



## **Board of Directors Meeting**

Monday, April 25, 2022

Virtual Meeting

Approved 5/23/2022

### **RCEB BOARD MEMBERS PRESENT:**

Kathy Hebert, President  
Lilian Ansari, Vice-President  
Gerald Tamayo, Treasurer  
Dr. Stephen Whitgob, Assistant Treasurer  
Renee Perls, Secretary  
Nyron Battles, CAC Chairperson/Diversity & Equity Co-Chair  
Brian Blaisch  
April Key-Lee  
Sadia Mumtaz, Diversity & Equity Co-Chair  
Frank Paré, Co-Chair, Supports & Services  
Carmen Quinones  
Dinah Shapiro  
Lisa Soloway  
Linda Stevens

### **ABSENT:**

Teresita DeJesus  
Sister Marygrace Puchac,  
- PVAC Representative

### **STAFF PRESENT:**

Lisa Kleinbub, Executive Director  
Lynn Nguyen, Director of Finance & Administration  
Lucy Rivello, Director of Health & Behavioral Services  
Steve Robinson, Director of Community Services  
Kiera Swan, Director of Human Resources & Support Services  
Chris Hanson, Associate Director of Client Services  
Elvia Osorio-Rodriguez, Associate Director of Children's Services/Bilingual  
Herb Hastings, Consumer Advocate  
Michi Toy, Executive Assistant

### **GUESTS:**

Patricia Albano	Sheraden Nicholau/SCDD, Bay Area
Denise Bradley	Emeka Okemiri
Angela Gattis	Jeri Pietrelli

Erika Gonzalez  
Vi Ibarra/CCDDC  
Denise Bradley  
J. Douglas Hollie  
Wendell James

Ann Pringle  
Maria Ramirez  
Melissa Robinson/DDS  
Zachery Wheeler  
Geneva Ziaoure

**CALL TO ORDER**

Board President, Kathy Hebert explained the new Webinar format that we will hold our board meetings, and read the call-to-order before proceeded to call the regularly scheduled business meeting of the Regional Center of the East Bay to order at 7:05 p.m.

**CONSENT AGENDA / MINUTES**

M/S/C “The Board moves to approve the April 25th agenda as presented.” [Whitgob/Perls]  
Unanimous. The motion was adopted.

M/S/C “The Board moves to approve the March 28th minutes as presented.” [Ansari/Perls]  
Unanimous. The motion was adopted.

**PUBLIC COMMENT**

No public comments were expressed at this time.

**COMMITTEE REPORTS**

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**Executive Committee:** Kathy Hebert

**Acronym List**

<b>CCH</b>	Community Crisis Home	<b>ILS</b>	Individual Living Services
<b>CPP</b>	Community Placement Plan	<b>OPS</b>	Operations
<b>CRDP</b>	Community Resource Development Plan	<b>PEP</b>	Purchase of Service Expenditure Projection
<b>DDS</b>	Department of Development Services	<b>POS</b>	Purchase of Service
<b>EBSH</b>	Enhanced Behavioral support Home	<b>SLS</b>	Supported Living Services

Note: All contracts are submitted to the board of directors 10 days prior to the board meeting for their review and opportunity to ask questions and provide comments.

**Contract Approvals**

There were no contracts to approve at this time.

## Policy Approvals

### **Social/Recreation and Non-Medical Therapy Services**

The policy was approved by the Board in January 2022 then submitted to DDS. DDS requested a few changes including adding a clearer exceptions criteria to be listed in the policy. Ms. Kleinbub elaborated on the changes which we highlighted on the policy, which were also sent to the board last week. After DDS approves of the revisions, the policy will be posted on our website under Board Policies: Purchase of Services.

Some of the other changes made:

- . To provide a clinical basis on the non-medical therapy sessions limit of 1/week. We researched and will follow the recommendation of a certified or registered therapist in that particular modality. For example, if someone wanted music therapy services, an assessment would be conducted by a music therapist and we would follow their recommendations as far as the number of sessions/week for that particular individual. Those professionals would be certified, registered and follow the practice guidelines for their specialty.
- . To add a specificity on what constitutes “Financial Hardship” for those who state financial hardships affecting their ability to pay the fees for the classes/activities. We followed the standard of “Income cannot exceed 400% of the federal poverty level”. This is consistent across the board for other programs. Therefore, almost all our adult consumers would be eligible for this support.

Board inquiries were addressed by Ms. Kleinbub. Some of the key points:

- . There is no monetary limit per month for these services. It is based off the Lanterman Act which requires that services be delivered based on the individual’s program plan and need.
- . Clarity on the terminology, “Social and recreational activities are funded only if those activities are not able to be accessed *any other way*.” Ms. Kleinbub used an example; if your child is able to participate in a standard parks & recreation class, and does not need additional support to participate in that, then we would not fund for additional supports as they had no need for special accommodation.
- . Discussion on service providers: RCEB is encouraging those service providers who provide social/non-medical specialized services, to become RCEB vendors. For example, it would also include parks & recreation programs that provide specialized classes, where they can be vendored just for those additional supports.

M/S/C            “The board moves to approve the Social/Recreation and Non-Medical Therapy Services as presented.” [Battles/Stevens] Unanimous. The motion was adopted.

**Budget & Finance Committee: Dr. Steven Whitgob**

Purchase of Service

Through March 2022, 65% of our fiscal year 21-22 POS expenditures are in base. At this time, we are projecting a surplus of \$32M for NON-CPP POS Expenditures. This is an increase of \$.7M over the previous month's projections.

Currently, all 21 Regional Centers are reporting a surplus in their POS projections. With the C-2 budget allocation, the statewide system is reporting in an overall surplus of \$845M, which is a decrease of \$18M. RCEB is reporting a \$32M surplus, which represents 5.5% of the overall statewide surplus.

Through March 2022, RCEB already spent \$32M in additional Covid related costs. We project to write Covid purchases through June 30, 2022, with a projected annualized costs of \$43M. Covid related costs include Health and Safety needs for additional staffing hours and overtime hours for Supported Living Services (SLS) providers, increased respite and personal assistance hours due to school and day program closures, and additional staff costs, including PPE supplies for residential homes and individuals receiving SLS/ILS supports.

For CPP POS Expenditures, even with the additional funding from the C-2 allocation, we currently have a deficit of \$.1M for CPP POS Expenditures. We have spent \$1M for CPP placements of 10 clients through March from Porterville developmental center, skilled nursing facilities ("SNFs") and Institutions for Mental Disease ("IMD") facilities. DDS will fully reimburse for these expenses even if they are not allocated in advance. The Department has also approved start-up funding of \$1.6M, including a \$.8M funding for development of one enhanced behavioral supports home ("EBSH") and \$.7M for a specialized residential facility. We continue to work with the Department to request additional CPP funding in the C-3.

Operations

As of March 2022, we have 62% of Operation expenditures in base, which is comparable to the 67% for last year's OPS expenditures at this time.

We continue to wait for the remaining rent allocation that was not allocated in the C-2. At this time, we are projecting a balanced budget for FY 21-22. The staff will review year-end purchases and encumber these funds as necessary before the fiscal year-end.

Line of Credit [LOC]

Staff recently received documents to re-establish our Line of Credit for Fiscal Year 21-22. Union Bank agrees to renew our Line of Credit of \$30M for 3 months from June 2022 through August 2022 with commitment fees of .20% (2/10<sup>th</sup> of a percent or \$15,000) to retain and/or access the line. The \$30M is the same as last year's line of credit. Even though we did not draw on the line last year, there is a possibility of needing to draw this year based on the expected increase in July POS payments due to the rate implementation. Also, there is a cash flow need at the end of the fiscal year even with the anticipated surplus because RCEB pays our vendors before we can claim reimbursements from DDS. Also we may also need to draw on the line in the event that DDS does not advance cash for the next fiscal year before the July payments to vendors.

In addition to the committed line of credit, Union Bank also agreed to issue an uncommitted Line of Credit of \$40M from September 2022 to May 2023 at zero fees. However, under the uncommitted line of credit, the lender is not obligated to make any loans and will make loans on its sole discretion.

Executive Committee of the Board on April 19<sup>th</sup> has reviewed both the committed and uncommitted line of credit as presented.

#### Committed Details

Term: June 2022 through August 2022

Amount: \$30M Committed LOC

Commitment Fee: 20%

#### Un-Committed Details

Term: Sept 2022 through May 2023

Amount: \$40M Un-Committed LOC

Commitment Fee: 0%

M/S/C            “The board moves to approve RCEB’s agreements, both committed and uncommitted line of credits with MUFG Union Bank, N.A. for the 2022 Fiscal Year” [Whitgob/Battles] 12- yea, 1-nea, 1-refrain            The motion was adopted.

Board members had several inquiries on the LOC, mostly surrounding the interest fee charge on the committed line, whether we use the LOC or not, as well as inquiring on the possibility of resourcing other banks for a LOC for the future.

Ms. Nguyen stated that while Union Bank is merging with US Bank, all the regional centers who use that bank, do not collectively have any leverage to change the contract until after the merger occurs. There is also a chance that after the merger, we will be able to negotiate zero fees. If we were to change banks at this point, there are other critical considerations such as the technicality of moving all our services to a different bank, as well as client inconvenience for switching locations for check pick up if the new branch is not in a convenient location for them.

Another inquiry was on how we can have a surplus of funds, yet have to have a Letter of Credit to borrow plus the payment of fees. Ms. Kleinbub clarified that the stated surplus is hypothetical, not cash.

Ms. Kleinbub advised that since we are at a point in the pandemic where we can plan on resuming regular business, it will probably be feasible to research other banks and plan RFP’s in the second quarter of 2022/23.

## DDS Audit

The Department of Development Services' (DDS) Audit Section has completed the audit for fiscal years FY19-20 and 2020-21 at the end of March 2022 after spending 8 weeks with RCEB. We met with the Department in the exit conference and discussed the remaining outstanding issues, which mainly were related to rates for several vendors.

The auditors had some concerns regarding rates, including some from before median rates and some health and safety rates. We are following up and providing documentation on these outstanding items. We hope that most of these items will be resolved before the draft audit report is issued. All other 33 audit items, that DDS reviewed, were completed with no exceptions.

### **Diversity & Equity Committee:** Nyron Battles & Sadia Mumtaz

Ms. Mumtaz shared her Meeting Issues Tracker document, which she populated with feedback and challenges the participants are experiencing. This document will help with committee follow-up since it is organized by issues/summary/updates. At the meeting, issues and challenges were discussed and public statements were made where the committee will await for factual documentation. The D&E committee has three sub-committees. They are identifying any overlap on issues. The current sub-committees Antiracism/Education, Communication/Digital Access, and Equity in POS Expenditures may change. Ms. Mumtaz stated that it would be beneficial to have a separate meeting with the participants, public, vendors and RCEB on the specific issues brought up; share information and work together. Ms. Kleinbub added that the Language Access & Cultural Competency from DDS will provide additional funding from state resources. Plans will be submitted to the State by June 15<sup>th</sup>.

### **Supports & Services Committee:** Lilian Ansari & Frank Paré

This committee met last month as reported at the March board meeting. They were not able to meet for a workshop this month due to scheduling conflicts, but Ms. Ansari did report that they are on the very final stages of the brochure. One of the challenges has been being able to get the high quality pictures needed by the publisher for the brochure. One idea being considered is to hold a photo session and other resources to look into is with other organizations such as FRN. The committee would also like to form a type of family advisory committee that can advise the Supports & Services Committee. The committee will meet in May before the board meeting.

### **Provider/Vendor Advisory Committee [PVAC]:** Lisa Kleinbub for Sister Marygrace Puchac

Sister Marygrace is attending a retreat this week. Ms. Kleinbub reported that the committee met on April 8<sup>th</sup> with continued service provider discussions and questions on the rate implementation. The new Director of Asian Resource Network, Sophia Wang, presented at this meeting. Asian Resource Network identifies and trains medical professionals who are in this country but currently not working in their field. After training, they place individuals in both our day and residential services as DSP's. This helps providers as they will be funded for staff who are bi/multilingual.

We also had a presentation by Rochelle Greenwell, RCEB's Deaf & Hard of Hearing Specialist. She educated all on deaf culture, its community, and some of the developments. She will be working with

service providers to meet these service needs as we move forward. The next PVAC meeting will be May 13<sup>th</sup>.

**Consumer Advisory Committee [CAC]:** Nyron Battles

The CAC met on Monday, April 11<sup>th</sup>. In addition to Ms. Kleinbub's reports on DDS' community satisfaction surveys and the upcoming change to regional center's performance measures, the main topic was on challenges that the clients have in regards to medical services and insurance coverage limitations. The consumers expressed frustration with dental and vision services. Ms. Shapiro shared that she is looking forward to Creative Growth being back in service two to three days/week to start, but they still need to finalize staff and transportation issues.

**Membership Development Committee:** Kathy Hebert

The board has 16 members, and open to a Latinx consumer <https://www.rceb.org/about-us/board-directors/>

**EXECUTIVE DIRECTOR'S REPORT** - Lisa Kleinbub, Executive Director

COVID-19

Ms. Kleinbub stated that 97% of our RCEB staff are vaccinated and of those who are eligible, 90% are boosted. Those who have exemptions are tested weekly and required to wear face masks. The COVID numbers have slightly increased, which may be attributed to the recent holidays and spring break. Since mid-March, we have not been required to report our cases to DDS, but the number in that time was around 24 additional cases.

Our day programs are still limited to the number of people they are allowed to serve, due to licensing requirements and transportation issues. Licensing will be issuing a provider information update to provide new guidance, and we are hoping that happens soon since the demand for returning to programs full-time is increasing.

Rate Implementation

We have the majority of the rates for service providers input in our system, so those service providers will be able to bill for April services at the increased rates. This is 25% of the difference between the provider's current rate and the rate that is in the rate study implementation for 2022. It is not all that is needed for the providers to meet the cost of services in 2022. It is just 25% of that need and it depends what the provider's previous rate was. The purpose of the rate implementation is to bring every provider for the same service to the same rate by 2025. There is a strong push by providers and the Association of Regional Center Agencies [ARCA] to advance the next increase of 25% that is due in July 2023 to this July. There is a lot of advocacy at the state level for this goal. We are hopeful that this will happen; as there are 4 out of 5 legislators in the assembly subcommittee supportive of this issue as well as reform of the usual regional center core staffing formula change.

Providers who receive a rate that they do not agree with, have 60 days from their receipt of their rate letter, to appeal that rate. The process entails the provider sending in their appeal to the regional center, which will be reviewed and then sent to DDS for their review. When this whole process originally started, we worked with our providers on the information that DDS needed, but DDS is the entity that has the final determination of the rates. We have 18 home service providers who have 7+ beds that will not receive rate increases because larger homes were not part of the rate study. This type of larger facility is not seen as being in accordance with the HCBS Final Settings Rule. Larger facilities were seen as not promoting inclusion into the community. There have been some changes in interpretation since the rate study began so there may be consideration of rate changes in the future.

At this time, no provider will receive a rate reduction. There are provider rates that exist currently at all regional centers that are above what the target rate is for that service category. Therefore, they will not be receiving the small increases and there will not be any changes or rate reductions until 2025/26. If the rates at that point are not above what their rates are, there may be a rate reduction. With this rate implementation, at the end in 2025/26, 90% of the target rate will be given to providers within a category and 10% will be tied to quality measures that service providers will be required to meet. Although we have not seen these new measures, we think they will relate to the support for choices for individuals, employment goals and workforce continuity for their employees so that providers will have a goal of reduced work turnover. There is a discussion meeting for quality measures for the DDS provider work measures group tomorrow.

DDS has not given us the rates for the new vendors unless they are a licensed residential care home where it is clear that everyone is at the same rate. There are also a number of categories that we have not received rates for at this time. We are very pleased that we were able to get so many rates input into the system this month so providers can be paid.

### Caseload Ratios

Every year we complete a DDS survey on how closely we meet the caseload ratios that are required in law. We are required to complete a plan of correction on any category where we are over the caseload ratio. It has been over 20 years now that most all 21 regional centers have not met more than one caseload category. This is directly related to the antiquated funding for case management. The Core Staffing Formula, dating to the early 1990's provides a \$34K/year salary for each caseload. This is the main reason we have not been able to meet the required caseload ratios. We will have a public meeting on May 25<sup>th</sup> to share our numbers and would like the public's input on where we should allocate new positions. In the Governor's budget this year, regional centers will receive funding to reduce their current caseload ratios. For these case managers, the dollars per case manager are realistic.

Both SEIU and ARCA are supporting a proposal in Sacramento asking the legislature to modernize the Core Staffing Formula and to update it to the cost in 2022.



### Performance Measures for Regional Centers

Ms. Kleinbub stated that in July, new performance measures will be put into place for regional centers to achieve for some part of the monies for caseload reduction. Although we do not know what percentage that is, we do know that DDS is looking at measures in areas such as equity, cultural competence, early intervention, person-centered-planning, and employment. For example, in the category of our population's satisfaction with regional center services, there will be a confidential survey that will consist of at least 8 standard common questions across the system.

### Miscellaneous

#### *Language Access and Cultural Competency Plans*

As reported earlier, regional centers will be receiving funding for plans to improve everyone's ability to access information as well as plans to connect with all communities including those who are African American, Native American and LGBTQ. Ms. Kleinbub added that this is an exciting and positive endeavor.

#### *Health & Safety Waivers*

Last year's budget implementation included funding for providing Health & Safety waivers for non-English speaking consumers. The intent was to address factors that present providers from servicing these individuals. RCEB is funded for a staff position to communicate with providers, families and case managers about this process and how best to utilize the funds to better serve our clients.

#### *School Transition Coordinator*

Also in the budget is funding for a School Transition Coordinator whose focus will be on children leaving Early Start to those entering Kindergarten. This will be a 12-month pilot program with the possibility of the program continuing if it is successful. This is an important initiative especially since we have seen that schools have been delaying enrollment of children transitioning out of Early Start.

### **PUBLIC COMMENT**

#### *Vi Ibarra, Contra Costa County Developmental Disabilities Council [CCDDC]*

**May 27:** CCDDC Board meeting with a presentation from the CCHS Specialty Health Ambassador Program. This is a program which had received disparity grant funding from DDS. This new program will be an expansion of the existing one and will engage in community outreach. It will also include the hiring of 4-5 individuals with disabilities who will conduct POS marketing research.

**June 9:** 32<sup>nd</sup> Annual Joint DD Councils Awards Event from 7-8:30 via Webinar. Nominations for a variety of awards due by May 9<sup>th</sup>

#### *Sheraden Nicholau, State Council on Developmental Disabilities [SCDD], Bay Area Office*

**April 27:** The Regional Advisory Committee meeting will have a speaker from the Director of behavioral health from Children Now From 6-7pm, we will have an update on *Initiatives, Services and Strategies* to support mental/behavioral health.

**May 12:** Employment First Committee meeting

**May 23:** Self-advocates Committee meeting

**May 24:** Next SCDDC meeting

**ARCA REPORT:** Lisa Kleinbub

ARCA has been working to support a number of bills that are before the legislature:

Limited Conservatorship

*AB1663:* This bill is on limited conservatorship and supported decision making. The bill would codify supported decision making into law for those individuals who do not want/need to be conserved, but it will have people identified who are there to support the consumer as part of the decision making team. Having this in law means medical providers would honor this process.

Fair Hearing Process

*SB 1092:* The Hurtado bill would move the Fair Hearing process from the Office of Administrative Hearings [OAH] to the Department of Social Services [DSS]. The bill will change a number of provisions in that process to lengthen the time that is allowed for filing an appeal as well as to make it easier to understand the complex process.

DDS is also proposing trailer bill language on the same topic. Hearings would stay with the Office of Administrative Hearings [OAH]. Similar to SB 1092, it would only allow regional centers to have an attorney present if the individual or family did. Regional centers would also have accept all three types of processes [informal, mediation, formal] in all situations. Another change would be that the Fair Hearing Requests would be sent directly to DDS and not the regional center.

**CLOSED SESSION** - Personnel

**MEETING ADJOURNED**

The board meeting adjourned at 8:51 p.m.

Virtual Meetings on May 23, 2022

The next Supports & Services Meeting will be at 5:30 PM

The next Board Meeting will be at 7:00 PM