

GOVERNING BOARD MINUTES

Utah State Developmental Center

July 6, 2023



Governing Board Members:

Angella Pinna, DSPD Director

Paul Smith, Public Appointee

Dr. Scott L. Smith, Public Appointee

Jennifer May, Family Advocate

Public / Presenters Present:

Cynthia Church, Administrative Assistant

Lauren Gutierrez, Quality Assurance Director

William Exeter, USDC Project Manager

Clover Meaders, Assistant Attorney General

Marshall Christensen, Finance Manager

Shauna Bradley, Records

Bonnie Hardy, Records

Michael Kelley, Assistant Attorney General

Mark Forbes, Admin. Finance Director

Emily Campbell, Public

Excused:

Tim Mathews, USDC Superintendent

Tonya Hales, DHHS Deputy Director

Scott Pingree, Family Advocate

BUSINESS:

Electronic Meeting:

This meeting will be held electronically in accordance with Utah Code Ann. 52-4-202, House Bill 5002, Open and Public Meetings Act pursuant to a written determination by the Chairperson, finding that conducting the meeting with an anchor location presents a substantial risk to the health and safety of those who may be present. Due to the infectious and potentially dangerous nature of the COVID-19 virus, all agencies, institutions, and the general public may attend via a conference line. To attend please call (US) +1 413-308-2315 listen to the prompts and enter the (PIN: 254703178). Opinions and comments by the public may be presented as the meeting progresses or at the closing, as requested by the USDC Governing Board Chairperson.

Meeting Minutes Approval: There were not enough governing board members present to make a quorum, so no voting will take place during this meeting.

Dr. Smith had a question about the minutes for March 2nd. Near the end of the third page, the minutes report, "The autism center is still being developed. Due to the vastness of the autism spectrum, we would be able to work with an individual with autism based on where they fall on the spectrum. The center would be available to both the developmental center and to the public. The reason for this is to

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convalesce USDC and the community.” We may decide to change the word “convalesce” for one that would more correctly portray the speaker’s message. The change will be made before the next vote to approve the minutes.

USDC Governance:

Outside Leadership Training Funding

The Outside Leadership Training will provide training for upper management, specifically for our Program Leads. We’re also in the process of hiring three in-house trainers to train them. We’re consolidating positions to free up the funds to provide this specialized training. We would also like to discuss using funds from the Sustainability Fund to cover the costs of outside trainers. Since Tim isn’t available to provide further information and there’s no quorum, this topic will be postponed to the next meeting. An estimated cost will be gathered by that time.

USDC Projects:

Bill gave us the latest update on the land development project. Documents are being prepared for the purchase of the remaining 11.42 acres. This takedown is about 18 months ahead of schedule and should be wrapped up by the end of next week.

We are almost halfway finished replacing the fire panels and upgrading the fire alarm systems in all the buildings. The Twin Homes have just been completed; Quailrun and Sunset will be the next buildings to be updated.

They’ve started pulling the wire in the apartments to replace the cameras starting in the Twin Homes. They’ll be finished with the cameras in the Twin Homes by next week and will move on to the other apartments.

Testing has been completed on our boiler and we are currently waiting on the delivery. It was supposed to be delivered back in April but is still sitting in the manufacturer’s warehouse.

The flooring upgrades that have been going on for the last three years are near completion. They’re moving into the final two buildings. They are halfway through Sunset and will work on replacing the flooring in Oakridge next.

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The greenhouse is through the design phase and is ready to move forward. The foundation, footings, and cost of electrical work has increased. The original bid was thought to be around \$400,000, but will now cost an additional \$417,000, for a total cost of \$817,000. Having to run the wire from where it's going to be to the closest switch is our biggest cost. An online meeting with an anchor location will be scheduled within the next couple weeks so a vote can be taken on whether the new costs will be approved so construction can begin.

The plans and coordination are in place for the therapies building. We've been emptying out the old kitchen and moving its contents to the lower warehouse. Heather residents will be moved to the Aspen building August 25th-28th. Training and Human Resources will be set up over there. TLC is vacant and mostly emptied out. Those three buildings will be abated in August and demolition will begin within the first couple weeks of September. Groundbreaking will be sometime in October.

USDC Finance:

Sustainability Fund Update

Disbursement figures were originally approved for \$425,000 for the greenhouse but will now be transferred to the project for year end. We've earned \$932,135 in interest so far in 2023. We're currently accruing about \$120,000 a month. There is an estimated \$1,150,000 in disbursements for 2024. That includes the original bid for the greenhouse, the music therapy contract, and the horse arena, but does not include the playground.

Playground Project Discussion

We are proposing to build an on-campus accessible playground for USDC individuals and community members. This could either be an indoor playground included in the hippotherapy's building, or an outdoor park in the area south of the Memorial Grove that would be approximately 10,000 sq ft. If it were indoors, it would be accessible year-round, be protected from the elements, and be more secure. An outdoor option would need adequate fencing and shading to be provided. The scope of this project can be adjusted based on feedback/funding/logistical issues.

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This playground would be accessible to individuals and families to help facilitate a space for physical and mental stimulation. The playground can provide a positive space for individuals who may not have as many opportunities for physical activity. Additionally, there can be equipment for sensory input seekers that has tactile elements to it with different textures, sounds, and movements. It also includes creating a quiet area for kids who are overstimulated and need to calm their sensory systems. The early approximate cost for this project is roughly \$400,000 for playground materials/ construction. However, a formal bid may come in higher.

In researching the details of this project, USDC has identified critical issues that need to be addressed:

1. *Insurance.* While there are certain measures (i.e., signage, locked fence doors, certain accessible hours) the facility can take to mitigate any potential accidents to the general community/public, it would also be necessary to earmark funding for any civil litigation that would not be covered under our general liability insurance. This amount has been discussed to be in the range of \$2,000,000 at the minimum and possibly as much as \$20,000,000.
2. *Interaction Between USDC Residents and Individuals from the Community.* Currently, it is USDC policy to limit the interaction between USDC residents and the community at large for the following reasons:
 - to protect USDC resident privacy
 - to protect community residents from aggressive behaviors of certain USDC residents
 - no one under the age of 14 is allowed on the USDC campus without an adult present

Additionally, there will be a delay between the ordering of any equipment and the construction of the playground. Assuming equipment was to be ordered today, it would not arrive and be ready for construction until spring/summer of 2024.

Before committing funding, USDC staff recommends the issues identified above be thoroughly discussed and brought to resolution. The direction taken by the board

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will be a precedent for future projects and may have an impact on current and future policies.

USDC Procedure & Policy:

All the following policies have been approved by the AG's office.

Dietary Services Policy 60.02.01-VOTE NEEDED

This policy details the importance of having a nourishing, well-balanced diet for all individuals, including specific dietary needs that are outlined in medical records or dietary programs. It contains Title XIX requirements as well. Important changes/updates include clarifying procedures for menus and diets, including specifics about mealtime observation reports that help with the annual Title XIX survey. A statement was added clarifying that individuals can use their food handler's permits if they have one. CFR 483.480 was updated in the procedure section. Food texture and liquid thickness was revised by the speech pathologist. Redundant or unclear information was removed from the policy to increase the efficiency of information. This policy was reviewed by the dietary team at USDC, and emphasis was placed in areas that have seen Title XIX scrutiny over the years. Menus and diets are specifically highlighted in policy as well as following federal regulations regarding food service.

Jennifer May had a question about procedure A, item number 3, which states that each individual who refuses a meal is offered one substitution for the entrée that matches food groups of the entrée. If the substitution is refused, no other substitutions are required. Does this mean no other substitutions are required to be offered? Lauren clarified that when Title XIX performs their survey, they make sure that once a substitution that matches is declined, the individual is ok to eat something that doesn't match the recommended entrée. The item number will be clarified before the vote next meeting.

Food and Nutritional Services Policy 60.03.01-VOTE NEEDED

This policy details the role the dietary department plays in meeting the needs of each individual on campus while following all health department food safety regulations. It includes procedure for staff outlining what should happen starting with admission and continuing with ongoing education and monitored nutritional

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status for all individuals. Important Changes/Updates includes the removal of all redundant information and old procedure steps. Information was removed that was better placed in the dietary services policy. Policy was also separated from procedure. The old policy was longer and hard for staff to understand and follow. By removing some information and streamlining the format, staff will be able to follow the policy and better understand the importance of following the dietary department's orders. Input from the dietary department, as well as the speech pathologist and occupational therapist, was critical in refining the policy for staff.

Dr. Smith noted that within the policy, a registered dietitian, food service manager, and dietary manager are listed. There was some confusion on if these are three separate people. Lauren explained that our dietary manager is a registered dietitian. Dr. Smith recommended that this be clarified in the policy. The policy will be clarified before the vote next meeting.

USDC Community:

Jennifer May has been trying since the beginning of the year, since her son came out of the ICU, to get access to his room. She hasn't been inside his apartment or in his room since before COVID and has been told that it's because it's a privacy and Title XIX issue. The only way she's been able to do this is to schedule a tour and move all the other individuals out of the apartment. Her son is in a wheelchair and can't go out into the weather for long periods of time, so they usually meet inside. They visit in the conference room or the lobby, where there isn't a lot of room available. The room must also be scheduled in advance. She visits about 4-5 times a week, and these circumstances have been a lot to deal with. The building coordinator is currently working on obtaining a conference room table with wheels so they can move out the table whenever there are visitors in the conference room. When the visit ends, he will have behavioral issues. She believes that if she were able to take him back to his room, they could reduce the number of behavioral issues. She would like parents and/or guardians to have access to individuals in their bedroom and bathroom when no one else is present, a bigger space to visit in, and visits with a phone call the day of (not prescheduled) and the ability to stay in the room with the individual while the other individuals are at centers. She brought up the applicable Title XIX sections, which include:

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In section W129, under guidance, provide each client with the opportunity for personal privacy. The facility must provide areas within the living area in which the client can have time to be alone, when appropriate, and to have privacy (their conversations cannot be overheard) for personal interactions/activities. There should be a location where the client can meet privately with family and/or friends and a telephone available where he/she can hold private telephone conversations. While Jennifer has been provided this in the conference room, she hasn't been granted this in the living area.

In section W130, it states that privacy must be ensured during treatment and care of personal needs. Clients must be provided privacy during personal hygiene activities (e.g., toileting, bathing, dressing) and during medical/nursing treatments that require exposure of one's body. People not involved can't be present. There's nothing else about privacy stated in this section.

Section W133 states that clients must have the opportunity to communicate, associate and meet privately with individuals of their choice. In the guidance section, privacy must be provided for both face-to-face and electronic interactions. Space must be provided for clients to receive visitors in reasonable comfort and privacy.

Section W145 says to promote visits by individuals with a relationship to the client (such as family, close friends, legal guardians, and advocates) at any reasonable hour, without prior notice, consistent with the right of that client's and other clients' privacy, unless the interdisciplinary team determines that the visit would not be appropriate. Any limitations on visitors must be implemented because of IDT evaluation and discussion and be documented. Broad restrictions on visitors such as times of the day or certain days of the week are a violation of this requirement.

Jennifer states that in W146, the goal is to promote visits by parents or guardians to any area of the facility that provides direct client care services to the client, consistent with the right of that client's and other clients' privacy.

In the USDC Individual Rights policy, it states that individuals have the right to personal privacy, including during treatment and care of personal needs. Jennifer states that according to Title XIX, personal privacy includes "during treatment and

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care of personal hygiene activities” and is not defined to include the entire apartment or living area.

Under “Visitors for Individual/General Public,” it states that a designated place for visitation has been established for every residential location. The privacy of other individuals will be protected when visitors are present. Individuals may receive or refuse visitors at any time without prior notice during regular visiting hours which are between the hours of 8:00 am and 9:00 pm daily. In emergencies such as illness or other special situations, parents, guardians, next of kin, advocates, and/or clergy may visit before or after regular visiting hours with approval. The visitor is permitted to visit all public parts of the facility that provide services. We state all public parts of the facility, but Title XIX says that we have a right to be part of their day-to-day direct care services. Residential areas will provide a designated visiting location, and staff shall ensure steps are taken to avoid infringement on the privacy and rights of other individuals. It doesn’t state specifically which privacy. The policy also states that all visitors are required to obtain a visitor pass from the switchboard. Jennifer doesn’t have a visitor pass every time she visits and hopes that she won’t be required to go to the switchboard for a pass every time she visits, which is about 4-5 times per week.

It also states that individuals are provided privacy when receiving treatment and/or care, so the other individuals in the apartment are getting their treatment in private, and not in the living room or kitchen.

If the visitors would like to schedule a tour of the individuals’ apartment, arrangements will be made to remove the individuals from the apartment during this time. This is difficult for individuals who need to use lifts. Parents are listed as visitors as part of the policy, and volunteers have access to individuals in places where parents don’t have access to.

Dr. Smith clarified that Jennifer was saying that the policies we have in place are too restrictive to parents, and she would like more access to her loved one and that she should be able to do so without scheduling a visit and have access to his bedroom. He reiterated that the volunteers have more rights than the parents do, and that we should look at that and clarify it based on Title XIX.

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Jennifer would like a new or changed policy that is different from our standard visitor policy, perhaps one that is only for parents and guardians.

Emily Campbell, another parent who was present at this meeting, stated her frustration with this. She stated that not having access to her child's private room has significantly impacted his quality of life. She's never been able to spend any quality time with the staff to show them how to provide care for him or show them how he communicates. She would like access to his room to help him get ready for bed. The only time she sees the other residents is at the door when she's dropping him off or picking him up. She says there would be more privacy if she were able to walk right into his room instead of having to wait at the door.

Angie will schedule some time with Heather to see how this is related to HIPAA and how we can address both issues while still supporting family relationships. We also need to be able to determine how much a person with disabilities can indicate how much they want someone engaged with them or in their space.