

January 05, 2022

Mark Ghaly, Secretary
California Health and Human Services Agency
1215 O Street
Sacramento, CA 95814

Dear Secretary Mark Ghaly,

In accordance with the State Leadership Accountability Act (Leadership Accountability), the Department of Developmental Services submits this report on the review of our internal control and monitoring systems for the biennial period ending December 31, 2021.

Should you have any questions please contact
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GOVERNANCE

Mission and Strategic Plan

The Department of Developmental Services (DDS) is committed to providing leadership that results in quality services to all Californians with intellectual and developmental disabilities, consistent with their needs, choices, and rights. The Lanterman Developmental Disabilities Services Act (Lanterman Act), enacted in the mid-1960s, created a vision and structure for a community-based system of services for some of the most vulnerable Californians. The Lanterman Act stipulates that individuals with developmental disabilities have several rights, including the right to services and supports that will facilitate their ability to live in the least restrictive, most integrated setting possible. The developmental services system is designed to meet the needs and choices of individuals at each stage of their lives; and, to the extent possible, to serve individuals in their chosen community, providing choices that are reflective of their lifestyle, cultural and linguistic backgrounds and preferences.

The DDS is responsible for overseeing the coordination and provision of services and supports to over 386,000 Californians with intellectual and developmental disabilities, which include cerebral palsy, autism, epilepsy and related conditions. The DDS' total annual budget is approximately \$10 billion, including federal funds and reimbursements. Services and supports are offered through a network of 21 contracted, private, non-profit community agencies known as regional centers (RCs) that develop, purchase, manage and coordinate local services and resources. DDS currently operates one developmental center (DC), several community facilities, and mobile crisis response teams.

California's developmental services system is making important changes. Investments in rate models, workforce, information technology, and service access and equity are being used to move the system toward a person-centered, outcome-focused future. This future will be data-informed and supported by performance, quality, and outcome expectations; associated benchmarks, improvement targets, and incentives; and heightened transparency.

Control Environment

The Department continues to evolve its structure to support state and federal changes for California's developmental disabilities services system. The evolution of these changes systematically aligns resources to achieve system-wide improvements to better serve Californians and their families. This restructuring provides increased accountability, oversight and monitoring services that improve services overall, such as increased risk management and quality assurance strategies, increased monitoring of regional centers and providers, and efforts focused on compliance with state and federal requirements.

As part of the previous SLAA reporting period, the Department recognized the need to establish a plan that focuses on the organization's strategic direction, critical functions and overall environmental factors that impact the organization's workforce. This required DDS to complete a comprehensive analysis of the organization's staffing and competency gaps, develop strategies for where the Department should be with the organization's workforce in the next three to five years, development of a coordinated and measurable effort to carry out and support the strategies of the workforce plan, and an evaluation of the outcomes and effectiveness of the workforce plan and related activities.

The Department's organizational structure is illustrated here: https://www.dds.ca.gov/wp-content/uploads/2021/04/DDS_Org_Chart.pdf, and consists of several divisions, including the 2,500 employees operating Porterville Developmental Center. Executives, managers and all employees are subordinate to the Director, and each has assigned areas of responsibility outlined in their duty statements. DDS' executive management sets appropriate steps and timelines and identifies clear assignments of responsibility consistent with their assigned areas. Specific to the SLAA, employees working on risks designated in the SLAA report submit information to capture progress for executive management review and appropriate engagement.

DDS managers hold regular staff and management meetings. Meeting topics include discussion of current and potential internal control issues that need to be addressed. These meetings allow management to discuss issues they have been made aware of and the steps needed to mitigate the issues. The management team is encouraged to share experiences and expertise to further assist each other in addressing issues that may arise.

DDS collects, utilizes and reports significant amounts of data and information to support its operations and ensure accountability and transparency. Data and Information are gathered from a variety of sources, using various tools and systems. DDS uses the data for program planning; policy development, implementation, and oversight; decision making; budgeting, fiscal claiming, and accounting; legislative reporting; and to support external research, among many other purposes.

Information and Communication

The Department's structure includes an Office of Public Affairs to improve overall communications, both internally and externally. This includes stakeholder engagement and outreach activities, including working with the media, public advocacy groups, members of the population served by the Department, labor organizations, and many other entities. When DDS seeks to implement changes to address issues within the system, it works closely with individuals, families, advocacy groups, community service providers, RCs, the Association of Regional Center Agencies (ARCA), various organizations

and associations, and others impacted or interested, which may have competing or conflicting viewpoints. DDS works collaboratively with these varied interests to secure their appropriate participation in various public forums for effective change. Additionally, the Department continually works with and involves other governmental entities and the Legislature on policy and program initiatives.

Updates are used to inform management of the monitoring practices being conducted, improvements needed, and the overall success of monitoring. DDS encourages staff to speak with their supervisor if they discover an issue that should be addressed to better assist DDS with fulfilling its mission, goals, and objectives.

DDS' Executive Management sets appropriate steps and timelines and identifies clear assignments of responsibility whenever actions toward mitigation are identified to address a known deficiency. Staff assigned to mitigating risks identified in the SLAA report provide recurring updates regarding progress against the milestones for executive management review. Quarterly meetings are held to discuss and monitor progress toward addressing the identified deficiencies and modifying actions as needed to achieve success. The quarterly meetings may be supplemented with special meetings to address the more complex issues as they arise.

MONITORING

The information included here discusses the entity-wide, continuous process to ensure internal control systems are working as intended. The role of the executive monitoring sponsor includes facilitating and verifying that the Department of Developmental Services monitoring practices are implemented and functioning. The responsibilities as the executive monitoring sponsor(s) have been given to: Pete Cervinka, Chief Deputy Director, Data Analytics and Strategy.

The Department's chief deputy directors have overall responsibility for monitoring the effectiveness of internal controls and responding to vulnerabilities. They do this by various means, including but not limited to: discussions with other members of the Department's executive management team, input from stakeholders, updates provided by the Internal Audits Unit, reviews by other state entities including the Department of General Services and the State Controller's Office, and whistleblower allegations and other investigations. Regular updates with the Department's executives and management teams and the Internal Audit Unit provide information for monitoring and documenting activities and actions taken to mitigate risks, including their progress. DDS also endeavors that all staff receive information vital to the effectiveness and efficiency of controls.

RISK ASSESSMENT PROCESS

The following personnel were involved in the Department of Developmental Services risk assessment process: executive management, middle management, front line management, and staff.

The following methods were used to identify risks: brainstorming meetings, ongoing monitoring activities, audit/review results, other/prior risk assessments, questionnaires, and consideration of potential fraud.

The following criteria were used to rank risks: likelihood of occurrence, potential impact to mission/goals/objectives, potential impact of remediation efforts, and tolerance level for the type of risk.

Informational and overview presentations were held to discuss the overall SLAA process. This overview included the history of SLAA, SLAA changes for 2021, the SLAA process life cycle, SLAA timelines and DDS' previous identified risks under SLAA. The presentations also provided a high-level review of DDS' risk assessment process and the ongoing monitoring and reporting requirements.

The subsequent organization-wide risk assessment process for the production of this SLAA report was performed by surveying 85 members of the DDS management team. The risk assessment survey identified areas of risk that may negatively impact the people we serve, jeopardize our service delivery system, compromise our internal controls, result in inefficiencies or ineffectiveness, allow fraud or waste to occur, or result in financial, political, legal and/or media liabilities. These identified risks then were ranked, as described above.

RISKS AND CONTROLS

Risk: Data Security

The Department handles confidential personal information for hundreds of thousands of people in California each year. This information includes but is not limited to: personally identifying information, eligibility determinations, service authorizations and service delivery records, fiscal information, and regular and emergency contact information. The Department is a Medicaid agency, subject to the federal Health Insurance Portability and Accountability Act (HIPAA) and the State's Confidentiality of Medical Information Act. Under these laws, others, and various contractual and data agreements, the Department is responsible for safeguarding the information within its control. During recent information security assessments by various entities, and our own reviews of risks, a number of risks were identified that the Department continues to address by the Controls identified below.

Control: A - Move to Microsoft

Microsoft has announced that it will disable "basic authentication" (use of a username and password to sign into an application) in October 2022. DDS must migrate all computer devices to Microsoft's "modern authentication" for identify management. This new industry standard is designed to leverage and consistently apply new security features built into Microsoft's O365 applications, regardless of device (e.g., mobile device, workstation or web).

iPhones are among the remaining DDS devices that still use "basic authentication". Moving iPhones to "modern authentication" will improve identity management security, and improve the efficiency of oversight activities performed by the ISO.

Control: B - Implement Multi-Factor Authentication (MFA)

Conditional access policies will be implemented to require MFA for all users, devices and locations using Azure Active Directory (AD). This will enforce prompts for a second authentication factor for every new scenario for applications whose access is controlled by Azure AD, including Microsoft Office 365 applications and linked third-party applications (DocuSign, IT admin tools, etc.).

In addition, a risk register will be created for all moderate- or high-risk systems and network appliances (e.g., firewalls, vulnerability scanners, mobile device management, WAF, etc.) that cannot be linked through Azure AD, to ensure MFA measures are implemented for all users. This

register will document, track and enforce MFA procedures to ensure these systems meet the requirements laid out by the DDS Authentication Standard (ITD-5360-S2). This control will reduce the risk that credentials compromised by a bad threat actor can be used to access confidential information or resources.

Control: C - Preventing Data Loss and Protecting Assets

DDS lacks the resources to appropriately configure its data loss protection (DLP) capabilities on outbound transmissions to detect and automatically prevent confidential, sensitive and/or personal information from release. Configuration of DLP is expected to automate the quarantine of data outside of authorized communication channels that do not adhere to data protection standards (e.g. encryption) prior to release and support compliance with SIMM 5315-A. Asset Information Protection (AIP) is part of the same control, but classifies data at the point of creation, alerting staff that the information they are working with appears sensitive and auto-applying the appropriate classification to the document.

Control: D - Information Technology Asset Management (ITAM)

ITAM has been identified in several review findings for the department, from software licensing, patch management, and an inability to track assets effectively across the entire Enterprise. The Department seeks to deploy enterprise asset management system for software and hardware. Use of a unified ITAM for the Enterprise will enable DDS to make informed decisions about asset capacity, refresh, and vendors while automating lifecycle processes from procurement to disposal. This will enable faster outcomes, and minimize spending and license compliance risks. Currently, the exposure window is too broad when vulnerabilities are discovered and assets must be manually tracked and patched across multiple tools and locations.

Risk: System Workforce Capacity

The DDS serves more than 386,000 individuals (consumers) in California who have developmental and/or intellectual disabilities. Services provided to consumers are coordinated through a statewide network of 21 non-profit agencies known as RCs. Their contracted service providers, vendors and their own staff have the hands-on or direct responsibility of coordinating and providing these services.

For several years, access to and the quality of services to our consumers has been negatively affected by workforce shortages and staff turnover. These impacts increased due to the Covid-19 pandemic, and persist despite the economic recovery. The workforce shortage increases the workload that remaining staff need to perform, increasing stress and turnover. The National Core Indicators® Staff Stability Survey Report of 2019, based on 3,604 provider agency responses, indicates that Direct Service Professionals (DSPs) across the State have a turnover rate of 43%, with 38% leaving the DSP workforce within six months of employment. Service providers indicate that supervisory staff increasingly are being required to cover direct care shifts as the impact of workforce shortages continues to grow.

Low salaries have been a primary driver of the workforce shortage. Most direct care staff receive between \$13 and \$15 per hour to provide services and assistance such as feeding, cooking, bathing, dressing, medication assistance, and other activities of daily living. Alternative employment opportunities include retail or a fast-food industries which offer \$15 to \$18 per hour. Within the

developmental services system, there is no clear career ladder leading to higher compensation for many service occupations. Other factors that contribute to the workforce shortage are relatively lower benefit packages for health, dental, and vision care; lengthy job application processes; and required minimum standards of education and training that pose barriers to workforce entry into the direct care profession when balanced against available compensation in other employment opportunities.

Control: A - Direct Service Professionals (DSP) Academy Tied to Wage Differentials

Assembly Bill (AB) 136 (Chapter 76, Statutes of 2021) establishes a training and certification program (“DSP Academy”) for direct service professionals (DSPs) that is tied to wage differentials and aims to foster a more stable and professional workforce. The DSP Academy, which currently is in development, will be a tiered competency-based training and certification program. DSPs who successfully complete each tier will receive an hourly pay increase, with an estimated maximum increase of \$6 per hour upon completion of all three tiers.

Aside from providing a comprehensive training program to improve and enhance DSP skills, this training program also intends to increase staff recruitment and retention rates by providing DSPs the opportunity to have higher and more competitive wages while advancing through a clearly defined career ladder that also improves the quality of care provided to Californians.

Control: B - DSP Bilingual Differential

AB 136 also requires DDS to establish and implement a system that promotes equity in access to services for consumers by providing a pay differential to DSPs who can communicate with consumers in a language or medium other than English. DSPs who are American Sign Language or bilingually certified will be eligible to receive a pay differential of at least \$100 per month. This program aims to encourage retention among existing DSPs who can communicate through a language or medium aside from English.

Control: C - Staff Stability Survey

The DDS is working with stakeholders to consider a statewide staff stability survey to collect information about the DSP workforce. The goal of this survey would be to provide data about workforce challenges and inform policies that can mitigate these challenges.

Being able to identify the underlying issues of staff recruitment and retention would help California improve its understanding of the issues, their prevalence, and geographic variation. This would enable California to develop new and better programs to encourage individuals to join the workforce and for the current staff members to continue employment and continuously provide quality care to the consumers.

Control: D - Rate Model Implementation

The 2021 Budget Act and associated enacted statutory changes provide a multi-year investment in the implementation of new rate models for the provision of developmental services for individuals. Over the coming five fiscal years, rate adjustments and increases will be provided to support the delivery system, to align costs of services with authorized rates, inclusive of

wage and other labor compensation costs. Features of the new rate models will include performance standards, benchmarks, improvement targets, incentives, and quality and outcome measures for consumers, RCs, and service providers.

Risk: Capacity to Serve Children with Complex Needs

Increased resources are needed to provide services and supports for children with complex needs such as challenging behaviors, medical conditions, and/or multi-system involvement (developmental services, child welfare, criminal justice). Not meeting the needs of children in appropriate residential settings oftentimes leads to crisis, trauma and loss of placement. Current residential options for many children with complex needs are in skilled nursing facilities (SNFs), pediatric sub-acute facilities, temporary care facility shelters, institutions for mental diseases, and out-of-state placements. These facilities, due to their size and staffing and purpose, often are not able to provide age-appropriate personal and supportive care to children. In some cases, these residential facilities are highly restrictive and institutional, and located at a great distance from family members, reducing the ability for the child to maintain social connections and supports.

As recognized by the Legislature through the enactment of AB 2083 in 2019, among other enacted measures, several factors contribute to inadequate capacity and resources to meet the needs of children with complex needs. These factors include a shortage of providers willing to serve these children, insufficient knowledge and expertise in providing services to these children, regulatory barriers to serving children, unclear interagency jurisdiction and responsibilities, and a shortage of funding for developing appropriate resources. This risk affects the Department's ability to adequately serve and support children with developmental disabilities and complex needs in accordance with the Lanterman Act.

Control: A - Assess Residential Service Resources and Capacity for Children with Complex Needs

Data on the following was collected and compiled in early 2021, and this data collection will continue through at least June 2022, to inform the analysis of system capacity, needs and growth:

- Current capacity (number of homes and beds for children with complex needs)
- Current need (number of referrals for children's residences: SNFs, sub-acute facilities, Enhanced Behavioral Supports Homes, Community Crisis Homes, Stabilization Training Assistance Reintegration homes) and geographic location of individuals being referred
- Number of children without placements (number of children residing in temporary care shelter facilities, hotels, out-of-state facilities)
- RC requests for residential development for children (Community Placement Program/ community Resource Development Program)
- Caseload information (total number of children, projected growth in caseload, behavioral/ medical characteristics, etc.)

Control: B - Assess, Identify and Summarize Barriers to Service Provision for Children with Complex Needs

Information will be gathered from stakeholders such as service providers, RCs, advocacy organizations and families regarding key barriers to providing and developing services for children with complex needs. This information collection is a multi-department effort using surveys, stakeholder meetings, and forums including the State's Child Welfare Council and Interagency Coordinating Committee. The information will be collected and summarized to identify needed resources, prioritize regional areas of highest need, and pinpoint key barriers to service provision for children with complex needs.

Control: C - Develop an Organized Plan for Resource Development and Explore Potential Options for Regulatory Changes

Based on the data analyses and identified barriers in Control B, multiple departments including DDS will develop a set of recommendations and an organized plan to increase residential service capacity and remove barriers for service providers for children with complex needs, including investments and potential statutory or regulatory changes. The plan and its recommendations will be presented to executive staff at DDS, other departments, and the California Health and Human Services Agency for approval and implementation.

CONCLUSION

The Department of Developmental Services strives to reduce the risks inherent in our work and accepts the responsibility to continuously improve by addressing newly recognized risks and revising risk mitigation strategies as appropriate. I certify our internal control and monitoring systems are adequate to identify and address current and potential risks facing the organization.

Nancy Bargmann, Director

CC: California Legislature [Senate (2), Assembly (1)]
California State Auditor
California State Library
California State Controller
Director of California Department of Finance
Secretary of California Government Operations Agency