



Board of Directors Meeting

Monday, November 28, 2022

Virtual Meeting

Approved 1.23.2023

RCEB BOARD MEMBERS PRESENT:

Kathy Hebert, President
Dr. Stephen Whitgob, Assistant Treasurer
Nyron Battles, CAC Chair/Diversity & Equity Co-Chair
Brian Blaisch
Frank Paré, Supports & Services Co-Chair
Reneé Perls, Secretary
Sister Marygrace Puchac, PVAC Representative
Carmen Quinones
Dinah Shapiro
Lisa Soloway
Linda Stevens

ABSENT:

Lilian Ansari, Vice-President
Teresita DeJesus
April Key-Lee
Sadia Mumtaz, D&E Co-Chair
Gerald Tamayo, Treasurer

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
Ronke Sodipo, Director of Client Services
Ben Braun, Associate Director of Federal Programs
Chris Hanson, Associate Director of Client Services/Adults
Lindsay Meninger, Associate Director of Client Services/SDP/Medicaid Waiver
Elvia Osorio-Rodriguez, Associate Director of Client Services/Children
David Leon, Transfer Coordinator
Herb Hastings, Client Advocate
Michi Toy, Executive Assistant

GUESTS:

Patricia Albano
Denise Bradley
Elizabeth Cuevas
Tandra DeBose
Estela Nunez
Assata Olugbala
Jeri Pietrelli
Ann Pringle

Erika Gonzalez
Paul Huertas
Wendell James
Vi Ibarra/CCCDDC
Maxine Milam/DDS
Tristan Mora
Sheraden Nicholau/SCDD

Maria Ramirez
Charlotte Tay
Nikita Wang
Families United for Equity
Zackery Wheeler

CALL TO ORDER

Board President, Kathy Hebert called the regularly scheduled business meeting of the Regional Center of the East Bay to order at 7:06 p.m.

CONSENT AGENDA / MINUTES

M/S/C “The Board moves to approve the November 28, 2022 agenda with the substitution of the word “Final” instead of “Draft” audit report from AGT. As informed at last month’s board meeting, the report will be brought up for approval during the Budget & Finance report section. [Puchac/Battles] Unanimous. The motion was adopted

M/S/C “The Board moves to approve the October 24, 2022 minutes as presented.” [Battles/Soloway] Unanimous. The motion was adopted

PUBLIC COMMENT

Regional Center of the East Bay uses Robert’s Rules of Order to guide our meetings. Robert’s Rules of Order is the most used manual of parliamentary procedure in the United States. Robert’s Rules of Order is designed to provide structure and guidance while facilitating the orderly operation of a meeting.

According to Robert’s Rules of Order, our board members are not allowed to comment, debate or respond to the public during our public meetings. There are other meetings such as our Diversity & Equity or Supports & Services meetings that begin at 5:30pm before the board meetings.

Tristan Mora spoke about his transportation difficulty in reaching his program that day. RCEB staff will contact him tomorrow to discuss the situation.

Maria Ramirez, Assata Olugbala spoke of diversity, racism and not being heard.

COMMITTEE REPORTS

COMMITTEE REPORTS

Executive Committee: Kathy Hebert

Acronym List

BAHC	Bay Area Housing Corporation	ILS	Individual Living Services
CCH	Community Crisis Home	OPS	Operations
CPP	Community Placement Plan	PEP	Purchase of Service Expenditure Projection
CRDP	Community Resource Development Plan	POS	Purchase of Service
DDS	Department of Development Services	SLS	Supported Living Services
EBSH	Enhanced Behavioral Support Home		

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.

The board expressed their gratitude for the well-documented summaries that were written up for each of the service contracts as they were very helpful. Ms. Kleinbub acknowledged Mr. Robinson and his staff for taking the time and effort in writing up the explanations.

CONTRACT APPROVALS

Supported Living Services [SLS]

Independent Approach

This contract represents the agreement to operate a SLS agency to provide the necessary support to allow clients to live in their own home in the community. Independent Approach agency will be able to serve clients who primarily speak Punjabi, Hindi, or Urdu in both Alameda and Contra Costa County.

Term: 12/1/2022-11/30/2027

Capacity: 15 clients

Avg monthly volume/client: estimated \$7,500

Annual Total: \$1,350,000 at total capacity

M/S/C “The board moves to approve the Independent Approach SLS contract with RCEB as presented.” [Perls/Battles] 10-yea, 1-abstain The motion was adopted.

2023 WORK PLAN & MASTER CALENDAR

The Executive Committee suggested changes to the 2023 Work Plan & Master Calendar. They were submitted both in the board packets as well as via SurveyMonkey for the BOD’s vote approval and input. With a majority of the votes, we will proceed with the changes as outlined. There were additional changes that were verbally brought up by a board member this evening, and those will be discussed at the January Executive Committee meeting.

Membership Development Committee: Kathy Hebert

Ms. Hebert announced the new 2023 BOD officers based off the vote count from the SurveyMonkey that was sent last month to the board members.

BOD Officers for 2023:

President	Frank Paré
Vice-President	Sadia Mumtaz
Treasurer	Gerald Tamayo
Assistant Treasurer	Dr. Stephen Whitgob
Secretary	Renee Perls

Budget & Finance Committee: Dr. Steven Whitgob

At the October board meeting, the Agency’s independent auditors, AGT Advisers, presented a draft of the audit report to the Board. This report is unmodified, or a clean report. At this time, AGT has issued a final draft, which is the same as the draft audit report.

The Budget and Finance Committee has reviewed the final draft of the audit report which is also a clean report. The Committee recommends that the Board approve the Fiscal Year 21-22 Independent Audit Report as presented.

M/S/C “I would like to make a motion that the Board approve the Fiscal Year 21-22 Independent Audit Report from AGT” [Battles/Shapiro] Unanimous
The Motion was adopted

Purchase of Service

Regional Centers typically submit a preliminary Purchase of Services Expenditure Projection (PEP) to the Department of Developmental Services (DDS). This is the basis of Regional Centers’ Purchase of Services projections each fiscal year. The PEP report advises DDS of Regional Centers’ projected expenditures for the current fiscal year and reports any funding insufficiencies in Purchase of Services (POS). The format for submitting the PEP is the same as last year and the first report is due to DDS on December 10, 2022.

Through the D-1 amendment, RCEB received a total of \$719M in NON-CPP Purchase of Services (POS) funding. Staff completed our preliminary Purchase of Services Expenditure Projection (PEP) for the current fiscal year 22-23. Based on expenditures through October, we are projecting at this time for NON-CPP POS Expenditures a surplus of \$79M. This surplus is based on allocation through the D-1 amendment, which is a lot more POS funding than we have expected based on the current rates. Our projections did include the estimated effect of the rate adjustment increases due on January 1, 2023. These will be additional 25% of the updated rates calculated by the DDS contractors (Burns and Associates). We expect these to be provided in January of 2023, which will allow for more accurate POS projections at that time.

There are several new program expenditures that have impact our POS expenditures for Fiscal Year 22-23, and which are reflected in our PEP report:

- For the caseload growth, RCEB grew by 809 net new consumers for the past 12 months.
- State Minimum wage increases annually since 1/1/17 through 1/1/23 continue to impact our Residential, Supported Living Services, Respite, Day Care and some Day programs in Fiscal Year 22-23. Included in this PEP is a \$1M projection for the minimum wage increase effective 1/1/23 from \$15 to \$15.50.
- POS expenditure for new program development in FY 22-23 is projected at \$15M. While there is a small increase as program picks up again after the pandemic, we believe that the continuing lack of adequate programs to reflect consumer growth and support needs still result in a low number for new program development expenditures.
- Also included is \$540k of additional expenditures for increased incentives paid for Competitive Integrated Employment (CIE) and new incentives in the Paid Internship Program (PIP) effective 7/1/22.
- Service Provider Rate Reform was estimated at \$39M for the additional 25% increase in January 2023, and the remaining April 2022 increase still not included in base expenditures. Also included in this number was the expected rate adjustment for Community Care Facility (CCF) effective 1/1/23.
- Also included in this PEP is \$3M for other health and safety service costs.
- RCEB was approved for \$1M allocation for Home and Community Based-Services (HCBS).
- D-1 budget also funded \$1.4M for quality incentive payments for completion of the DSP Workforce Survey. \$880k was already paid out to 110 RCEB vendors who completed the survey at \$8,000 per vendor.

We expect that as programs and individuals navigate fuller re-opening, we will have a clearer sense of additional supports that maybe needed, including ongoing supports in living option settings for continued remote services and increased transportation costs.

Through October 2022, we have expended 26% of the POS budget of \$720M.

When all 21 Regional Centers submit their PEP in early December, we will be able to compare RCEB's POS projections with other Regional Centers' projections. As this is our preliminary PEP with only 4 months of expenditures in base, we will continue to monitor closely and refine our projections as appropriate.

For CPP POS Expenditures, RCEB received preliminarily \$693k for placement costs. We are still pending additional allocation in the D-2 for start-up costs for Community Placement Plan (CPP) and Community Resource Development Plan (CRDP) for FY22-23.

Operations

At this time, the Department has not finalized the allocations for our Community Placement Plan (CPP) and Community Resource Development Plan (CRDP). The D-1 included only 50% of CPP/CRDP funding and the remaining funding will be in D-2.

The Agency preliminarily completed its FY 22-23 budget for Operations for \$68M. For this preliminary detailed OPS budget, we added \$1M that is expected to be allocated in the D-2 for the remaining 50% of CPP/CRDP and have presented this budget to the Budget and Finance Committee for review.

There are several new expenditures included in this preliminary Operations:

RCEB received funding for new positions to reduce case load ratios for all people service as part of the Performance Incentive. We also received funding for 4 positions in Language Access and Cultural Competency and will increase positions in Support and Community Services to support an increase in Case Managers. This year's budget did not include any increase specific to regional center salary and wages, which is still based on the old core staffing formula. The additional salary and wages for these additional positions and related payroll expenses are included in personnel services.

Other increased operation expenditures included additional technology costs, insurance, equipment purchases for growth positions, advertising, and other consultant costs, including those consultants for Language Access and Cultural Competency.

Through October 2022, we have expended 23%, which is comparable to the 27% for previous year at this time. As this is a preliminary budget, we will continue to monitor and update the budget after receiving the CPP/CRDP operations allocation from DDS, hopefully in the D-2.

Supports & Services Committee [S&S]: Frank Paré

This committee met this evening and began with the discussion of 2022 successes such as the RCEB brochures and the Respite Policy 40-hour minimum to submit to DDS, as well as how some consumers are able to return to their programs in-person/hybrid format. Also discussed was the types of complaints and tracking of those complaints by DDS, including the inaccuracies in disparities that were highlighted in an independent group report regarding regional center POS expenditures based on race/ethnicity/residence type and location. During this meeting, Ms. Kleinbub informed of some of the steps that will be taken in 2023 to address that RCEB will be taking to address ongoing disparities in our system.

The brochures are completed and scheduled to be released in February. They will incorporate a digital/multi-media strategy, if all goes well with technical capabilities. The brochures will be available in Spanish, Simplified Chinese, and Vietnamese languages.

Mr. Paré stated that all are welcome to this S&S meeting, especially if you have questions about the service/system as they can't be addressed during a board meeting. The S&S meetings are solution based to address challenges.

Diversity & Equity Committee: Nyron Battles

This committee met last month and the next meeting will be before the board meeting on January 23rd.

Provider/Vendor Advisory Committee [PVAC]: Sister Marygrace Puchac

Ms. Puchac reported that the committee met on November 18th, which was a few days before Thanksgiving. The Inclusion Time discussion was on gratitude for where we are currently standing despite the numerous COVID challenges. During those years, we continued having access and receiving the usual updates from the regional center and all our partners. We also discussed what DDS is requesting of us in the new year. Ms. Puchac added that Fructuoso Menchavez, RCEB's HCBS Specialist, reminded us that the Final Rule began in 2014 and proceeded with Self-Assessment in 2020, Virtual Assessments in 2021, and progressed to validations, documentations and remediation in 2022. Ms. Puchac stated that this progression is fantastic because every agency has to look at itself and we all must step up so that we are functioning out of the spirit of the Final Rule. Mr. Steve Robinson spoke at that meeting of new resources such as special recreation, services for the deaf/hard-of-hearing [DHH], housing, dental care, and behavioral supports and respite. Priscilla Gomez, RCEB's Transportation Manager, spoke of the transportation agencies difficulties in hiring staff, especially drivers. With DDS' mandate of concluding Alternative Services by the end of this year, the providers were very concerned and they sent a collective letter to DDS of this challenge.

PVAC's December meeting will include the voting of new PVAC Co-Chairs, as Ms. Leslie Visbal's termed out a year ago, and Ms. Puchac's term is ending this year. The PVAC membership slate will be presented for approval to the BOD in January. Ms. Hebert thanked Ms. Puchac for all her service, time, dedication and willingness to serve and especially her positive and passionate energy.

Consumer Advisory Committee [CAC]: Renee Perls for Nyron Battles

Ms. Perls stated that the committee met in person again, and the discussion centered on transportation, housing and other issues and challenges during this winter of flu/COVID.

EXECUTIVE DIRECTOR'S REPORT - Lisa Kleinbub, Executive Director

We made a slight revision to the respite policy in response to the suggestions made by the board members last month. This would change our approval to a standard of 40 hours/month of respite based on the assessment of the individual's needs as well as where they need the support. Upon request by the family, fewer hours may be authorized, and if there is a need for greater than 40 hours, it will be considered an exception to the policy and will be reviewed as such from the planning team consisting of at least the family and the case manager. Upon approval from the board tonight, it will

be submitted to DDS and they will review it, which sometimes includes their comments. By making this 40 hours a standard, it will help the family to be able to get that into place without sharing a lot of information. Ms. Kleinbub reminds all that respite is only for intermittent breaks for their family; which is not to be confused with daycare or other services, which are separate policies.

M/S/C “I would like to make a motion that the Board approve the revised Respite Policy making the 40 hours of respite as standard” [Paré/Whitgob] Unanimous The Motion was adopted

Ms. Kleinbub responded to a board member’s inquiry about turnaround time, and stated that it usually takes around 15 days, depending on the information that is available and how quickly we receive requested documentation from service providers and from other available supports. If the request is denied, then we send a Notice of Action to the family. We will be adding a turnaround time to the policy to assist the families in knowing what the timetable for exception approval is.

Social Recreation Policy

This policy was approved by the board last fall, and we finally received DDS approval today. However, after working through social recreation this year, we will inevitably be making a few changes in order to make it a smoother process for individuals.

Performance Contract

The draft Performance Contract was sent to the board in their packets. Ms. Kleinbub stated that the additions made to them were after receiving feedback from the public at the community meetings. The meeting had interpretations in ASL, Spanish, Cantonese and Vietnamese.

These changes were based on the following comments:

Employment: Some of the concerns had to do with best practices for employment for those with more intensive needs, so we have looked into customized employment. This looks at what interests those with more intensive needs have, and tailoring a job search to those individuals. We will have a training in the spring of 2023 which will allow for those in the employment realm to also be certified in order to provide employment. Staff members of supported employment agencies with a certification will receive a stipend as an incentive.

Disparities: Additions based on comments include partnering with African-American community organizations who do not currently work with the regional center, to address unmet needs. We are also continuing to develop supports for those who communicate via ASL, including the development of a home that specializes in accommodating those who are deaf and hard-of-hearing. We are increasing our use of language access and cultural competency to identify other languages that need translation documents. We want to identify Financial Management Services [FMS] in Self-Determination that offer translation and are also culturally competent, to help with transitions at this point.

Public Policy: Through our new brochure, we will be sharing information and prioritizing the reintroduction of Social Recreation as well as to continue our focus on resource development. We

will also be adding a new housing link for those interested in housing options and those who add their e-mail address will be sent all the new housing options available for low and affordable housing. As far as increasing the number of adults living in their family homes, there is a new service called Family Coordinated Supports that will be available in the spring, as soon as DDS establishes all the regulations and rates. This will provide similar supports as supported living in terms of coordination for those living in their family home. This is also intended to provide additional supports for aging families who experience difficulty in coordinating care for their family member. We are also working on minors living in small vs. large facilities as well as adding activities that collaborate with the counties that serve children in foster care. We also have the Enhanced Behavioral Support Homes [EBSH] for those dually eligible children that help to achieve the goal of people living in small living arrangements with increased support for families of consumers of all ages.

These are some of the changes in activities in the performance contract. At the October board meeting, Ms. Sodipo shared that this is a transitional year for the performance contract in that the term is for 18 months instead of 12 months. Therefore, the performance contract remains in effect until the end of June 2024. Then it will switch to a fiscal year from July through the following June. There are performance measures tied to new DDS measures that will also change this timing. In summary, this year's contract is a transition to a new form of monitoring the performance of regional centers. We will be submitting this to DDS by December 15th.

M/S/C "I would like to make a motion that the Board approve the draft Performance Contract with the transitional 18 month term." [Battles/Whitgob] Unanimous
The Motion was adopted

Board Training Plan

There is a relatively new requirement that the board have a training plan for the upcoming year. The Executive Committee approved the plan this month at their meeting. The requirements are that there be a yearly training on board governance, and a training on cultural competency. Our standard training months are in March, July, and November. We will hold these trainings on non-board meeting days.

M/S/C "I would like to make a motion that the Board approve the Board Training Plan for 2023." [Battles/Whitgob] Unanimous The Motion was adopted

Budget and Funding

Ms. Kleinbub stated that next year will not be as flush with funding as it was this year. Revenues are down and new initiatives may not be of much interest to the Governor or the legislature. We are fortunate that many of the approved proposals last year were one-time funding items. The Governor was clear that he will be vetoing bills that would commit them to funding for future years. This has its pro's and con's. Although we may not see many cuts, we might see more one-time initiatives. The scenario can change as we saw in the 2020 pandemic that the revenues were not as bad as envisioned.

We will keep an eye on this as we move into 2023. We are still pushing for the revision of the core staffing formula for regional centers to make sure that funding is adequate to hire case managers.

Ms. Kleinbub referred to Sister Marygrace's report about alternative services ending on December 31st of 2022, and the challenges that some service providers are having, especially in staffing. This impacts how many people can return to daytime services and receive those services in person. Alternative services allowed a monthly rate that most day program providers have been able to bill for without providing a daily amount of direct care services. Some had been dropping off materials to people and providing limited remote activities. Others have provided robust activities. That was to all end on December 31st. Due to all the challenges in workforce and remote schedules to people who could engage, DDS issued a directive on Wednesday, November 23rd that allows for remote services to continue for another year through December 31, 2023. This will allow for those who like their traditional day programs remotely, to be able to continue without having to be in-person. It is intended to be on the agreement of the individual and their family along with the program. We expect to find out from the service providers about those agreements within 90 days, and are emphasizing that services need to be focused on the interest of the individual served. In other words, for those who want to receive services and want to meet in person, they need to speak with both their case managers and their programs. Although many have expressed their desire to return in-person, transportation access seems to be a major factor in this not happening, due to a major shortage in bus drivers. Some of the day programs provide their own transportation and that has also been offered as an option to licensed homes.

Another challenge is that we have numerous clients living in their homes with SLS who need 24/7 care, and during the time when services have been alternative, regional centers have been funding back-up staffing for those individuals. This is the same situation for those in residential care facilities, so that people are supported during the time that day programs would have been typically provided. We wrote agreements for this residential support to end when the state of emergency ends in February. We expect that many agreements will be extended through December 2023, depending on circumstances. This really does impact the residential service providers as well.

The Home and Community Based Services [HCBS] final rule is a rule that requires that any services funded through MediCal and that are a part of any of our waivers be inclusive and allow people to have experiences that include them in the community with everyone else. The rule was intended to turn us away from larger institutionalized settings. The settings part of the rule has been modified. An individual may live in a larger setting but have experiences of being integrated in the community. Some of our intentional communities will be allowed under this final rule, which is a positive thing. However, we do need to have compliance with this by March 17, 2023. Our RCEB HCBS Compliance Specialist, Fructuoso Menchavez has been working with providers on their self-evaluation and on submitting a document attesting to whether they meet the Final Rule Requirements. DDS sent a directive a couple of weeks ago that those who have not sent in their documents, the deadline for them to do so is by December 5th, otherwise corrective actions may be taken. We have 153 service providers who were notified and we are providing support to them to complete the forms. The State is very serious about this due to the amount of money that is billed to the federal government to allow us to continue.

Union

We have come into agreement with our labor union regarding staff being in the office on a more regular basis. Starting last month on October 17th, case managers worked on-site at least one day per week and more days for those in positions that require more of an in-person presence. On December 12th, the in-person minimum will be two days per week. We have also returned to in-person monitoring for those who live outside of the family home. Our case managers have returned to visiting on a quarterly basis. Some homes that are Enhanced Behavioral Support Homes [EBSH] are monitored more frequently.

Little Hoover Commission

The Little Hoover Commission had their third meeting on November 10th looking at services in the developmental services system. There was testimony by DDS as well as by a few regional center Directors. The group commissioners who are mostly former and current legislators, have limited knowledge of the regional center system and the funding mechanisms, the Lanterman Act and who is served. While there are a few people who really understood the intricacies of this System, it is evident that there are many misunderstandings about our system. There will be one last hearing on December 8th before they issue a final report. This last hearing will include the State Council on Developmental Disabilities [SCDD]. There will be a lot of interest in having to look back at some of the problems that have been identified. These include adjacent regional centers having different rates for services. Understandably, this requires a look back at 20 years of history and recessionary policies. It was an education to those on this commission in the history of our system and the different impacts that our different policies have had on how services are created and funded, and how important the rate studies tied to our different regions are. Therefore, there are some basic fundamental issues that they are getting educated on as they seek to make recommendations to address system challenges.

For many years, our system has requirements imposed on us, such as looking at generic services before regional centers can use purchase-of-services. This is in our contract with DDS and is a requirement as well as having to use the least costly provider for services that are equal to another provider. The DDS letter that we received today approving our Social Recreation Policy emphasized that point. Regional centers have had to abide by this instead of creatively addressing some issues.

As a result of the Little Hoover hearings, it has brought out the need for looking at where regional centers can standardize from one regional center to another in order to avoid confusion. These differences really do make those wonder about the services. For instance, the same services offered may be named different things at different regional centers; some include behavioral services with respite while others have it classified separately. The regional centers vary in many different ways, and over the next few years we will see more processes and services standardization. This may address some of the inequities that are evident in the services.

PUBLIC COMMENT

Ann Pringle spoke about concerns with the status of home closures and the lack of receiving clients and support/assistance.

Wendell James/Zachery Wheeler/Assata Olugala/Maria Ramirez spoke about discrimination, racism, disparity in the DD system.

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

The *There Should be a Law* state contest received 115 submissions, many from the Bay Area. We also received 11 proposals for law/policy changes. All the submissions are being looked at for trends for policy change and feasibility to move forward as far as submissions to the legislature.

We are looking at policies concerning safety & abuse prevention and Employment First. If you have any ideas, please contact me. We are also going to be working on fair employment workshops with the California Civil Rights Department.

You can also contact us for PPE's and COVID-19 tests packages.

ARCA

Ms. Kleinbub stated that ARCA did not meet this month, since they met in October. ARCA is looking at next year's budget and working with partners in the Capitol on what legislation to focus on and propose. One of the areas is the bill regarding conservatorships and in making sure that supported decision making is considered legitimate by medical providers, so that may be an area for legislative action.

Ms. Kleinbub wished everyone a beautiful December and will look forward to seeing everyone in January.

MEETING ADJOURNED

The board meeting adjourned at 9:08 p.m.

Virtual Meetings on January 23, 2023

The next Diversity & Equity Meeting will be at 5:30 PM

The next Board Meeting will be at 7:00 PM