



Questions/Answers from Chairperson Leadership Training July 6, 2016

This document provides answers to questions from the 2016 Chairperson Leadership Training event that was held on July 6, 2016 in Washington D.C.

Answers to the questions are provided in a general context and when appropriate, the DD Act is referenced. ITACC staff recommends communicating with the Council Executive Director to ensure compliance with individual Council policies and procedures, as well as applicable State/Territory laws.

1. Can a Designated State Agency (DSA) be involved in the Council member appointment process?

The DD Act does not specifically prohibit a DSA from involvement. The Governor is charged with appointing members to the Council from among the residents of the State/Territory.

What does the DD Act say?

“The Governor shall select members of the Council, at the discretion of the Governor, after soliciting recommendations from organizations representing a broad range of individuals with developmental disabilities and individuals interested in individuals with developmental disabilities, including the non-State agency members of the Council. The Council may, at the initiative of the Council, or on the request of the Governor, coordinate Council and public input to the Governor regarding all recommendations.” (DD Act, Sec. 125(b)(1)(B)).

2. Are Council members held accountable if they do not attend DD council meetings regularly?

The DD Act does not specifically address Council member attendance. However, when council members are not in attendance, an important perspective and voice is missing from the meeting.

Attendance requirements are sometimes issued by a Governor’s appointment office. In addition, some Councils may address and/or monitor Council member meeting attendance through a membership committee or guidelines in operational documents such as bylaws or attendance policies and procedures.

3. How can we encourage Council member participation?

There are a variety of strategies a leader can use to ensure all members of the Council are participating in Council business. Information is provided on four specific strategies:

Check in: A leader can take action to make sure everyone has been given the opportunity to contribute to the discussion and be heard – pay attention to the body language of members to assess if certain members are having trouble with participating. (i.e. are they shuffling through papers, appear unaware of what part of the agenda is being addressed, having side-bar conversations to clarify information).

Decrease distractions: If Council members are texting, accessing social media or using other devices during the meeting consider the use of meeting ground rules that requests members to refrain from activities that would distract them from the meeting. The ground rules could be posted on a PowerPoint slide before each meeting begins.

Accommodations and peer support: Ask each Council member what accommodations or support they need to be meaningfully involved in Council meetings. Plain language materials, large print, flash drives or PowerPoint slides with icons are a few examples of accommodations or supports provided by Councils. Some Councils pair a member with another member so they can work together and support each other throughout the meeting to follow the agenda, stay on task and have meaningful participation.

Evaluate meeting procedures: Develop and a conduct a survey to evaluate each Council meeting. Evaluation questions can include: What accommodations do you need to participate in each meeting? Are you receiving Council materials in advance? Are the materials easy to read/accessible? Is the length of the meeting too short or too long? Ask members what they need in order to be effective, contributing members. The Council Chair and staff can use the evaluation results to make any necessary changes to the meeting process. For sample Council evaluations see the [2016 Chairperson Leadership Training Handout](#) pages 49-52.

4. How can we contact the Information and Technical Assistance Center for Councils on Developmental Disabilities (ITACC)?

Contact information for ITACC is located on the itacchelp.org website on the [Contact Us](#) page, and provided below.

Sheryl Matney
Director of Technical Assistance
202-506-5813 ext. 148 or smatney@nacdd.org

Angela Castillo-Epps
Technical Assistance Specialist
202-506-5813 ext. 100 or acastillo-epps@nacdd.org

5. Is there a visual overview of the Administration on Community Living (ACL), the Administration on Intellectual and Developmental Disabilities (AIDD), and the Administration on Disabilities (AOD)?

Yes. An organizational chart graphic is located on page 4 of the [DD Council Member Guide](#) and can also be found at the following link: [ACL Organizational Chart](#)

6. Do you have guidance for addressing a Governor that is behind in making Council member appointments?

Council staff report council membership status, including appointment start and end dates, and vacancies to their AIDD Program Specialist on an annual basis. The membership status is monitored by AIDD for compliance with the DD Act and includes a review of lapses in appointments.

Many Councils have an internal membership vacancy/appointment/re-appointment process to follow when membership terms expire or there is a need to replace a member.

The Governor of each state or Territory is responsible for appointing members to the Council and sometimes the appointment process is not timely. The Council Executive Director is, in most cases, the person that monitors membership appointment requests and interfaces with the Governor's appointments office. The Executive Director can document their interaction with the Governor's appointments personnel, but has no authority to direct the Governor's personnel to take action on appointments.

A Council Executive Director can reach out to their AIDD Program Specialist for assistance in addressing lagging membership appointments by a Governor.

What does the DD Act say?

“MEMBERSHIP ROTATION. —The Governor shall make appropriate provisions to rotate the membership of the Council. Such provisions shall allow members to continue to serve on the Council until such members' successors are appointed. The Council shall notify the Governor regarding membership requirements of the Council, and shall notify the Governor when vacancies on the Council remain unfilled for a significant period of time.” (DD Act, Sec. 125 (b)(1)(2)).

7. If there is perceived interference by DSA on the use of Council funds what steps are to be followed and does AIDD warn the DSA if the practice continues?

Interference by any agency, office, or entity of the State/Territory is when there is a barrier put into place that interferes with the Council being able to implement their 5-Year State plan.

If a Council believes an agency, office, or entity of the State/Territory is interfering with the budget, personnel, or implementation activities of the State plan, the Executive Director of the Council should document the issues and communicate with the Council's AIDD Program

Specialist.

The Executive Director will follow all applicable policies, procedures, and guidelines set forth in the DD Act Final rule and DD Act.

What does the DD Act say?

“NONINTERFERENCE. —The plan shall provide assurances that the designated State agency, and any other agency, office, or entity of the State, will not interfere with the advocacy, capacity building, and systemic change activities, budget, personnel, State plan development, or plan implementation of the Council, except that the designated State agency shall have the authority necessary to carry out the responsibilities described in section 125(d)(3)”. (DD Act, Sec. 125. (5)(L)).

In addition, the executive director and Council leadership may develop a memorandum of understanding to clearly identify the roles and responsibilities of the Council and the DSA.

What does the DD Act say?

“MEMORANDUM OF UNDERSTANDING. —On the request of the Council, the designated State agency shall enter into a memorandum of understanding with the Council delineating the roles and responsibilities of the designated State agency.” (DD Act, Sec. 125 (d)(3)(G)).

8. What is the membership category breakdown for the 60% of council members? Where can we find the requirements of membership categories?

No less than 60% of the Council shall be made up of citizen members of the State/Territory they are representing. Of the 60%, 1/3 must be individuals with developmental disabilities, 1/3 must be parents or guardians of children with developmental disabilities or immediate relatives of adults with developmental disabilities who cannot advocate for themselves, and the final 1/3 can be a combination of individuals with developmental disabilities, parents or guardians of children, and immediate family members of those who cannot advocate for themselves.

What does the DD Act say?

- “REPRESENTATION OF INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES. Not less than 60 percent of the membership of each Council shall consist of individuals who are---
- A. 1/3 shall be individuals with developmental disabilities described in paragraph (3)(A)(i);
 - B. 1/3 shall be parents or guardians of children with developmental disabilities described in paragraph (3)(A)(ii), or immediate relatives or guardians of adults with developmental disabilities described in paragraph (3)(A)(iii); and
 - C. 1/3 shall be a combination of individuals described in paragraph (3)(A).

INSTITUTIONALIZED INDIVIDUALS. —

- A. **IN GENERAL.** —Of the members of the Council described in paragraph (5), at least 1 shall be an immediate relative or guardian of an individual with a developmental disability who

resides or previously resided in an institution or shall be an individual with a developmental disability who resides or previously resided in an institution.” (DD Act, 125 (b)(3)(A)(i-iii))

Per the DD Act, the definition of developmental disability is ---

DEVELOPMENTAL DISABILITY.—

- A. IN GENERAL.—The term “developmental disability” means a severe, chronic disability of an individual that—
- i. is attributable to a mental or physical impairment or combination of mental and physical impairments;
 - ii. is manifested before the individual attains age 22;
 - iii. is likely to continue indefinitely;
 - iv. results in substantial functional limitations in 3 or more of the following areas of major life activity:
 - v. Self-care.
 - vi. Receptive and expressive language.
 - vii. Learning.
 - viii. Mobility.
 - ix. Self-direction.
 - x. Capacity for independent living.
 - xi. Economic self-sufficiency; and
 - xii. reflects the individual’s need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated. (DD Act, Sec. 102(8)(A)(i-xii))

For a breakdown of Council membership requirements, visit [DD Act Council Membership Requirements](#)

9. What is the Annual Program Performance Report (PPR) and what is the Council member’s role in approving the report

The PPR is an annual report of progress that is made towards the Council’s five-year State plan.

The process in which Councils monitor progress on the 5-Year State plan varies. Council members typically monitor state plan progress through reports from staff at regularly scheduled Council meetings that provides information on grantee and staff activities connected to activities of the State plan; however, the development of the annual report of progress is mainly a staff activity.

10. What training is available for Council Chairpersons?

Annually, ITACC provides a Chairperson Leadership Training workshop held in conjunction with the Technical Assistance Institute. This workshop is for all DD Council Chairpersons and other citizen members who have leadership roles within a Council.

Additionally, DD Councils may have policies and procedures that support Chair or DD Council member training, but that is up to the discretion of each Council.

Resources are provided on page 42 of the [Chairperson Leadership Training Handout](#) under Leadership Resources.

Networking with other DD Council Chairs and member leaders may help identify training opportunities they found helpful to their role.

What does the DD Act say?

“...as determined in Council policy... supporting Council member and staff travel to authorized training and technical assistance activities including in-service training and leadership development activities;...” (DD Act, 125 (c) (c)(8)(A)(ii) (III)).

11. What is the relationship of the National Association of Councils on Developmental Disabilities (NACDD) and ITACC?

The National Association of Councils on Developmental Disabilities (NACDD) is the national association for Councils on Developmental Disabilities across the United States and select US territories. NACDD received the award to provide technical assistance services to all 56 Councils and territories regardless of their membership with NACDD.

ITACC is the name of the Technical Assistance project. ITACC is a federally funded training and technical assistance project which is overseen by the Administration on Intellectual and Developmental Disabilities (AIDD).

Section 129(b) of PL 106-402 provides that funding be made available to provide technical assistance to entities funded under the DD Act (PL 106-402).

12. Are there trainings for new members?

Currently, there is no national level training for new Council members. On the local level, DD Councils typically have a new member orientation training process conducted periodically for new members. For more resources see ITACC’s DD Council Member Guide, pages 9-12 - [Information Guide for New Council Members](#)

13. Is there a standardized form or mandated process for evaluating the executive director?

There is no standardized form or process for Councils to use to evaluate the executive director. However, the evaluation should be conducted in accordance with applicable state personnel policies and follow State laws and regulations. For information on the process of annually evaluating the executive director and a sample evaluation form, see 11-14 through 11-19 of the New Executive Director Orientation materials - [New Executive Director Orientation Materials](#)

What does the DD Act say?

“The Council shall, consistent with State law, recruit and hire a Director of the Council, should the position of Director become vacant, and supervise and annually evaluate the Director. The

Director shall hire, supervise, and annually evaluate the staff of the Council. Council recruitment, hiring and dismissal of staff shall be conducted in a manner consistent with Federal and State nondiscrimination laws. Dismissal of personnel shall be conducted in a manner consistent with State law and personnel policies.” (DD Act, Section 125 (c)(9)).

Reminder! The Executive Director is the staff member who works for, is supervised and evaluated by the Council. All other Council staff work under the direction of the Executive Director and are responsible to and evaluated by the Executive Director.

14. How do Councils share information about their funding opportunities?

The ways in which DD Councils share their funding opportunities will vary. Some Councils use list-serves, websites, newsletters, and social media to announce grant opportunities. Some Councils disseminate funding opportunities through other organization newsletters and websites as well as contacting the non-profit resource center in the state to leverage awareness of funding opportunities. Some states also have a statewide database of contacts where the Council may be able to post such announcements.

15 Can a Council member receive funding from the DD Council if the council member represents an organization that offers the best product or service to meet the goal?

Council members cannot financially benefit from their position as a Council member. This is a matter that deals with conflict of interest. A conflict of interest exists when a Council member or a member of their immediate family benefits financially or otherwise gives the appearance of conflict of interest. A conflict of interest can be real or perceived. A perceived conflict means it might not be real, but seems or appears real to someone else and is often more damaging than a real conflict because it is much harder to resolve.

Become familiar with and abide by your individual Council’s bylaws and related policies regarding conflict of interest. Some Councils have members and staff complete a conflict of interest form that allows the council member to list all other organizations, contacts and positions (i.e. Board memberships, other committee positions) they occupy that could potentially cause a conflict. These forms are typically updated each year.

The Chairperson (Council member leader), can remind Council members about meeting agenda items where a conflict of interest issue may arise for a member at the beginning of each Council meeting by asking if anyone needs to remove themselves from discussion and/or voting on a grant/project. Committee Chairpersons are encouraged to do the same for their meetings when appropriate.

What does the DD Act say?

“The plan shall provide an assurance that no member of such DD Council will cast a vote on any matter that would provide direct financial benefit to the member or otherwise give the appearance of conflict of interest.” (DD Act, Section 124(c)(5)(D)).

16. Can Council members who are representing State agencies, DD Network partners, and the non-governmental and non-profit categories be in the room when a grant proposal from their agency is being discussed?

The DD Act indicates that agency representatives must recuse themselves from any discussion of grants or contracts from their agency and abide by the conflict of interest policies of the Council and the State. Recusal means the member cannot participate in the discussion of grant or contracts associated with their agency. Some Councils may have policies that require a member to physically leave the room during discussion but that is not a national requirement. See DD Act guidance below regarding state agency representation and conflict of interest.

A conflict of interest exists when a Council member or a member of their immediate family benefits financially or otherwise gives the appearance of conflict of interest. A conflict of interest can be real or perceived. A perceived conflict means it might not be real, but seems or appears real to someone else and is often more damaging than a real conflict because it is much harder to resolve.

Become familiar with and abide by your individual Council's bylaws and related policies regarding conflict of interest. Some Councils have members and staff complete a conflict of interest form that allows the council member to list all other organizations, contacts and positions (i.e. Board memberships, other committee positions) they occupy that could potentially cause a conflict. These forms are typically updated each year.

The Chairperson (Council member leader), can remind Council members about meeting agenda items where a conflict of interest issue may arise for a member at the beginning of each Council meeting by asking if anyone needs to remove themselves from discussion and/or voting on a grant/project. Committee Chairpersons are encouraged to do the same for their meetings when appropriate.

What does the DD Act say?

“AUTHORITY AND LIMITATIONS. —The representatives described in subparagraph (A) shall—have sufficient authority to engage in policy planning and implementation on behalf of the department, agency, or program such representatives represent; and recuse themselves from any discussion of grants or contracts for which such representatives’ departments, agencies, or programs are grantees, contractors, or applicants and comply with the conflict of interest assurance requirement under section 124(c)(5)(D).” (DD Act, Sec. 125(b)(4)(A)(i-iii)(B)).

What does the DD Act say?

“The plan shall provide an assurance that no member of such DD Council will cast a vote on any matter that would provide direct financial benefit to the member or otherwise give the appearance of conflict of interest.” (DD Act, Section 124(c)(5)(D)).

17. Are there any changes that affect Council funding that councils will have to continue to fund the state self-advocacy group or does the state self-advocacy group need to work more towards self-funding?

Although some Councils choose to provide funding to their state self-advocacy organization, the DD Act does not mandate funding as a means of support.

The changes in funding are reflected in the DD Act Final Rule. If a Council is funding a state self-advocacy organization as a demonstration project or activity, the limitation on funding is five years. During the five-year period, the grantee should be working towards becoming self-sustaining. Consult with the executive director for more information on the Final Rule and demonstration requirements.

18. Can a Designated State Agency (DSA) charge for services?

Yes, the DSA can charge for services as requested by and negotiated with the Council.

Common examples of services many Councils receive from the DSA are:

- Personnel Services/Human Resource services
- Legal Services
- Contract Development Services
- IT Services
- Payroll Services
- Financial Responsibilities

The DSA can also request reimbursement up to ½ of costs not to exceed \$50,000 or 5% of the Council's annual grant award, whichever is less, for the expenditures found to be necessary for the proper and efficient exercise of the functions of the DSA.

For additional information see, DSA Roles, responsibilities and purpose
[DSA What does the DD Act say?](#)

What does the DD Act say?

“...at the request of any State, a portion of such funds provided to such State under this subtitle for any fiscal year shall be available to pay up to 1 /2 (or the entire amount if the Council is the designated State agency) of the expenditures found to be necessary by the Secretary for the proper and efficient exercise of the functions of the designated State agency, except that not more than 5 percent of such funds provided to such State for any fiscal year, or \$50,000, whichever is less, shall be made available for total expenditures for such purpose by the designated State agency:...”. (DD Act, Sec. 124(c)(5)(B)(vi)).

For more information and guidance on Reimbursement of expenses for functions of the Designated State Agency, see [DSA Reimbursement TA Guidance](#)

19. What is the maximum percentage of Council funds that can go to the UCEDD?

Councils are not required to fund a UCEDD. If the Council has a competitive bid process, some UCEDDS may choose to apply for funding, and Councils can choose to award funding to a UCEDD, but AIDD has not issued a “maximum percentage allowed” amount.

20. What is the difference between lobbying and educating policymakers?

The AIDD has issued guidance that indicates they believe grantees (Councils) will be able to meet their responsibility to inform, educate or advise policymakers under the DD Act and avoid violating the applicable limitations on lobbying by emphasizing nonpartisan analysis, study and research.

The Council may provide the information directly to Federal, State, and local policymakers, including Congress, the Federal executive branch, the Governors, State legislatures, and State agencies, in order to increase the ability of such policymakers to offer opportunities and to enhance or adapt generic services to meet the needs of, or provide specialized services to, individuals with developmental disabilities and their families.

Most Councils have developed guidelines for Council members to follow when they educate and inform policymakers at the state-level on policy issues. Members of Councils should only speak on behalf of the Council when authorized to do so consistent with its policies. When authorized to speak on behalf of the Council, members must represent the Council’s interest and not their own.

For more information click on the [ADD Program Instruction PI-01-1](#)

What does the DD Act say?

INFORMING POLICYMAKERS. —The Council may support and conduct activities to provide information to policymakers by supporting and conducting studies and analyses, gathering information, and developing and disseminating model policies and procedures, information, approaches, strategies, findings, conclusions, and recommendations.

DD Act, Sec. 125(c)(5)(I)(J)

Additional Information:

For more information on Federal Restrictions on Lobbying
[Restrictions for Lobbying Document](#)

To view the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (DD Act) in its entirety, visit the ACL website: [DD Act on ACL Website](#)

If you need the answers to the questions below in an alternative format, please contact Angela Castillo-Epps at 202-506-5813 ext. 100 or acastillo-epps@nacdd.org

** This project is supported, in part by grant number 90DN0292, from the U.S. Administration for Community Living, Department of Health and Human Services Washington, D.C. 20201. Grantees undertaking projects under government sponsorship are encouraged to express freely their findings and conclusions. Points of view or opinions do not, therefore, necessarily represent official Administration for Community Living policy.*