19/FY%202018-19%20Budget%20Briefing%20\(Conference%20Version\).pdf](https://www.scstatehouse.gov/CommitteeInfo/Ways&MeansBudgetDocuments/FY2018-19/FY%202018-19%20Budget%20Briefing%20(Conference%20Version).pdf) (accessed September 25, 2018).

⁶⁹ October 24, 2017 meeting.

⁷⁰ Ibid.

⁷¹ S.C. House of Representatives, House Legislative Oversight Committee, Healthcare and Regulatory Subcommittee “October 23, 2018 Meeting Minutes,” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” and under “Meetings,”
Add link when posted. A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

⁷² Ibid.

⁷³ Committee staff reviewed two decades of the index to the State Register.

⁷⁴ A list of state Medicaid agencies is obtained from the National Association of Medicaid Directors, <https://medicaiddirectors.org/about/medicaid-directors/>. A list of intellectual/developmental disabilities agencies is obtained from the National Association of State Directors of Developmental Disabilities Services, <https://www.nasddds.org/state-agencies/>. An agency is determined to be “standalone” if it primarily serves people with intellectual and related disabilities. California, Connecticut, the District of Columbia, Florida, Massachusetts, New York, Ohio, South Carolina, and Tennessee have agencies solely dedicated to serving people with intellectual disabilities. While considered a standalone agency, California’s Department of Developmental Services is within the Health and Human Services agency. Of the eight states and the District of Columbia with standalone agencies, South Carolina is the only state where the intellectual disabilities’ agency executive is not directly accountable to the governor, mayor, or an umbrella cabinet secretary.

⁷⁵ California’s DS Task Force provides recommendations on service needs and delivery of cost-effective, integrated, quality services. Connecticut’s Council on Developmental Services advises and consults on issues affecting the department. The Massachusetts Statewide Advisory Council advises the Commissioner on policy, program, development, and priorities. Tennessee has a number of advisory councils that allow for public collaboration on issues affecting the department and the people it serves.

⁷⁶ October 24, 2017 meeting.

⁷⁷ S.C. House of Representatives, House Legislative Oversight Committee, Healthcare and Regulatory Subcommittee “October 10, 2017 Agency Presentation,” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Department of Disabilities and Special Needs,” and under “Meetings,” https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DisabilitiesandSpecialNeeds/Agency%20Presentation%20and%20Supplemental%20Material%2010_10.PDF (accessed September 26, 2018). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. The rankings of standalone agencies range from 6 to 35.

⁷⁸ Department of Disabilities and Special Needs, “Agency Presentation and Supplemental Information to the October 10, 2017, Healthcare and Regulatory Subcommittee Meeting,” https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DisabilitiesandSpecialNeeds/Agency%20Presentation%20and%20Supplemental%20Material%2010_10.PDF (accessed September 26, 2018).

⁷⁹ State Fiscal Accountability Authority, Procurement Services <http://webprod.cio.sc.gov/SCSolicitationWeb/contractSearch.do?solicitnumber=5400011763> (accessed September 25, 2018).

⁸⁰ S.C. Code of Laws, § 44-28-10.

⁸¹ S.C. Code of Laws, § 44-28-310.

⁸² S.C. Code of Laws, § 11-5-400.

⁸³ 2011 Act No. 47.

⁸⁴ 2016 Act No. 225 Acts from 1980 to the present are available on the General Assembly’s website under “Archives” and then under “Act Lists.” Acts from 1980 to the present are available on the General Assembly’s website under “Archives” and then under “Act Lists” https://www.scstatehouse.gov/sess121_2015-2016/bills/3952.htm (accessed September 25, 2018).


⁸⁵ Definition of Intellectual Disability, American Association on Intellection and Developmental Disabilities <http://aaidd.org/intellectual-disability/definition> (accessed September 26, 2018).

⁸⁶ American Psychiatric Association, Diagnostic and Statistical Manual of Mental Disorders, 5th Edition, p.33. (2013).

⁸⁷ Federal Court Cases.

⁸⁸ Department of Disabilities and Special Needs, “August 30, 2018 - Meeting Packet,” (https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DisabilitiesandSpecialNeeds/Meeting%20Packet%208_30.PDF) (accessed September 26, 2018).

South Carolina Legislature

3181 found 3 times. 

H 3181

Session 124 (2021-2022)

H 3181 General Bill, By Taylor and W.Newton

A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 44-20-225 SO AS TO REQUIRE MEMBERS OF THE SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS TO COMPLETE CERTAIN TRAINING; AND TO AMEND SECTION 44-20-210, RELATING TO CREATION OF THE COMMISSION, SO AS TO ESTABLISH CERTAIN QUALIFICATIONS FOR COMMISSION MEMBERS.

[3181.htm](#)>View full text

12/09/20	House	Prefiled
12/09/20	House	Referred to Committee on Labor, Commerce and Industry
01/12/21	House	Introduced and read first time (House Journal-page 103)
01/12/21	House	Referred to Committee on Labor, Commerce and Industry (House Journal-page 103)

VERSIONS OF THIS BILL

12/9/2020

H. 3181

A BILL

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 44-20-225 SO AS TO REQUIRE MEMBERS OF THE SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS TO COMPLETE CERTAIN TRAINING; AND TO AMEND SECTION 44-20-210, RELATING TO CREATION OF THE COMMISSION, SO AS TO ESTABLISH CERTAIN QUALIFICATIONS FOR COMMISSION MEMBERS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 3, Chapter 20, Title 44 of the 1976 Code is amended by adding:

"Section 44-20-225. (A) Within one year of the effective date of this act, existing members of the commission shall complete successfully a training program on the powers, duties, and responsibilities of a commission member and the department including, but not limited to, topics on statutory responsibilities, regulation and department policy development, department operations and performance management, personnel, system finances, ethics, community relations, and client services, as determined by the commission.

(B) A person appointed as a member of the commission after the effective date of this act shall complete the training prescribed in subsection (A) within one year of being appointed as a commission member."

SECTION 2. Section 44-20-210 of the 1976 Code is amended to read:

"Section 44-20-210. (A) There is created the South Carolina Commission on Disabilities and Special Needs. The commission consists of seven members. One member must be a resident of each congressional district appointed by the Governor upon the advice and consent of the Senate. They shall serve for four years and until their successors are appointed and qualify. In making appointments to the commission, the Governor shall take into consideration race, gender, and other demographic factors, such as residence in rural or urban areas, so as to represent, to the greatest extent possible, all segments of the population of the State; however, consideration of these factors in making an appointment in no way creates a cause of action or basis for an employee grievance for a person appointed or for a person not appointed. Members of the commission are subject to removal by the Governor pursuant to the provisions of Section 1-3-240. A vacancy may be filled by the Governor for the unexpired portion of the term.

(B) Each commission member shall possess, at a minimum, the following:

(1) a baccalaureate or more advanced degree in a discipline related to intellectual disability, related disabilities, head injuries, spinal cord injuries, or other health care discipline from:

(a) a recognized institution of higher learning requiring face-to-face contact between its students and instructors prior to completion of the academic program;

(b) an institution of higher learning that has been accredited by a regional or national accrediting body; or

(c) an institution of higher learning chartered before 1962; or

(2) an expertise gained from professional or familial caregiving of substantial duration in at least one of the following fields:

(a) intellectual disability;

(b) related disabilities;

(c) head injuries;


(d) spinal cord injuries; or

(e) other health care."

SECTION 3. This act takes effect upon approval by the Governor.

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South Carolina Legislature

3216 found 3 times. 

H 3216

Session 124 (2021-2022)

H 3216 General Bill, By Calhoon and Wooten

A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 44-7-305 SO AS TO REQUIRE NURSING HOMES, COMMUNITY RESIDENTIAL CARE FACILITIES, AND INTERMEDIATE CARE FACILITIES FOR PERSONS WITH INTELLECTUAL DISABILITY TO INSTALL, OPERATE, AND MAINTAIN AN ELECTRONIC VIDEO MONITORING SYSTEM AT EVERY FACILITY EXIT, WHICH CONTINUALLY MONITORS AND MAKES VIDEO RECORDINGS, TO REQUIRE THE FACILITY TO MAINTAIN COPIES OF RECORDINGS FOR AT LEAST THIRTY DAYS, TO PROHIBIT TAMPERING WITH SUCH SYSTEMS AND RECORDINGS, AND TO ESTABLISH ASSOCIATED PENALTIES.

[H3216.htm](#)>View full text

12/09/20 House Prefiled

12/09/20 House Referred to Committee on Medical, Military,
Public and Municipal Affairs

01/12/21 House Introduced and read first time (House Journal-page 118)

01/12/21 House Referred to Committee on Medical, Military,
Public and Municipal Affairs (House Journal-page 118)

VERSIONS OF THIS BILL

12/9/2020

H. 3216

A BILL

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 44-7-305 SO AS TO REQUIRE NURSING HOMES, COMMUNITY RESIDENTIAL CARE FACILITIES, AND INTERMEDIATE CARE FACILITIES FOR PERSONS WITH INTELLECTUAL DISABILITY TO INSTALL, OPERATE, AND MAINTAIN AN ELECTRONIC VIDEO MONITORING SYSTEM AT EVERY FACILITY EXIT, WHICH CONTINUALLY MONITORS AND MAKES VIDEO RECORDINGS, TO REQUIRE THE FACILITY TO MAINTAIN COPIES OF RECORDINGS FOR AT LEAST THIRTY DAYS, TO PROHIBIT TAMPERING WITH SUCH SYSTEMS AND RECORDINGS, AND TO ESTABLISH ASSOCIATED PENALTIES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 3, Chapter 7, Title 44 of the 1976 Code is amended by adding:

"Section 44-7-305. (A) Every nursing home, community residential care facility, and intermediate care facility for persons with intellectual disability subject to licensing and regulation by the department shall, as a condition of licensing or relicensing, install, operate, and maintain at every facility exit an electronic video monitoring system, which continually monitors and makes video recordings, and shall maintain copies of the video recordings for at least thirty days. The failure of a

facility to comply with the requirements of this subsection may be grounds for denial, suspension, or revocation of the facility's license or for a civil penalty in accordance with departmental regulations.

(B) Any person who intentionally hampers, obstructs, tampers with, or destroys an electronic video monitoring system or any recording thereof is guilty of a misdemeanor and, upon conviction, must be fined five thousand dollars or imprisoned for not more than one year, or both."

SECTION 2. This act takes effect upon approval by the Governor.

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Legislative Services Agency
<http://www.scstatehouse.gov>



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
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AGENCY FISCAL IMPACT ESTIMATE FOR BILL NO. H3216

Date: 2/3/2021

Estimate Prepared by: Chris Clark, CFO

State Agency: J160

Phone Number: 803-898-4084

SECTION 1

1. **Choose one of the following for the fiscal impact on the General Fund expenditures of the State:**
 - Zero or minimal additional expenditures or savings that can be absorbed within current appropriations
 - **If this box is checked, please provide an explanation (e.g., “The agency will be able to accomplish the duties enumerated in this bill using existing appropriations and staff.”).**
 - An increase in General Fund expenditures
 - A decrease in General Fund expenditures

2. **Please list the specific section(s) of the bill that correspond to changes in General Fund expenditures (see below for additional guidance).**
 - *Section 44-7-305(A)*
 - *DDSN would request additional State appropriations as necessary to comply with the requirement of Bill No. H3216 Section 44-7-305 (A). Initial non-recurring startup cost to comply is estimated at \$585,000. The Agency has approximately 393 facility doors statewide requiring internal and external video monitoring equipment. Based on Medicaid useful lives manual, video monitoring and recording equipment has a five-year life expectancy and will require replacement. Therefore, the Agency would request \$125,000 recurring state appropriations for replacement and associated maintenance expense.*

3. **Does this legislation impact Federal or Other Funds expenditures? *No***
 - **If yes, what type of Federal or Other Funds are these (e.g., Highway Fund, Medicaid, Grant, etc.)?**

4. **Does this legislation create any additional General Fund, Federal Funds, or Other Funds revenue for the agency? *No***
 - **If yes, please explain and provide an estimate of the new revenue**

If you indicated an additional expenditure or savings to the General Fund, Federal Funds, or Other Funds in Section 1, please respond to items in Section 2 using the following guidelines:

- (a) Use base salaries at the minimum of the pay band as listed on the Division of State Human Resources website https://admin.sc.gov/dshr/pay_bands
- (b) Estimate employer contributions using the Benefits Calculator listed on the Division of State Human Resources website https://admin.sc.gov/dshr/benefits_and_leave;

- (c) Non-recurring expenditures are one-time costs associated with starting a program or hiring additional staff;
- (d) All estimates should reflect any expenditure above or savings below current program funding level; and
- (e) Base your expenditure or savings on historical data, population served, trends, caseload, etc.

SECTION 2

1. Itemization of Expenditures or Savings to General Fund, Federal Funds, or Other Funds.

	RECURRING FUNDS		NON-RECURRING FUNDS	
	General	Federal/Other	General	Federal/Other
Personal Service/Employer Contributions	_____	_____	_____	_____
(Number of FTEs)	_____	_____	_____	_____
Other Operating	<u>\$125,000</u>	_____	<u>\$585,000</u>	_____
Other (specify below)	_____	_____	_____	_____
Other (specify below)	_____	_____	_____	_____
TOTALS	<u>\$125,000</u>	=====	<u>\$585,000</u>	=====


2. Excluding pay increases and non-recurring funds, do the expenditures or savings shown in Section 2, Item 1 represent full implementation of the bill? *Yes*

- **If no, please provide the itemization of annual expenditures or savings as required in Section 2, Item 1 until full implementation is achieved.**

3. Provide the following background information on expenditures or savings in Section 2, Item 1. If an amount included in Section 2, Item 1 relates to multiple bill sections, please provide a breakdown of the amounts corresponding to each bill section.

- **Position titles for FTEs:**
- **Explanation of job duties to be performed relating to the bill:**
- **Detail on other operating and other expenditures or savings (e.g., equipment, computers, rent, etc.):** *DDSN accounted for all existing Community Residential Care Facilities (CRCFs), and Intermediate Care Facilities (ICFs) throughout our Agency's statewide system. We identified the existence of 236 facility exits on our Regional Campuses, and 157 facility exits in the Community Residential settings. Totaling 393 statewide. Using SFAA Procurement Services Statewide Contract website, estimated cost were obtained from one approved vendor. Estimates included the following: cameras (including wiring) @ \$500 each; community residential control units for less than 10 cameras @ \$1,600; regional campuses control units for more than 10 cameras @ \$4,200.*
- **Methodology used to prepare estimate and what assumptions were used:** *DDSN staff assumptions are as follows: 1. No pre-existing camera coverage. 2. Every building is a stand-alone system. Regional campuses data storage maybe more economical if centralized storage was used. 3. Two cameras at every door, one internal, one external. 4. Unit prices were obtained from one vendor on state contract.*
- **If expenditures are client-oriented or involve direct services, how will clients be affected?**

South Carolina Legislature

264 found 2 times. 

S 264

Session 124 (2021-2022)

S 0264 General Bill, By Matthews

Similar(H 3513)

A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 5 TO CHAPTER 28, TITLE 44 SO AS TO PROVIDE FOR THE ESTABLISHMENT OF THE "DISABLED SELF-EMPLOYMENT DEVELOPMENT TRUST FUND" TO PROVIDE ASSISTANCE TO INDIVIDUALS WITH DISABILITIES TO PURSUE ENTREPRENEURSHIP AND SELF-EMPLOYMENT OPPORTUNITIES, BY PROVIDING BUSINESS DEVELOPMENT GRANTS FOR THE STARTUP, EXPANSION, OR ACQUISITION OF A BUSINESS OPERATED WITHIN THE STATE; BY ADDING SECTION 12-6-3760 SO AS TO PROVIDE FOR A TAX CREDIT FOR TAXPAYER CONTRIBUTIONS TO THE FUND; AND TO AMEND SECTION 12-6-5060, AS AMENDED, RELATING TO TAX RETURNS, SO AS TO ADD THE FUND TO THE LIST OF FUNDS TO WHICH A TAXPAYER MAY CONTRIBUTE ON A STATE INDIVIDUAL TAX RETURN.

264 [.htm">View full text](#)

12/09/20 Senate Prefiled
12/09/20 Senate Referred to Committee on Medical Affairs
01/12/21 Senate Introduced and read first time
(Senate Journal-page 240)
01/12/21 Senate Referred to Committee on Medical Affairs
(Senate Journal-page 240)

VERSIONS OF THIS BILL**12/9/2020****S. 264****A BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 5 TO CHAPTER 28, TITLE 44 SO AS TO PROVIDE FOR THE ESTABLISHMENT OF THE "DISABLED SELF-EMPLOYMENT DEVELOPMENT TRUST FUND" TO PROVIDE ASSISTANCE TO INDIVIDUALS WITH DISABILITIES TO PURSUE ENTREPRENEURSHIP AND SELF-EMPLOYMENT OPPORTUNITIES, BY PROVIDING BUSINESS DEVELOPMENT GRANTS FOR THE STARTUP, EXPANSION, OR ACQUISITION OF A BUSINESS OPERATED WITHIN THE STATE; BY ADDING SECTION 12-6-3760 SO AS TO PROVIDE FOR A TAX CREDIT FOR TAXPAYER CONTRIBUTIONS TO THE FUND; AND TO AMEND SECTION 12-6-5060, AS AMENDED, RELATING TO TAX RETURNS, SO AS TO ADD THE FUND TO THE LIST OF FUNDS TO WHICH A TAXPAYER MAY CONTRIBUTE ON A STATE INDIVIDUAL TAX RETURN.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 28, Title 44 is amended by adding:

"Article 5

Disabled Self-Employment Development Trust Fund

Section 44-28-510. There is established in the State Treasury the Disabled Self-Employment Development Trust Fund, separate and distinct from the general fund. The fund shall consist of appropriations and donations, contributions, bequests, or other gifts. Earnings and interest on this fund must be credited to it and any balance at the end of the fiscal year carries forward to the fund in the succeeding fiscal year.

Section 44-28-520. The South Carolina Department of Disabilities and Special Needs shall establish and administer the program that awards grants to qualifying residents of this State with physical or mental impairments who start, expand, or acquire a business within this State.

Section 44-28-530. To receive a grant pursuant to this program, an applicant must:

- (1) be eligible for vocational rehabilitation services as defined in Section 43-31-30(3) and (12);
- (2) not have previously received educational or training equipment through another rehabilitation program when that equipment could be used in the applicant's proposed business;
- (3) have at least fifty-one percent ownership in a for-profit business that is actively owned, operated, and managed in this State;
- (4) agree to an approved business plan that will result in self-sufficiency as measured by earnings that equal or exceed eighty percent of substantial gainful activity; and
- (5) provide documentation to the satisfaction of the department of the applicant's ability to match dollar-for-dollar the amount of funds requested.

Section 44-28-540. Monies in the Disabled Self-Employment Development Trust Fund must be expended solely to provide business development grants pursuant to this article.

Section 44-28-550. Grants awarded pursuant to the program may in no way reduce, impair, or diminish the benefits to which the beneficiary is otherwise entitled by law.

Section 44-28-560. Grants may not be awarded:

- (1) to support the purchase of real estate or improvements to real estate;
- (2) to be used as a cash infusion, for personal or business loan repayments, or for personal or business credit card debt; and
- (3) to start, expand, or acquire any of the following types of businesses:
 - (a) a hobby or similar activity that does not produce income at the level required for self-sufficiency;
 - (b) a business venture that is speculative in nature or considered high risk;
 - (c) a business registered with the federal Internal Revenue Service as a Section 501(c)(3) entity or other entity set up deliberately to be not-for-profit;
 - (d) a business that is not fully compliant with all local, state, and federal zoning requirements and all other applicable local, state, and federal requirements; and
 - (e) any illegal business venture.

Section 44-28-570. The South Carolina Department of Disabilities and Special Needs shall promulgate regulations necessary for the implementation and administration of this article."

SECTION 2. Article 25, Chapter 6, Title 12 of the 1976 Code is amended by adding:

"Section 12-6-3760. There is allowed as a tax credit against income tax liability of a taxpayer imposed by this chapter for contribution to the Disabled Self-Employment Development Trust Fund. The credit is equal to one hundred percent of the contribution. The tax credit allowed by this section is nonrefundable and if the amount of the credit exceeds the taxpayer's liability for the applicable taxable year any unused credit may be carried forward and claimed in the five succeeding taxable years."


SECTION 3. Section 12-6-5060(A) of the 1976 Code, as last amended by Act 172 of 2020, is further amended to read:

"(A) Each taxpayer required to file a state individual income tax return may contribute to the War Between the States Heritage Trust Fund established pursuant to Section 51-18-115, the Nongame Wildlife and Natural Areas Program Fund established pursuant to Section 50-1-280, the Children's Trust Fund of South Carolina established pursuant to Section 63-11-910, the Eldercare Trust Fund of South Carolina established pursuant to Section 43-21-160, the First Steps to School Readiness Fund established pursuant to Section 63-11-1750, the South Carolina Military Family Relief Fund established pursuant to Article 3, Chapter 11, Title 25, the Donate Life South Carolina established pursuant to Section 44-43-1310, the Veterans' Trust Fund of South Carolina established pursuant to Chapter 21, Title 25, the South Carolina Litter Control Enforcement Program (SCLCEP) and used by the Governor's Task Force on Litter only for the SCLCEP Program, the South Carolina Law Enforcement Assistance Program (SCLEAP) and used as provided in Section 23-3-65, the South Carolina Department of Parks, Recreation and Tourism for use in the South Carolina State Park Service in the manner the General Assembly provides, the South Carolina Forestry Commission for use in the state forest system, the South Carolina Department of Natural Resources for use in its programs and operations, K-12 public education for use in the manner the General Assembly provides by law, South Carolina Conservation Bank Trust Fund established pursuant to Section 48-59-60, the Financial Literacy Trust Fund established pursuant to Section 59-29-510, the South Carolina Association of Habitat for Humanity Affiliates, the Disabled Self-Employment Development Trust Fund established pursuant to Section 44-28-510, or the Department of Archives and History and only used by the agency to purchase or preserve collections with significant historical value to the State by designating the contribution on the return. The contribution may be made by reducing the income tax refund or by remitting additional payment by the amount designated."

SECTION 4. This act takes effect upon approval by the Governor.

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South Carolina Legislature

3516 found 3 times. 

H 3516

Session 124 (2021-2022)

H 3516 General Bill, By Robinson

A BILL TO AMEND SECTION 44-21-10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE INTENT OF THE FAMILY SUPPORT SERVICES PROGRAM, SO AS TO PROVIDE THAT INDIVIDUALS AND FAMILIES SHOULD HAVE THE RIGHT TO SELECT A SPECIFIC PERSON OR AGENCY TO PROVIDE SERVICES OFFERED THROUGH THE PROGRAM; TO AMEND SECTION 44-21-20, RELATING TO TERMS USED IN CHAPTER 21, TITLE 44, SO AS TO ADD A DEFINITION FOR "SERVICE PROVIDER"; AND TO AMEND SECTION 44-21-50, RELATING TO DEVELOPMENT OF A WRITTEN PLAN ADDRESSING SERVICES NEEDED BY AN INDIVIDUAL OR FAMILY MEMBER, SO AS TO ADD REQUIREMENTS, INCLUDING A STATEMENT OF SERVICES TO BE PROVIDED BY A SERVICE PROVIDER AND THE SERVICE PROVIDER'S COMPENSATION, THE RIGHT OF AN INDIVIDUAL OR FAMILY TO REQUEST A SPECIFIC SERVICE PROVIDER, WITH EXCEPTIONS, AND THE RIGHT OF AN INDIVIDUAL OR FAMILY TO TERMINATE A REQUESTED SERVICE PROVIDER.

[H3516.htm](#)>View full text

12/16/20 House Prefiled

12/16/20 House Referred to Committee on Medical, Military,
Public and Municipal Affairs

01/12/21 House Introduced and read first time (House Journal-page 220)

01/12/21 House Referred to Committee on Medical, Military,
Public and Municipal Affairs (House Journal-page 220)

VERSIONS OF THIS BILL

12/16/2020

H. 3516

A BILL

TO AMEND SECTION 44-21-10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE INTENT OF THE FAMILY SUPPORT SERVICES PROGRAM, SO AS TO PROVIDE THAT INDIVIDUALS AND FAMILIES SHOULD HAVE THE RIGHT TO SELECT A SPECIFIC PERSON OR AGENCY TO PROVIDE SERVICES OFFERED THROUGH THE PROGRAM; TO AMEND SECTION 44-21-20, RELATING TO TERMS USED IN CHAPTER 21, TITLE 44, SO AS TO ADD A DEFINITION FOR "SERVICE PROVIDER"; AND TO AMEND SECTION 44-21-50, RELATING TO DEVELOPMENT OF A WRITTEN PLAN ADDRESSING SERVICES NEEDED BY AN INDIVIDUAL OR FAMILY MEMBER, SO AS TO ADD REQUIREMENTS, INCLUDING A STATEMENT OF SERVICES TO BE PROVIDED BY A SERVICE PROVIDER AND THE SERVICE PROVIDER'S COMPENSATION, THE RIGHT OF AN INDIVIDUAL OR FAMILY TO REQUEST A SPECIFIC SERVICE PROVIDER, WITH EXCEPTIONS, AND THE RIGHT OF AN INDIVIDUAL OR FAMILY TO TERMINATE A REQUESTED SERVICE PROVIDER.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 44-21-10(B) of the 1976 Code is amended to read:

"(B) The intent of the Family Support Services Program provided for in this chapter is to assist individuals with disabilities and their families who desire or choose to support a family member with intellectual disability or a related disability or head injury, spinal cord injury, or similar disability in their home and to enable these individuals and families to select a specific agency or person to provide services that are needed for the individual or family member to remain in the home. The program is not meant to create a hardship on a family by supplanting or diverting access from other appropriate or necessary services. It is recognized that persons with intellectual disability or related disabilities or head injuries, spinal cord injuries, or similar disabilities have the right to receive services from public and other agencies that provide services to South Carolina citizens and to have those services coordinated with the services needed because of their disabilities. It is the position of this State that children and adults have the right to live with their families. The individual's and family's circumstances and desires must be taken into account when considering the appropriate types of services or supports which can best meet the needs of the individual and family."

SECTION 2. Section 44-21-20 of the 1976 Code is amended to read:

"Section 44-21-20. As used in this chapter:

- (1) 'Department' means the Department of Disabilities and Special Needs.
- (2) 'Family support' means goods and services needed by individuals or families to care for themselves or their family members with intellectual disability or related disabilities or head injuries, spinal cord injuries, or similar disabilities and to enjoy a quality of life comparable to other community members.
- (3) 'Family Support Program' or 'program' means a coordinated system of family support services administered by the department directly or through contracts with private nonprofit or governmental agencies across the State, or both.
- (4) 'Service provider' means an private or public agency or a person, who may include a person related by blood, marriage, or adoption to the individual or family qualifying to receive services under the Family Support Program, that provides services to the individual or family for compensation pursuant to Section 44-21-60."

SECTION 3. Section 44-21-50 of the 1976 Code is amended to read:


"Section 44-21-50. (A) The contracted agency shall assist each individual or family for whom services will be provided in assessing its needs and shall prepare a written plan with the person and family, which must be signed by the person or an adult member of the family and the contracted agency. The written plan must set forth the services to be provided by a service provider and the service provider's compensation, such as the hourly rate, a work schedule, and any other benefits. The needs and preferences of the individual and family will be the basis for determining what goods and services will be provided within the resources available.

(B) An individual or family may direct the contracted agency to select a specific agency or person to be the service provider, which the contracted agency must approve as long as the specific agency or person is qualified to provide the services. The individual or family has the authority to terminate the requested service provider at any time."

SECTION 4. This act takes effect upon approval by the Governor.

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South Carolina Legislature

3731 found 3 times. 

H 3731

Session 124 (2021-2022)

H 3731 General Bill, By Erickson, Ballentine, Elliott, Bradley, Rose, Thayer, Trantham, Bennett, Caskey, Taylor, Allison, Burns, Bannister, Dillard, Herbkersman, Hixon and Kimmons

A BILL TO AMEND SECTION 40-75-5, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, SECTION 40-75-10, AS AMENDED, SECTION 40-75-20, AS AMENDED, SECTION 40-75-30, AS AMENDED, SECTION 40-75-110, AS AMENDED, SECTION 40-75-190, AS AMENDED, SECTION 40-75-200, SECTION 40-75-220, AS AMENDED, SECTION 40-75-250, AS AMENDED, SECTION 40-75-260, AS AMENDED, SECTION 40-75-285, AS AMENDED, ALL RELATING TO THE REGULATION OF LICENSED PROFESSIONAL COUNSELORS, MARRIAGE AND FAMILY THERAPISTS, ADDICTION COUNSELORS, AND PSYCHO-EDUCATIONAL SPECIALISTS, SO AS TO PROVIDE FOR THE REGULATION OF BEHAVIOR ANALYSTS AND ASSISTANT BEHAVIOR ANALYSTS, AND TO MAKE MISCELLANEOUS AND CONFORMING CHANGES; TO REDESIGNATE CHAPTER 75, TITLE 40 AS "PROFESSIONAL COUNSELORS, MARRIAGE AND FAMILY THERAPISTS, BEHAVIOR ANALYSTS, AND LICENSED PSYCHO-EDUCATIONAL SPECIALISTS", AND TO REDESIGNATE ARTICLE 1, CHAPTER 75, TITLE 40 AS "PROFESSIONAL COUNSELORS, MARRIAGE AND FAMILY THERAPISTS, BEHAVIOR ANALYSTS, AND LICENSED PSYCHO-EDUCATIONAL SPECIALISTS".

[e3731e.htm](#)>View full text

01/27/21 House Introduced and read first time (House Journal-page 15)

01/27/21 House Referred to Committee on Medical, Military,
Public and Municipal Affairs (House Journal-page 15)

VERSIONS OF THIS BILL

1/27/2021

H. e3731

A BILL

TO AMEND SECTION 40-75-5, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, SECTION 40-75-10, AS AMENDED, SECTION 40-75-20, AS AMENDED, SECTION 40-75-30, AS AMENDED, SECTION 40-75-110, AS AMENDED, SECTION 40-75-190, AS AMENDED, SECTION 40-75-200, SECTION 40-75-220, AS AMENDED, SECTION 40-75-250, AS AMENDED, SECTION 40-75-260, AS AMENDED, SECTION 40-75-285, AS AMENDED, ALL RELATING TO THE REGULATION OF LICENSED PROFESSIONAL COUNSELORS, MARRIAGE AND FAMILY THERAPISTS, ADDICTION COUNSELORS, AND PSYCHO-EDUCATIONAL SPECIALISTS, SO AS TO PROVIDE FOR THE REGULATION OF BEHAVIOR ANALYSTS AND ASSISTANT BEHAVIOR ANALYSTS, AND TO MAKE MISCELLANEOUS AND CONFORMING CHANGES; TO REDESIGNATE CHAPTER 75, TITLE 40 AS "PROFESSIONAL COUNSELORS, MARRIAGE AND FAMILY THERAPISTS, BEHAVIOR ANALYSTS, AND LICENSED PSYCHO-EDUCATIONAL SPECIALISTS", AND TO REDESIGNATE ARTICLE 1, CHAPTER 75, TITLE 40 AS "PROFESSIONAL COUNSELORS, MARRIAGE AND FAMILY THERAPISTS, BEHAVIOR ANALYSTS, AND LICENSED PSYCHO-EDUCATIONAL SPECIALISTS".

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 40-75-5 of the 1976 Code, as last amended by Act 249 of 2018, is further amended to read:

"Section 40-75-5. Unless otherwise provided for in this chapter, Article 1, Chapter 1, Title 40 applies to licensed professional counselors, licensed behavior analysts, licensed assistant behavior analysts, marriage and family therapists, addiction counselors, and psycho-educational specialists regulated by the Department of Labor, Licensing and Regulation. If there is a conflict between this chapter and Article 1, Chapter 1, Title 40, the provisions of this chapter control."

SECTION 2. Section 40-75-10 of the 1976 Code, as last amended by Act 249 of 2018, is further amended to read:

"Section 40-75-10. (A) There is created the Board of Examiners for the Licensure of Professional Counselors, Marriage and Family Therapists, Addiction Counselors, Behavior Analysts, and Psycho-Educational Specialists composed of ~~eleven~~ thirteen members appointed by the Governor. Of the ~~eleven~~ thirteen members, ~~nine~~ eleven must be professional members, with representation from each congressional district in the State. Of the professional members, three must be licensed professional counselors, two must be licensed behavior analysts, two must be licensed addiction counselors, three must be marriage and family therapists, and one must be a psycho-educational specialist. The remaining two members must be at large from the general public and must not be associated with, or financially interested in, the practice of professional counseling, marriage and family therapy, addiction counseling, behavior analysis, or psycho-educational services.

(B) The membership must be representative of race, ethnicity, and gender. The ~~eight~~ eleven professional members must have been actively engaged in the practice of their respective professions or in the education and training of professional counselors, marriage and family therapists, addiction counselors, behavior analysts, or psycho-educational specialists for at least five years prior to appointment. Members may be licensed as a licensed professional counselor, marriage and family therapist, addiction counselor, behavior analyst, or psycho-educational specialist. Members are eligible for reappointment. Vacancies must be filled in the same manner as the original appointment for the unexpired portion of the term. Each member shall receive per diem, subsistence, and mileage as allowed by law for members of state boards, commissions, and committees for each day actually engaged in the duties of the office, including a reasonable number of days, as determined by board regulation, for preparation and reviewing of applications and examinations in addition to time actually spent in conducting examinations."

SECTION 3. Section 40-75-20 of the 1976 Code, as last amended by Act 249 of 2018, is further amended to read:

"Section 40-75-20. As used in this article:

(1) 'Addiction counselor' means a professional who practices individual, family, and group addiction counseling.

(2) 'Alcohol and drug counseling services' means those services offered for a fee as part of the treatment and rehabilitation of persons with a substance abuse disorder, at risk of developing a substance abuse disorder, or is negatively affected by someone with a substance abuse disorder. The purpose of alcohol and drug counseling services is to help individuals, families, and groups to address and resolve problems caused by substance abuse.

(3) 'Approved supervisor' means a licensee who has met the requirements for approval as a professional counselor supervisor, marriage and family therapy supervisor, or addiction counselor supervisor as provided in regulation.

(4) 'Assessment' in the practice of counseling and therapy means selecting, administering, scoring, and interpreting evaluative or standardized instruments; assessing, diagnosing, and treating, using standard diagnostic nomenclature, a client's attitudes, abilities, achievements, interests, personal characteristics, disabilities, and mental, emotional, and behavioral problems that are typical of the developmental life cycle; and the use of methods and techniques for understanding human behavior in relation to, coping with, adapting to, or changing life situations. A counselor may assess more serious problems as categorized in standard diagnostic nomenclature but only if the counselor has been specifically trained to assess and treat that particular problem. If a client presents with a problem which is beyond the counselor's training and competence, the counselor must refer that problem to a licensed professional who has been specifically trained to diagnose and treat the presenting problem. In all cases, ethical guidelines as established by the board must be followed.

(5) 'Associate' means an individual who has met the requirements for licensure as a professional counselor associate, marriage and family therapy associate, or addiction counselor associate under the provisions of this article and has been issued a license by the board.

(6) 'Behavior technician' means a paraprofessional who practices under the close, ongoing supervision of a licensed behavior analyst or licensed assistant behavior analyst following the completion of a criminal background check. A behavior technician does not design assessment or intervention plans or procedures but delivers services as assigned by the supervisor responsible for his work.

(7) 'Board' means the South Carolina Board of Licensed Professional Counselors, Marriage and Family Therapists, Addictions Counselors, Behavior Analysts, and Psycho-Educational Specialists.

~~(7)~~(8) 'Certifying entity' means the Behavior Analyst Certification Board or its successor.

(9) 'Client' means a person or patient, whether an individual or a member of a group, a group, an agency or an organization, who receives ~~in an office setting~~ any treatment or service that falls within the scope of practice of a licensed professional counselor, marriage and family therapist, addiction counselor, behavior analyst, or psycho-educational specialist.

~~(8)~~(10) 'Consulting' means the application of scientific principles and procedures in counseling and human development to provide assistance in understanding and solving current or potential problems that the client may have in relation to a third party, individuals, groups, and organizations.

~~(9)~~(11) 'Director' means the Director of the Department of Labor, Licensing and Regulation.

~~(10)~~(12) 'Federally assisted program' means a program directly funded by the federal government, operated by the federal government, certified for Medicaid reimbursement, receiving federal block grant funds through a state or local government, licensed by the federal government, or exempt from paying taxes under a provision of the federal Internal Revenue Code.

~~(11)~~(13) 'License' means an authorization to practice counseling, marriage and family therapy, or behavior analysis, issued by the board pursuant to this article and includes an authorization to practice as a professional counselor associate, marriage and family therapy associate, behavior analyst, behavior analyst assistant, or addiction counselor associate.

~~(12)~~(14) 'Licensee' means an individual who has met the requirements for licensure under this article and has been issued a license to practice as a professional counselor or professional counselor associate, marriage and family therapist or marriage and family therapy associate, behavior analyst, behavior analyst assistant, or addiction counselor associate.

(15) 'Licensed assistant behavior analyst' means an individual who is certified by the certifying entity as a board-certified assistant behavior analyst and is licensed in this State to practice behavior analysis under the extended authority and supervision of a licensed behavior analyst who is approved as a supervisor by the certifying entity.

(16) 'Licensed behavior analyst' means an individual who is certified by the certifying entity as a board-certified behavior analyst or board-certified behavior analyst-doctoral and is licensed in this State to practice behavior analysis independently.

~~(13)~~(17) 'Licensed professional counselor' means an individual who practices professional counseling.

~~(14)~~(18) 'Marriage and family therapy' means the assessment and treatment of mental and emotional disorders, whether cognitive, affective, or behavioral, within the context of marriage and family systems. Marriage and family therapy involves the application of psycho-therapeutic and family systems theories and techniques in the delivery of services to individuals, couples, and families for the purpose of treating diagnosed emotional, mental, behavioral, or addictive disorders.

~~(15)~~(19) 'Person' means an individual, organization, or corporation, except that only individuals can be licensed under this article.

(20) 'Practice of behavior analysis' means the design, implementation, and evaluation of instructional and environmental modifications to produce socially significant improvements in human behavior. The practice of behavior analysis includes the empirical identification of functional relations between behavior and environmental factors, known as functional assessment and analysis. Applied behavior analysis interventions are based on scientific research and direct and indirect observation and measurement of behavior and environment. Behavior analysts uses contextual factors, motivating operations, antecedent stimuli, positive reinforcement, and other procedures to help individuals develop new behaviors, increase or decrease existing behaviors, and emit behaviors under specific environmental conditions. The practice of behavior analysis does not include diagnosis of disorders, psychological testing, psychotherapy, cognitive therapy, psychoanalysis, or counseling.

~~(16)~~(21) 'Practice of marriage and family therapy' means the rendering of marriage and family therapy services to individuals, couples, and families, singly or in groups, whether these services are offered directly to the general public or through organizations, either public or private.

~~(17)~~(22) 'Practice of professional counseling' means functioning as a psycho-therapist and may include, but is not limited to, providing individual therapy, family counseling, group therapy, marital counseling, play therapy, couples counseling, substance abuse counseling, vocational counseling, school counseling, rehabilitation counseling, intervention, human growth and development counseling, behavioral modification counseling, and hypnotherapy. The practice of professional counseling may include assessment, crisis intervention, guidance and counseling to facilitate normal growth and development, including educational and career development; utilization of functional assessment and counseling for persons requesting assistance in adjustment to a disability or handicapping condition; and consultation and research. The use of specific methods, techniques, or modalities within the practice of licensed professional counseling is restricted to professional counselors appropriately trained in the use of these methods, techniques, or modalities.

~~(18)~~(23) 'Practice of addiction counseling' means providing professional services that are delivered by a licensed addiction professional, designed to change substance use or addictive behavior, and involve specialized knowledge and skill related to addictions and addictive behaviors, including understanding addiction, knowledge of the treatment process, application to practice and professional readiness. The term includes:

- (a) gathering information through structured interview screens using routine protocols;
- (b) reviewing assessment findings to assist in the development of a plan individualized for treatment services and to coordinate services;
- (c) referring for further assessment, diagnosis, evaluation and mental health therapy;
- (d) providing client and family education related to addictions;

- (e) providing information on social networks and community systems for referrals and discharge planning;
- (f) participating in multidisciplinary treatment team meetings or consulting with clinical addiction professionals;
- (g) counseling, through individual and group counseling, as well as group and family education, to treat addiction and substance use disorders in a variety of settings; and
- (h) maintaining the highest level of professionalism and ethical responsibility.

~~(19)~~(24) 'Referral' means evaluating and identifying needs of a client to determine the advisability of referral to other specialists, informing the client of this determination, and communicating as requested or considered appropriate with these referral sources.

~~(20)~~(25) 'Supervision' means the supervision of clinical services in accordance with standards established by the board under the supervision of an approved supervisor."

SECTION 4. Section 40-75-30 of the 1976 Code, as last amended by Act 249 of 2018, is further amended to read:

"Section 40-75-30. (A) It is unlawful for a person to practice as a professional counselor, a marriage and family therapist, a behavior analyst, assistant behavior analyst, or an addiction counselor in this State without being licensed in accordance with this article unless exempt pursuant to Section 40-75-285. A professional counselor associate may practice only under the direct supervision of a licensed professional counselor supervisor. A marriage and family therapy associate may practice only under the direct supervision of a licensed marriage and family therapist supervisor, as approved by the board. A licensed assistant behavior analyst only may work under the direct supervision of a licensed behavior analyst who is approved as a supervisor by the certifying entity. An addiction counselor associate only may work under a licensed addiction counselor supervisor or other approved board-licensed clinician as provided in regulation.

(B) A person is guilty of practicing without a license if the person represents himself or herself to be a marriage and family therapist by the use of any title or description of services which incorporates the words 'licensed marital and family therapist', 'licensed marriage and family therapist', 'marital and family therapist', 'marriage and family therapist', or 'marriage and family counselor' to describe a function or service performed without being licensed by the board. However, members of other professions licensed in this State including, but not limited to, attorneys, physicians, psychologists, registered nurses, or social workers performing duties consistent with the laws of this State, their training, and any code of ethics of their profession are not considered to be practicing without a license if they do not represent themselves as being licensed pursuant to this article.

(C) A person is guilty of practicing without a license if the person represents himself or herself to be a professional counselor by the use of any title or description of services which incorporates the words 'licensed professional counselor', 'professional counselor', or 'licensed counselor' without being licensed by the board. However, members of other professions licensed in this State including, but not limited to, attorneys, physicians, psychologists, registered nurses, or social workers performing duties consistent with the laws of this State, their training, and any code of ethics of their professions are not considered to be practicing without a license if they do not represent themselves as being licensed pursuant to this article.

(D) A person is guilty of practicing without a license if the person represents himself to be an addiction counselor by the use of any title or description of services which incorporates the words 'licensed addiction counselor' or 'addiction counselor' without being licensed by the board. However, members of other professions licensed in this State including, but not limited to, attorneys, physicians, psychologists, registered nurses, or social workers performing duties consistent with the laws of this

State, their training, and any code of ethics of their professions are not considered to be practicing without a license if they do not represent themselves as being licensed pursuant to this article.

(E) A person is guilty of practicing without a license if he represents himself to be a behavior analyst by the use of any title or description of services that incorporates the words 'licensed behavior analyst' or 'licensed assistant behavior analyst' without being licensed by the board. However, members of other professions licensed in this State including, but not limited to, attorneys, physicians, psychologists, registered nurses, or social workers performing duties consistent with the laws of this State, their training, and any code of ethics of their professions are not considered to be practicing without a license if they do not represent themselves as being licensed pursuant to this article.

(E) A licensed professional counselor, a licensed marital and family therapist, a licensed behavior analyst, a licensed assistant behavior analyst, or a licensed addiction counselor may not use the title of 'psycho-therapist'."

SECTION 5. Section 40-75-110(A) of the 1976 Code, as last amended by Act 249 of 2018, is further amended to read:

"(A) The board may revoke, suspend, publicly or privately reprimand, or restrict a licensee or otherwise discipline a licensee when it is established to the satisfaction of the board that a licensee has:

- (1) uttered a false or fraudulent statement or forged a statement or document or committed or practiced a fraudulent, deceitful, or dishonest act in connection with license requirements;
- (2) been convicted of a felony or other crime involving moral turpitude. Forfeiture of a bond or a plea of nolo contendere is the equivalent of a conviction;
- (3) violated a regulation, directive, or order of the board;
- (4) knowingly performed an act which substantially assists a person to practice counseling, marriage and family therapy, behavior analysis, or addiction counseling illegally;
- (5) caused to be published or circulated directly or indirectly fraudulent, false, or misleading statements as to the skills or methods or practice of a license holder when malice is shown;
- (6) failed to provide and maintain reasonable sanitary facilities;
- (7) sustained physical or mental impairment or disability which renders practice dangerous to the public;
- (8) violated the code of ethics adopted by the board in regulations;
- (9) obtained fees or assisted in obtaining fees under deceptive, false, or fraudulent circumstances;
- (10) used an intentionally false or fraudulent statement in a document connected with the practice of professional counseling, marriage and family therapy, behavior analysis, or addiction counseling;
- (11) been found by the board to lack the professional competence to practice;
- (12) practiced during the time his license has lapsed or been suspended or revoked;
- (13) practiced the profession or occupation while under the influence of alcohol or drugs or uses alcohol or drugs to such a degree as to render him unfit to practice his profession or occupation."

SECTION 6. Section 40-75-190(B) of the 1976 Code, as last amended by Act 249 of 2018, is further amended to read:

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S. 533
A JOINT RESOLUTION

TO PROHIBIT THE USE OF SECTION 14(c) OF THE FAIR LABOR STANDARDS ACT OF 1938 TO PAY SUBMINIMUM WAGES TO INDIVIDUALS WITH DISABILITIES.

Whereas, Section 14(c) of the Fair Labor Standards Act of 1938 authorizes employers, after receiving a certificate from the United States Department of Labor’s Wage and Hour Division, to pay special minimum wages that are less than the federal minimum wage to workers who have disabilities, for the work being performed; and

Whereas, Section 14(c)(1) defines a “worker with a disability” as an individual whose earning or productive capacity is impaired by age, physical or mental deficiency, or injury; and

Whereas, in 2020, more than two thousand nine hundred South Carolinians with disabilities were employed in settings in which they could be paid a subminimum wage; and

Whereas, South Carolina continues to have one of the highest unemployment rates for persons with disabilities in the country. Now, therefore,

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Employers, community rehabilitation programs, and hospital patient care workers at regional centers shall not use Section 14(c) of the Fair Labor Standards Act of 1938 to pay disabled employees a subminimum wage. No individual with a disability may be paid less than the federal minimum wage.

1 SECTION 2. This joint resolution takes effect on August 1, 2024.

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South Carolina Commission on Disabilities and Special Needs Briefing
Intellectual Disability and Related Disabilities (ID/RD) Waiver Renewal

February 18, 2021

Statement of Issue:

The purpose of this brief is to inform the Commission on Disabilities and Special Needs of the current status and timeline for the renewal of the ID/RD Waiver to include joint work of the SC Department of Health and Human Services (DHHS) and New Editions, a Centers for Medicare and Medicaid Services (CMS) technical assistance contractor.

Background:

A 1915 (c) Medicaid Waiver program must be renewed every five years through submission of a waiver application by the single state agency which is DHHS. The ID/RD Waiver Program expiration date is December 31, 2021; when renewed, the projected effective date of the waiver will be January 1, 2022. A formal process for submitting a Waiver Program renewal is required which includes public notice and a submission timeline to allow for approval prior to the expiration date. In alignment with this timeline, SC Department of Disabilities and Special Needs (DDSN), as the contracted operator of the ID/RD Waiver, has been engaged with DHHS to prepare for this renewal and has been receiving technical assistance through New Editions, a technical assistance contractor of CMS. Through New Editions, the state can access subject matter experts from the National Association of State Directors of Developmental Disabilities Services (NASDDDS) and Human Services Research Institute (HSRI) among others.

Relevant Estimated Timeline Information:

January 8 to March 1, 2021	ID/RD Waiver Application review by DHHS and DDSN
Mid-April 2021	Final draft prepared by DHHS
May 2021	DHHS presents the briefing on the renewal to the DHHS Medical Care Advisory Committee
May 2021	Public comment period begins and responses to public comment are compiled by DHHS before final review of the Waiver Application
July 2021	Submission to CMS for requisite 180-day review period
July 2021-December 2021	CMS Review for Approval
December 31, 2021	ID/RD Waiver Program Expiration Date
January 1, 2022	ID/RD Waiver Program Effective Date (Projected)

Service Considerations for the Renewal:

Since the spring of 2020, DHHS and DDSN have been conducting regular, scheduled meetings focused on service reviews and service development to prepare for the Waiver Renewal. Based on these discussions, the following revisions are being considered but have not yet been approved:

- Addition of definitions for Residential Tiers in preparation for future fee-for service changes.
- Revision of the Career Preparation service definition to ensure it clearly focuses on preparation for employment and emphasizing community involvement to bring the service further in line with the HCBS Settings Rule.
- Addition of Independent Living Skills as a new service to replace the Adult Companion service. The service will be modeled as a habilitative (training) service delivered in the community or in private homes. This will remedy issues with the delivery of the Adult Companion service.
- Removal of Adult Companion service following a specified re-assessment and transition plan for each individual currently receiving this service.
- Modification of respite to include a daily rate for group respite in a licensed facility and tiered rates for service provision to more than one person residing within the same household.
- Addition of Employment Transportation as a new reimbursed service for employed individuals who have exhausted all other means for obtaining reliable transportation to and from work.
- Addition of In-Home Supports as a new self-directed service.
- Removal of Adult Attendant Care will be removed as a service and individuals will be transitioned to the new In-Home Supports service.
- Increase of the capped amount for Environmental Modifications

In late December 2020, DHHS informed DDSN that CMS communicated it would not grant an extension for the ID/RD waiver renewal to calibrate the ID/RD waiver renewal with Community Supports (CS) expiration date of June 30, 2022. This would have been advantageous, so additional service considerations and efficiencies could have been incorporated. Instead, a future amendment of the ID/RD Waiver is planned to coincide with the CS Waiver Renewal. Additionally, DDSN was informed at that same time that DHHS would only be supporting the short-term changes listed above and could not engage in any new service changes that would require extensive work or rate development such as recommendations for e-monitoring and equestrian therapy services until this later ID/RD Waiver Amendment.

Next Steps:

DDSN, DHHS and New Editions continue to work to finalize the application to renew the ID/RD Waiver renewal and continue to plan for a future amendment to the ID/RD Waiver and renewal of the CS Waiver. The technical assistance being provided by New Editions is currently focused on waiver service definitions and rate research/development, acuity assessments and performance measures development.

SCDDSN Incident Management Report 5-year trend data

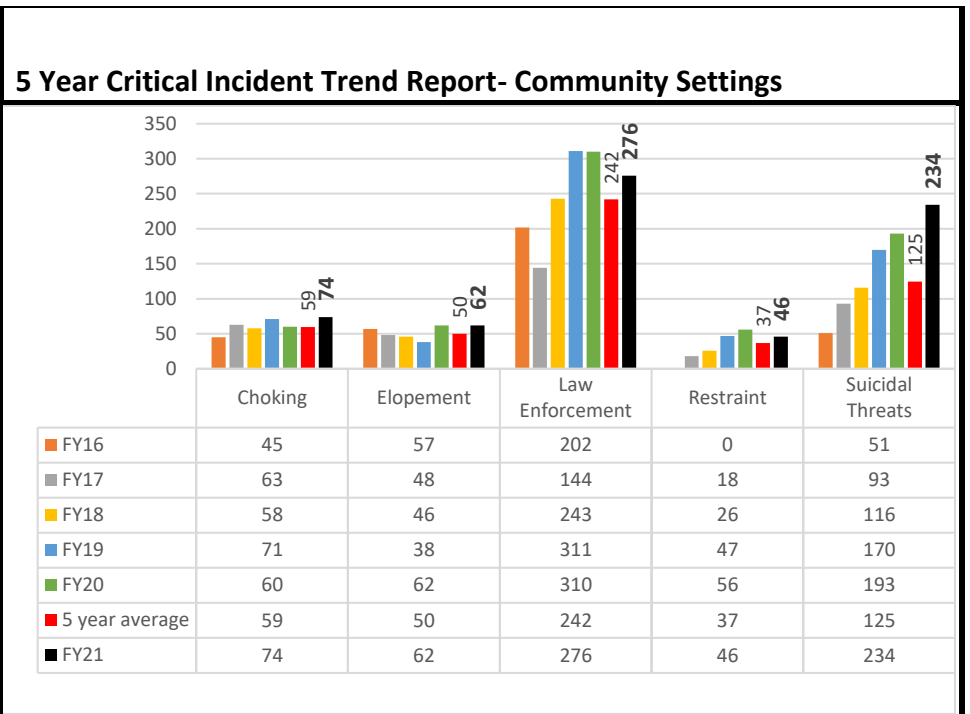
for Community Residential, Day Service, and Regional Centers Thru 12/31/2020

Community Residential	FY16	FY17	FY18	FY19	FY20	5 YEAR Average	FY21 Annualized (YTD)	ANE Allegations with Comparison to Arrest Data and Administrative Findings- Community Residential FY21Q2
# of Individual ANE Allegations	459	549	579	554	598	546	450 (225)	
# of ANE Incident Reports (One report may involve multiple allegations)	370	399	404	359	392	385	302 (151)	
Rate per 100	10.0	11.7	12.5	12.5	13.0	12.0	10.0	
# ANE Allegations resulting in Criminal Arrest	7	5	20	6	13	9.8	6 (3)	
# ANE Allegations with Administrative Findings from DSS or State Long-Term Care Ombudsman	125	157	202	117	163	142.8	112 (56)	
Day Services **	FY16	FY17	FY18	FY19	FY20	5 YEAR Average	FY21 Annualized (YTD)	ANE Allegations with Comparison to Arrest Data and Administrative Findings- Day Services FY21Q2
# of Individual ANE Allegations	58	77	57	66	49	60	8 (4)	
# of ANE Incident Reports (One report may involve multiple allegations)	49	56	46	56	40	49	6 (3)	
Rate per 100	0.72	0.94	0.71	.89	.62	0.78	.03	
# ANE Allegations resulting in Criminal Arrest	0	1	3	2	1	1.4	0	
# ANE Allegations with Administrative Findings from DSS or State Long-Term Care Ombudsman	6	5	4	3	1	3.6	0	
Regional Centers	FY16	FY17	FY18	FY19	FY20	5 YEAR Average	FY21 Annualized (YTD)	ANE Allegations with Comparison to Arrest Data and Administrative Findings- Regional Centers FY21Q2
# of Individual ANE Allegations	110	146	135	139	187	143	144 (72)	
# of ANE Incident Reports (One report may involve multiple allegations)	87	104	97	102	136	105	112 (56)	
Rate per 100	15.4	17.1	19.2	20.9	28.9	20.3	20.4	
# ANE Allegations resulting in Criminal Arrest	2	2	2	2	4	2.4	2 (1)	
# ANE Allegations with Administrative Findings from DSS or State Long-Term Care Ombudsman	19	27	34	34	18	26.4	30 (15)	

**Most Day Service locations were closed during FY20Q4 and FY21Q1 due to COVID-19.

Death Reporting	FY16	FY17	FY18	FY19	FY20	5 YEAR Average	FY21 Annualized (YTD)	Community Setting - Age of Death			Regional Center - Age of Death												
								Under 30	30-39	40-49	Under 30	30-39	40-49										
# of Deaths Reported - Community Settings	63	78	73	78	86	76	144 (72)	2	4	7	1	4	0										
Rate per 100	1.4	1.7	1.6	1.6	1.9	1.6	3.2	3%	6%	10%	4%	17%	0%										
# of Deaths Reported - Regional Centers	26	24	27	33	22	26	46 (23)	19	20	20	5	7	30%										
Rate per 100	3.6	3.4	3.8	4.6	3.4	3.9	7.0	28%	28%	28%	6	26%	26%										
								Community Setting - Cause of Death			Regional Center - Cause of Death												
								COVID 19	Respiratory Failure/Pneumonia	Cardiac Failure/Event	Natural Causes	Terminal Illness/Disease	Other (PE, Choking, Suicide)	Sepsis	CVA	10	3	3	6	1	0	0	
								23	13	12	7	5	7	3	2	32%	18%	17%	10%	9%	10%	4%	3%
								Community Setting - Place of Death			Regional Center - Place of Death												
								Home	Hospital	Hospice	Regional Center	Hospital	Hospice	1	19	18%	58%	24%	4%	83%	13%		
								13	42	17	1	19	3	4%	83%	24%	4%	13%					

Critical Incident Reporting ***	FY16	FY17	FY18	FY19	FY20	5 YEAR Average	FY21 Annualized (YTD)
# Critical Incidents	902	918	1071	916	982	958	920 (460)
Rate per 100	10.4	10.5	11.9	9.6	11.8	10.8	9.7
# Choking Events	45	63	58	71	60	59	74 (37)
# Law Enforcement Calls	202	144	243	311	310	242	276 (138)
# Suicidal Threats	51	93	116	170	193	125	234 (117)
# Restraints	Not Reported	18	26	47	56	37	46 (23)
# Critical Incidents	78	108	144	132	135	119	120 (60)
Rate per 100	11.0	15.4	20.6	18.6	20.8	17.3	18.5
# Choking Events	2	7	5	6	3	5	4 (2)
# Law Enforcement Calls	4	9	5	8	9	7	6 (3)
# Suicidal Threats	0	0	16	60	56	26	76 (38)
# Restraints	Not Reported	17	26	22	24	22	12 (6)



Note: Total CI Reporting numbers for FY16, and FY17 have been adjusted for comparison due to a change in the criteria for reporting implemented in FY18. Major Medical events, hospitalizations related to general health care and business/operational events are no longer reflected in this data. *** Critical Incident totals exclude COVID-19 Reports for Community Residential and Regional Centers.

Coastal Center Fire Alarm Panels Replacement

National Fire Protection Association (NFPA) 72 National Fire Alarm and Signaling Code outlines licensing requirements for our Intermediate Care Facilities. These requirements address the fire alarm and signaling systems required in these facilities. At Coastal Center, our system is approximately 20 years old, and has become unstable. The functionality of the system is impaired and in an abundance of caution we are seeking to move forward with the replacement of this system. Repair and replacement parts are not longer available for this system. This project was listed in year 4 of our FY 2021 five-year CIP. We are requesting that the Commission agree to move this project up to urgent status and that we tackle this project this year.

Current 5-Year CIP Schedule: 2020- 2021

Year 4

• CC – Campus Wide Fire Alarm Replacement	- \$500,000.
• MC –Dental Building -HVAC Replacement	-\$120,000.
• PD – Pecan Dorm 101-Mitigation and Renovation	- \$350,000.
• CO – Parking lot resurfacing at Central Office	- \$500,000.
• WC – Demolition of Building 202	- \$300,000.
• WC – Demolition of the Old Kitchen & Leisure Services Building	- \$400,000.
• WC – Warehouse Roof Replacement and Exterior Wall Repair	- \$400,000.
• Statewide – Rekeying and Access Control Upgrades	- \$150,000.
• Statewide – Replacement of HVC Equipment (Regional Campuses)	<u>- \$1,000,000.</u>
	\$ 3,720,000.

The anticipated cost for this project is between \$400,000 and \$500,000. We recommend that this project be funded using the savings from the VDI project in our FY 2021 capital budget approved by the Commission. Since this situation deals with the health and safety of the consumers we serve and our staff, we feel this project must be moved up and initiated immediately. We anticipate the project can take two or three months to finalize even if we start today.

All State Agencies are Operating Under a Continuing Resolution Appropriations
FY 20/21 Legislative Authorized & Spending Plan Budget VS Actual Expenditures (as of 1/31/2021)

						Percent Expended - Target %
Funded Program - Bud	Continuing Resolution Appropriations	Adjustments	Adjusted Budget	YTD Actual Expense	Remaining Budget	58.33%
ADMINISTRATION	\$ 8,386,999	\$ 82,721	\$ 8,469,720	\$ 4,080,360	\$ 4,389,360	48.18%
PREVENTION PROGRAM	\$ 157,098	\$ -	\$ 157,098	\$ 12,500	\$ 144,598	7.96%
GREENWOOD GENETIC CENTER	\$ 15,185,571	\$ -	\$ 15,185,571	\$ 7,132,723	\$ 8,052,848	46.97%
CHILDREN'S SERVICES	\$ 12,291,594	\$ (214,200)	\$ 12,077,394	\$ 6,208,721	\$ 5,868,673	51.41%
IN-HOME FAMILY SUPP	\$ 86,302,031	\$ (11,001,721)	\$ 75,300,310	\$ 26,634,220	\$ 48,666,090	35.37%
ADULT DEV&SUPP EMPLO	\$ 83,358,338	\$ 6,100,000	\$ 89,458,338	\$ 42,602,304	\$ 46,856,034	47.62%
SERVICE COORDINATION	\$ 15,166,140	\$ (1,500,000)	\$ 13,666,140	\$ 6,914,892	\$ 6,751,248	50.60%
AUTISM SUPP PRG	\$ 26,368,826	\$ -	\$ 26,368,826	\$ 9,498,607	\$ 16,870,219	36.02%
HD&SPINL CRD INJ COM	\$ 5,040,532	\$ -	\$ 5,040,532	\$ 2,978,926	\$ 2,061,606	59.10%
REG CTR RESIDENT PGM	\$ 77,137,897	\$ 1,872,868	\$ 79,010,765	\$ 43,310,291	\$ 35,700,474	54.82%
HD&SPIN CRD INJ FAM	\$ 18,965,193	\$ 2,000,000	\$ 20,965,193	\$ 11,684,733	\$ 9,280,460	55.73%
AUTISM COMM RES PRO	\$ 29,749,084	\$ 5,006,099	\$ 34,755,183	\$ 21,674,705	\$ 13,080,478	62.36%
INTELL DISA COMM RES	\$ 340,593,466	\$ 338,919	\$ 340,932,385	\$ 199,625,741	\$ 141,306,644	58.55%
STATEWIDE CF APPRO	\$ -	\$ 49,799	\$ 49,799		\$ 49,799	0.00%
STATE EMPLOYER CONTR	\$ 29,862,643	\$ 136,109	\$ 29,998,752	\$ 16,826,364	\$ 13,172,388	56.09%
Earmarked Authorization over DDSN Spending Plan	\$ 56,235,857	\$ -	\$ 56,235,857		\$ 56,235,857	
Legislative Authorized Total	\$ 804,801,269	\$ 2,870,594	\$ 807,671,863	\$ 399,185,088	\$ 408,486,775	49.42%
Legislative authorization capacity above actual spending plan budget			\$ (58,221,848)		\$ (58,221,848)	
DDSN spending plan budget			\$ 749,450,015	\$ 399,185,088	\$ 350,264,927	53.26%
Percent of total spending plan budget				100.00%	53.26%	46.74%
% of FY completed (expenditures) & % of FY remaining (available funds)				100.00%	58.33%	41.67%
Difference % - over (under) budgeted expenditures				0.00%	-5.07%	5.07%
Difference \$ - over (under) budgeted expenditures					\$ (37,994,087)	

REASONABLE

Carry Forward + Cash Flow Analysis Indicates Sufficient Cash to Meet FY 21 Estimated Expenditure Commitments: YES X ; At-Risk ; NO

Expenditures categorized to provide insight into direct service consumers costs vs. non-direct service costs:

Expenditure	FY 20 - % of total	FY 19 - % of total
Central Office Admin & Program	2.24%	2.35%
Indirect Delivery System Costs	1.03%	1.22%
Board & QPL Capital	0.04%	0.07%
Greenwood Autism Research	0.03%	0.03%
Direct Service to Consumers	96.67%	96.33%
Total	100.00%	100.00%

NOTE: Prior FY data will be calculated and presented to provide assurance as to the consistent pattern of direct service & non-direct service expenditures and explanation for increases/decreases

FY 2021 Amendments for Review

	Amendment #5	FY 2021	Description
Babcock Center	Capitated- Adult Day	\$ 400,525	Residential Band increases
Babcock Center	Capitated- ICF	\$ 64,350	ICF Band increases
	Total Payment- Babcock	\$ 464,875	
	Amendment #5	FY 2021	Description
Burton Center	Capitated- Adult Day	\$ 159,354	Residential Band increases
Burton Center	Capitated- ICF	\$ 68,586	ICF Band increases
	Total Payment- Burton	\$ 227,940	
	Amendment #5	FY 2021	Description
Charles Lea Center	Capitated- Adult Day	\$ 402,621	Residential Band increases
Charles Lea Center	Capitated- CTH II	\$ 82,053	Band increase from Y to G for DS
	Total Payment- Charles Lea	\$ 484,674	
	Amendment #5	FY 2021	Description
DSN Board of Charleston	Capitated- Adult Day	\$ 305,036	Residential Band increases
DSN Board of Charleston	Capitated- ICF	\$ 11,624	ICF Band increases
	Total Payment- Charleston	\$ 316,660	
	Amendment #5	FY 2021	Description
CHESCO	Capitated- Adult Day	\$ 320,658	Residential Band increases
	Total Payment- CHESCO	\$ 320,658	
	Amendment #5	FY 2021	Description
Florence	Capitated- Adult Day	\$ 154,172	Residential Band increases
Florence	Capitated- ICF	\$ 53,896	ICF Band increases
	Total Payment- Florence	\$ 208,068	
	Amendment #5	FY 2021	Description
Thrive Upstate	Capitated- Adult Day	\$ 292,155	Residential Band increases
Thrive Upstate	Capitated- ICF	\$ 69,744	ICF Band increases
	Total Payment- Thrive	\$ 361,899	
	Amendment #5	FY 2021	Description
Tri-Development	Capitated- Adult Day	\$ 230,920	Residential Band increases
Tri-Development	Capitated- ICF	\$ 45,815	ICF Band increases
	Total Payment- TriDevelopment	\$ 276,735	
	Amendment #4	FY 2021	Description
MaxAbilities	Capitated- Adult Day	\$ 222,072	Residential Band increases
	Total Payment- MaxAbilities	\$ 222,072	

FY 2021 Amendments for Review

	Amendment #5	FY 2021	Description
Community Options	QPL Residential	\$ 205,721	Residential rate increases
	<i>Total Annual Payment</i>	\$ 205,721	

Director's Report February 2021

1. Federal OIG Audit Final Report out soon - data from 2015-2017

- a. We verified 105 not properly reported but they disagreed with us and said 286 were not reported properly. Of course we do not agree
- b. We have issues with their interpretation of our policies as well as their methodology.
- c. We will have a chance to respond to the final report.
- d. It will be about 1-3 months before we get a final report back and then we get 30 days to reply then they will publish the report. Looks like a 4-6 month time frame before it is public.
- e. Just to quickly recap: I became aware of the audit 6 months after my arrival at SCDDSN but since RM/QA is my most important issue, we have been working on a plan of correction for some time.
- f. We are investigating more, thoroughly reading reports and building out the QA- which is rebranded as Risk Management to be a multidimensional process versus the on-dimensional model DDSN has been operating under with simply measuring performance. Of course we have to have the work session so the commission can vote on the final plan for the unit.
- g. Case Management changes are part of the plan of correction
 1. Put in place waiver case management which puts 500 professionals in contact with our HCBS waiver participants monthly versus quarterly - *completed*
 2. Switch to fee for service allows case managers to bill for the increased monitorship - *completed*
 3. Implement person centered planning and provide training to all case managers, residential coordinators, day program coordinators and direct care staff- in person training as well the development of an e-learning platform for the course. - *completed*
 4. *Placing Regional Center QA in Risk Management so they can be independent eyes at the centers*

5. *In progress*: Developing a formal monitoring tool & training for case managers to properly monitor settings. Monitoring in the past has been fairly superficial – we were more into paper compliance and the case manager’s plan was more of a Medicaid billing document
6. *Developing a plan to properly train investigators at the regional centers and the plan is to get investigators trained in the community as well so reporting is not only occurring but the reports are thorough and complete.*
7. *In progress*: Complete overhaul of policies, procedures and standards – to lessen overlap and confusion.
8. *What we will need funding for –*
 - a. We need a something called Pulselight – it is software that allows us to go through thousands of pieces of claims data to get to possible reportable incidents. We are trying to get DHHS to assist us pulling down the 90/10 match.
 - b. Our IMS (Incident management system) is old, home grown and does not meet our needs.
 - i. We need a system that allows us to collect data and review the data so issues can be identified and mitigated in a timely fashion –
 - ii. The best of all worlds is if we can work with DHHS, DMH and DSS to develop a statewide system which would make all of us more efficient since we serve overlapping folks.
 - iii. If DHHS leads the effort we could pull down a 90/10 match.

9. I met with our committee chairs yesterday to bring this this t their attention. I do not want them to be blindsided and I asked them for funding.
2. As to additional evidence that the way we measure quality is not moving the needle as we hoped it would is the ID/RD evidentiary report. The data from 2017 thru 2019 was sent to HHS then on to CMS as part of a 5-year evidentiary report. The results showed same QM weakness of not DDSN not being able to be collect data in a meaningful way or to use that data to improve performance. I have repeatedly informed this and past commissions of my concerns in this area and now those concerns are being validated in federal audits. IDRDR evidentiary report was not good with our major issues being inaccurate sample sizes in our QM testing and the risks DDSN asserted in the waiver we would measure did not all line up to what we actually measured.
 - a. We will be using the IDRDR renewal waiver to rebuild our waiver performance measures.
 - b. I will be asking Internal Audit to validate the crosswalk of waiver measures to our data sources and sample size. Calculations afterwards and prior to the renewal on 1/1/21-- there is key role for IA to provide assurance on these major enterprise weaknesses.
3. I also spoke with our committee chairmen about DHHS issue with rate increases and fee for service
 - a. We have finished with our analysis of Mercer Report assumption flaws.
 - b. We have a residential increase in our budget request.
 - c. The other way we can increase dollars to the providers is to correctly assess the care needs of those they support. DDSN has never really re-based funding levels based on individual needs.

- i. Issues with this – we only get paid 1 rate by HHS – 196.66 per day but we pay an average of \$214 per day. If HHs would raise our rate to 204 or 205 per day we will generate over 10 million in additional revenue. It will allow us to fulfil provider requests for band increases.
- ii. Without this increase we cannot move forward with the rebalancing for acuity. We will be able to do some – but not all. Both of our committee chairs were very receptive to our need to increase our reimbursement rate.

4. We have completed the two factor authentication information security rollout for Therap at central office and regional centers. We will be sending out a communication by very shortly to community providers starting our communication plan to start the community roll out. This is extremely important to the security of our individuals protected personal health information.

4. Individual day service utilization (those individuals not in Residential) was 36% in January – we had a high of 42% utilization in October but we know there was a covid spike around the holidays so this is not unexpected.

6. The Regional Centers handled the January covid surge very well and we are coming out of it. Currently at the regional centers, we have 3 residents and 12 staff still inside the CDC 14 day contagious/quarantine window and one resident in the hospital. A month ago on 1/18, we had 43 residents and 42 staff in that window.