

Background:

The Council reviews TCDD’s Position Statements during even number years. Staff solicited input this quarter regarding proposed revisions from Council members on the following position statements:

FOR CONSIDERATION AT THE MAY MEETING

- A. Aging with Developmental Disabilities Proposed Final Draft
- B. Community Living Draft with Edits
- C. Criminal Justice Draft with Edits
- D. Service Coordination Draft with Edits
- E. Transition from School to Adult Life
 - a. Transition from School to Adult Life Draft with Edits
 - b. Transition from School to Adult Life Proposed Plain Language Draft

RECOMMENDED AT THE FEBRUARY MEETING

- A. Employment
- B. Guardianship
- C. Public Transportation

Revisions suggested by Council members and/or staff are included in the draft materials. Comments in **PURPLE** represent input from Council members; comments in **RED** represent suggestions from TCDD staff.

<p><u>Public Policy Committee</u></p> <p><u>Agenda Item 6.</u></p>	<p><u>Expected Action:</u></p> <p>The Committee will consider suggested changes to TCDD Position Statements and recommend revisions to the Council.</p>
<p><u>Council</u></p> <p><u>Agenda Item 8.</u></p>	<p><u>Expected Action:</u></p> <p>The Council will consider revisions to TCDD Position Statements recommended by the Public Policy Committee and determine final action.</p>



Aging with Developmental Disabilities

Draft Position Statement

The Texas Council for Developmental Disabilities supports the position that all people aging with disabilities should be fully included in their communities. Many people with developmental disabilities are supported throughout their lives by family caregivers. The number of older adults with intellectual and developmental disabilities is expected to triple over the next twenty years and the majority of Texans waiting for services have a primary caregiver who is between 31 and 59 years of age.¹ As people with developmental disabilities and their caregiver's age, they have the right to continue to live in the community. Each faces challenges caused by the aging process and needs flexible support systems equipped to meet their changing needs.

Therefore the Council supports the position that Texas has a responsibility to ensure that the state's long-term services and supports system can meet the needs of older Texans with disabilities and their aging family caregivers by:

1. Ensuring that long-term services and supports are available and flexible enough to allow each aging individual to remain in their home and community;
2. Building expertise among service providers to assist people with developmental disabilities who are aging and their family caregivers in actively planning for their future long-term care needs; and
3. Increasing capacity for respite services for aging caregivers of people with developmental disabilities.
4. Including people representing the disability community on any committee developing or reviewing initiatives and policies related to aging.
5. Assisting people to establish a comprehensive retirement plan to encompass any or all of the following concerns:
 - access to health care
 - advanced directives relating to health care
 - counseling services
 - retirement or employment options
 - guardianship/alternatives to guardianship
 - housing
 - legal issues
 - leisure time activities
 - long-term services and supports plan
 - financial issues
 - self advocacy training
 - transportation

Texas leads the nation in promoting independence of people with disabilities and can continue to set the standard as its population ages.

Approved [DATE]

¹ Texas Biennial Disability Report, The Texas Council for Developmental Disabilities, 2010.



Community Living

Draft Position Statement

The Texas Council for Developmental Disabilities supports the position that individuals with disabilities should have access to opportunities and the supports needed to be included in community life, have interdependent relationships, live in homes and communities, and make contributions to their families, communities, the state, and the nation.

Individuals with disabilities must have access to the full range of accommodations necessary to ensure that living in their natural community is possible. These accommodations may take various forms such as personal attendant services, medication monitoring, respite, durable medical equipment, employment services, transportation, and/or minor home modifications. Accommodations may be sustained for either longer or shorter duration or may be of greater or lesser intensity depending on the need of the individual.

Services to children should be provided in their natural family setting. When children cannot remain with their natural families, they must be cared for using principles, policies and processes akin to those of permanency planning and have access to family-based alternatives that ensure enduring and nurturing relationships.

Adults with disabilities shall exercise choice and control about where, how, and with whom they live. They must be provided with **information and** assistance that may be needed to make ~~these~~ choices about their least restrictive living options and to sustain choices regarding community living. All people with disabilities should have access to the services and supports they need to live in the community. The state of Texas must allocate the requisite resources to support community living for people with disabilities. In addition, the state must rapidly expand the availability of individualized community options, transition all individuals in state institutions to community living, commit to a transition plan to close state supported living centers and transfer any cost savings to quality community programs. Communities must also be cultivated to ensure local systems foster accessibility within and across all facets of community life, so that maintaining community placement is a feasible outcome for individuals with disabilities.

Reviewed October 25, 2012 Approved [DATE]



Criminal Justice

Draft Position Statement

People with intellectual, developmental and/or mental health disabilities who are victims, suspects or witnesses, ~~like other residents of the United States,~~ have the right to justice and fair treatment in all areas of the criminal justice system, including reasonable accommodations as necessary. While those with intellectual disabilities comprise 2% to 3% of the general population, they represent 4% to 10% of the prison population, with an even greater number in juvenile facilities and jails, and are 4 to 10 times more likely to be victims of crime than those without disabilities¹.

People with intellectual, developmental and/or mental health disabilities may have functional support needs in one or more spheres of mental functioning that involve ~~perceptual perception~~, memory, and judgment modalities. Their ability to process and retain information and to relate cause and effect may be affected. A disability does not necessarily mean a person is incompetent to stand trial, but it is ~~incumbent upon the responsibility of~~ counsel and the court to raise competency as an issue in appropriate cases and at any point in the proceedings where the defendant's competency is in question. Attorneys and judges often lack adequate and appropriate knowledge of due process protections available for people with disabilities prior to, during, and after being found incompetent to stand trial. Additionally, with the increased pressure to privatize services, there is a need to ensure competency and mental health treatment is not compromised.

TCDD supports the position that timely, appropriate, and adequate care and treatment must be provided to individuals determined incompetent to stand trial, with particular attention to the following:

- Early intervention that includes a valid and clinically appropriate disability screening prior to, during, and following arrest, and comprehensive officer training in booking and intake procedures of individuals with intellectual, developmental and/or mental health disabilities.
- Ensuring competency restoration is provided in appropriate therapeutic settings that facilitate recovery.
- Reduction on the reliance of non-medically necessary outpatient treatment ~~conditions~~.
- Reduction in the amount of time the criminal court retains jurisdiction over an alleged offender.
- Ongoing training of criminal justice professionals on Code of Criminal Procedure Article 46B, with special emphasis on post incompetency legal requirements.
- Reasonable accommodations at all stages of criminal proceedings to assist the individual ~~to in-understanding~~ and participat~~ing~~ in the proceedings and their defense.

The Council recognizes that early intervention, due process protections, assistance and reasonable accommodations to participate in legal proceedings are overlapping components of a system that is responsive to the needs to people with disabilities and that these components must be available to victims, suspects or witnesses at all stages of the individual's involvement in the criminal justice system.

~~Reviewed February 8, 2013~~ Approved [DATE]

¹Davis, Leigh A. People with Intellectual Disabilities in the Criminal Justice System: Victims & Suspects. 2009. Retrieved October 1, 2012 from <http://www.thearc.org/page.aspx?pid=2458>



Service Coordination

Draft Position Statement

The Texas Council for Developmental Disabilities supports the position that the full inclusion and participation of people with disabilities in community life requires that individuals be aware of the services and supports available, that they have an array of service and support options from which to choose, and most importantly, that they have the central role in planning and directing their own future. These goals are most readily achieved when individuals and their families receive the benefit of effective, conflict-free service coordination.

Service coordination involves assisting individuals through planning, coordinating, locating, accessing and monitoring services and supports that will result in an optimal quality of life and level of community participation. It is the responsibility of the service coordinators to ~~also service~~ serve as advocates for the individuals and their family and provide support for people who are receiving services to advocate for themselves. Service coordination should be viewed as a distinct benefit available to people with disabilities who require assistance, information and advocacy to obtain access to various services and supports to participate fully and be fully included in their communities.

The Council supports the position that ~~the service coordination system~~ should be independent from service delivery such that, the service coordinator is free from conflict of interest, and independent or separate from the direct delivery of ~~and/or payer of~~ other services received by the individual and/or family. Service coordinators who are employees of public or private agencies, family members or individual contractors should be independent from conflict of interest. An independent service coordination structure also enables service coordinators to maintain the integrity of their advocacy role. Individuals should be able to choose a qualified service coordinator.

Service coordination must be available on an ongoing basis and support individual(s) rights to:

- access or refuse specific services and supports, as desired;
- develop their own service plan;
- request alternate services and supports, providers or service coordinators; and
- appeal decisions made about the services and supports they receive.

Access to service coordination should be available as necessary and upon request to all persons with disabilities who have functional needs for an array of services and supports. Eligibility should not be based on specific diagnosis. Service coordination must be readily accessible and must have sufficient staff to provide assistance to individuals in a timely and responsive manner. Service coordination should be provided by one person who:

- is committed;
- is well trained;
- is culturally competent;
- serves a reasonable number of individuals; and
- spends most of the time in support and coordination activities.

It is the responsibility of the service coordinator to: (1) advocate on behalf of the individual; (2) help the individual become empowered to act on his or her own behalf; and (3) support the right of that individual to make decisions and to take risks based on informed choice and individual goals and values.

Service coordinators should: (1) be knowledgeable about public and private resources; (2) be creative in their ability to make public and private supports and services work to meet ~~the individuals'~~ needs; and (3) serve a facilitative role in bringing individuals, families and providers together. While service coordinators should be available to assist and consult with providers to ensure services are delivered, they also have a responsibility to monitor the quality of services and supports received.



Transition from School to Adult Life

Draft Position Statement

The Texas Council for Developmental Disabilities supports the position that people with disabilities have the right to live in and be an integral part of their communities, to be employed, to be independent and to make informed choices about their lives. Each student with disabilities, as all youth, must be given opportunities to achieve academic success, to cultivate personal interests and preferences, to explore and pursue career options that are both relevant and meaningful, and to participate in job training, job placement and community experiences as part of the transition from school to adult life. Transition planning should help a student move from school to adult life and must address key life areas related to work, recreation and leisure, home living, community participation, and opportunities to learn after high school. [Transition planning should also include enthusiastic pursuit of higher education options for students and should reflect Texas' "Employment First" policy: that competitive employment in an integrated setting should be every Texan's first option.](#) This can include a range of post-school options, such as but not limited to attending higher education, technical schools, or pursuing national service vocations. The individual services provided ultimately depend on the student's needs and interests.

A comprehensive array of timely services, coordinated among and between all adult service agencies and the local education agency, is imperative to maximize choices and opportunities for students with disabilities to achieve independence and be contributing and respected members of their communities. The transition planning process should be a thoughtful, student-centered, student-led process that takes into account the individual's unique values, preferences, abilities and challenges. In addition, it should include training in self-determination, self-advocacy and individual rights. Transition planning should help a student access services and supports beyond school by providing information about and the opportunity to apply for community-based long-term services and supports through Medicaid waiver and non-waiver services, Social Security disability benefits, affordable housing options in the community, Vocational Rehabilitation Services, and available transportation options.

Whole communities, including families, schools, businesses, employers, health care providers, public service agencies, and other stakeholders, must work together to identify, locate, and share resources to assist in promoting successful post-school outcomes. Students and families should be trained to actively and effectively participate in transition planning [and they should be provided with resources about how to secure an independently facilitated transition plan.](#) Students should have the opportunity to identify and select the participants in their transition planning processes. Successful transition planning is facilitated when each student and his or her parents have the information, knowledge, skills, and access to supporting services that enable them to fully participate in the process of planning the student's future. That information, knowledge, skills, and access should be coordinated through the student's local education agency. If a student is not affiliated with a local education agency, the transition planning

process should be coordinated by a single other agency, entity, or individual having responsibility for such planning and chosen by the student or family.

The Council values the diversity and unique contributions of each citizen of the state. Fragmentation of the various service delivery systems results in the provision of inadequate, untimely and/or inappropriate services and costly duplicative efforts. Coordination among young adults and their families, local education agencies, outside agencies, and others on information sharing, flexible scheduling, and implementation timelines is critical.

The ultimate measure of successful transition planning is to increase the numbers of young adults engaged in stable employment [in integrated settings at competitive wages](#) after completing secondary and/or post-secondary education experiences. It is the Council's position that providing effective transition planning and services for young adults with disabilities benefits each community and the entire state. People with disabilities who are employed enrich the diversity of our communities, rely less on publicly-funded services, and contribute to the overall well being of the community's economic base.

~~Reviewed July 26, 2012~~ [Approved \[DATE\]](#)



Transition from School to Adult Life

Draft Position Statement in Plain Language

The Texas Council for Developmental Disabilities supports the position that people with disabilities have the right to go to school, have jobs, live where they want, and make their own decisions. Students must have opportunities to do well in school, to do what interests them in their free time, and to pursue jobs that they care about. All of these opportunities should be part of a student's transition. "Transition" means a student getting ready to finish high school and start adult life.

Students should make plans for their transitions with help from a team of people around them. If the student wishes, the team should enthusiastically pursue further education for the student. The team should also keep in mind that after high school and/or college are completed, a job with fair pay is every person's first option in Texas. Transition plans should answer questions like:

- How will I keep going to school after high school if I want to?
- How will I get a job if I want one?
- What will I do for fun in my free time?
- Where will I live?

Every student will have his own answers to these questions and every plan will be different. The student should be in charge of making the plan and picking a team to help make and follow the plan. Team members can be parents, the school, businesses, and government and community groups. The school should coordinate the other team members' participation. The rest of the team should make sure that the student has information about services available after the student is done with high school, such as:

- College or other schooling
- Employment services
- Health and community living services
- Housing
- Transportation

The student should have the opportunity to learn skills toward making his own decisions and speaking up for himself. The student and the student's family should be trained to participate in making a transition plan and should also have the opportunity to use an independent facilitator (someone to run the meetings).

A well-organized transition team benefits everyone. By working together, the team members can perform tasks together that might otherwise have been performed separately. This cooperation saves time and money. Most importantly, good transition plans may lead many young people to steady jobs with fair pay after high school or college.

Approved [DATE]



Employment Position Statement

The Texas Council for Developmental Disabilities supports the position that people with disabilities have the right to employment at competitive wages, job training, and career growth as lifelong learners. Employment opportunities in the community job market should be open to people with disabilities without discrimination or segregation. Through employment, people with disabilities gain an important point of entry into their communities, a sense of being valued, wages and job benefits. With these tangible and intangible rewards from employment, people with disabilities secure greater independence and freedom from public support service systems.

The Texas Council for Developmental Disabilities affirms that:

- ❑ State agencies should revise policies to align with the state's Employment First Policy that competitive employment at a living wage in the general workforce is the first and preferred outcome of publicly-funded services for all working-age Texans with disabilities.
- ❑ Students with disabilities should receive a sound foundation in their K-12 education. This foundation should include person centered planning and support the student's transition into higher education or a career after graduation. High school education must provide a range of choices in career preparation such as vocational training, career and technology education, preparation for higher education and opportunities for employment in the community.
- ❑ Transition plans should identify individualized goals that reflect each student's highest potential and should be pursued ambitiously.
- ❑ People with disabilities have the right to self-determination in establishing their career path, career goals, job placement or self-employment options, retention, advancement and retirement plans.
- ❑ People with disabilities should have access to an array of individualized, flexible and coordinated support services including assistive technology and supports, as long as necessary to obtain and keep employment.
- ❑ People with disabilities should be able to participate in employment without losing necessary public benefits, especially access to health care.
- ❑ Employment opportunities and the benefits of employment should be fully accessible to people with disabilities beginning with recruitment and continuing through retirement. Employers should strive to make the physical environment accessible, use accessible technology, and provide individualized, reasonable accommodations.
- ❑ The employment needs of people with disabilities should be effectively addressed through a collaborative effort by businesses, professional organizations, state and local governments, and people with disabilities and their support networks.

- ❑ Entities involved in statewide employment initiatives should disseminate information about civil rights laws that guarantee the rights of people with disabilities, resources to support people with disabilities in the workplace.
- ❑ Entities involved in statewide employment initiatives should disseminate information to employers and the business community to overcome the negative perceptions and fears of hiring people with disabilities, and to explain the benefits and incentives of hiring people with disabilities.
- ❑ Entities involved in statewide employment initiatives should assist people with disabilities to develop successful self-employment options that can include micro-enterprises and other entrepreneurial ventures.

Approved [DATE]



Guardianship and Supported Decision-making Position Statement

The Texas Council for Developmental Disabilities supports increasing opportunities for, and protecting the civil rights and well being of, people with developmental disabilities. The vast majority of people with disabilities, including those with intellectual and developmental disabilities are able to make important decisions without the need for a guardian. With the provision of supports and services, most persons with disabilities are capable of making important decisions such as where they want to live without the need for a full or limited guardian.

Guardianship is a legal tool which allows a person to make decisions for another person. It also removes the civil rights and privileges of a person by assigning control of their life to someone else. Although state law in Texas directs a court to encourage the development or maintenance of maximum self-reliance and independence, it is not uncommon for courts to create full guardianships that deprive individuals with disabilities of the right to make fundamental decisions about their lives. The broad definition of incapacity in Texas Estates Code has a discriminatory impact by enabling a court to appoint a guardian if an adult has a physical or mental condition and is substantially unable to provide food, clothing, or shelter, to care for their physical health, or manage their own financial affairs. Even though individuals with a disability may need supports and services or assistance from others to provide for such needs, they should still be afforded the right to make choices about these aspects of their lives.

The Texas Council for Developmental Disabilities supports the following changes to the guardianship system in Texas that would promote the well being and protect the rights of people with disabilities:

- A person should not be presumed to need a guardian because of advanced age or the presence of a physical or mental disability.
- Courts should consider alternatives to guardianship before creating a guardianship. People with disabilities should be given the opportunity to avoid or limit guardianship through a variety of alternatives including supported decision-making. Supported decision-making would allow a person with a disability to select a person or persons to help the person with disability to understand and make decisions about their own lives.
- The definition of incapacity in state law should be revised to consider the person's everyday functioning, values, preferences and cognition rather than their medical diagnosis. The definition of incapacity should also require the consideration of the various proactive measures that have been taken or could be taken, including the use of available supports and services, to maximize the ability of that individual to function, and to make and communicate informed decisions.
- Attorneys ad litem should be knowledgeable of alternatives to guardianship and supports and services that assist or could assist individuals to make their own decisions and minimize the need for guardianships.

- ❑ A person under a guardianship should receive a copy of their guardianship orders and be informed in a manner accessible to the individual about how they may raise complaints or concerns about their guardian or guardianship to the court, including resources for further assistance.
- ❑ A bill of rights for persons under guardianship that delineates all rights, responsibilities and privileges granted under state and federal laws should be adopted in state law.
- ❑ People who have guardians should, when possible, be able to make decisions about where they live.
- ❑ The term “ward” should be revised to “person under guardianship” in state law and supporting materials.
- ❑ A guardian should be required to meet with the person under guardianship and the person’s physician before consenting to the administration of psychoactive medication for that individual except in a medication-related emergency as defined by Section 574.101(2), Health and Safety Code.

Approved [DATE]



Public Transportation Systems Position Statement

The Texas Council for Developmental Disabilities supports the position that a public transportation system must meet the needs of citizens in a safe, reliable, affordable and accessible manner. Transportation is essential to any effort to enable all citizens to live as independently as they choose, and be fully integrated in their communities. A transportation system should be one system with walkways linked to all modes of transportation.

People with disabilities cannot enjoy the basic right to freedom of movement when they must depend on transportation systems that are limited, do not exist, or the transportation and walkways are not connected and accessible.

The Texas Council for Developmental Disabilities supports the position that publicly funded and/or regulated transportation service systems must:

- combine all transportation services and funding into one system to be universally accessible and effective;
- coordinate and computerize dispatch at state, federal and local levels among all modes of transportation;
- expand capacity in suburban, urban, rural and unincorporated areas to connect places people live with places they work, shop, socialize, worship, attend school, access health care, etc.;
- include alternative routes for people with disabilities and specifically in wheelchairs, during construction; and
- be fully accessible to all people with disabilities.

The Council advocates for people with disabilities to be actively represented on boards and advisory groups for both public and private entities that oversee or provide transportation services.

For the promise of full integration into the community to be real for people with disabilities they must have access to safe, reliable, affordable, and accessible transportation to connect them where they live with where they need to go.

Approved [DATE]