NACDD Board of Director call—July 28th 2020

Attendees: Steve Gieber, KS; Kim Mercer-Schleider, IL, Shannon Buller, WY; Val Bishop, SC; Eric Stoker, UT; Vicky Davidson, MO; Beth Swedeen, WI; Charles Hughes, MS; Julie Horntvedt, ND; Ann Trudgeon, OK

Committee Chairs (non-board Member) : Kristin Britton, MA

Guests: Brooke Lovelace, IA

NACDD Staff: Donna Meltzer, Robin Troutman, Sheryl Matney, Angela Castillo-Epps, Erin Prangley

Absent: Santa Perez, Dan Shannon

Call to order and roll call: 2:05pm

Discussion of Minutes from April 23, 2020: Charles Hughes

* Val Bishop and Shannon Buller have minor copy edits and will share with Robin. Val Bishop motioned to approve the Minutes and Eric Stoker seconded. Minutes were approved unanimously at 2:08pm

Board President update: Steve Gieber

* Virtual TAI went very well. We missed seeing everyone in person. It was great that his Council staff were able to watch in real time.
* *Hearts of Glass,* the documentary produced by Jennifer Tennican, has been picked up by Public Broadcasting and is starting to be shown in different areas. NACDD’s Board agreed a few months back to provide funding in the amount of $2,500 to cover closed captioning. This has proven to be a good investment, as our logo and information will appear each time the documentary is aired, giving us good exposure. Jennifer Tennican has informed us that some Councils are going to have watch parties with a focus in October during National Disability Employment Awareness Month
* Weekly Wednesday Zoom calls continue to be well attended and people feel more connected to each other because of these. We should continue to keep hosting these weekly calls because of the good attendance and because the speakers that the staff have brought from outside the network have been very informative and helpful.
* Annual Conference officially kicks off on August 6th with the CEO Awards Ceremony and a panel discussion by self-advocates from the network. Aaron Kaufman, a former NACDD board member and self-advocates will serve as moderator.

CEO Update: Donna Meltzer

* Donna reported that the weekly calls are indeed needed. She highlighted that this coming week (July 29th) we will have the new OIDD Director, David Jones join us for the beginning of the call. He is from the Department of Labor but we have not seen a full CV or bio. Julie Hocker or Jennifer Johnson will introduce him on the call.
* Sara Newell-Perez is expected to return to work at the end of August, but we do not have the exact date yet
* Donna noted that she will share updates now based on the NACDD’s FY 20-FY 22 Strategic Plan Goals. The 4 goals are:
  + Supporting Councils
  + Amplifying Voice of Advocates
  + Championing Federal Funding and Policy
  + Enhancing Internal Capacity/Organizational Administration

Donna noted that the NACDD staff have created a new dashboard to show the board how the staff work is in line with the plan. This will be a running list so the next report will have different colors or coding to show what is new/updated. (At this time Donna goes through the dashboard items. To see the full list please review the dashboard report shared in the Board meeting materials link.)

As a final note under the 4th goal listed above, Donna announced that as of yesterday July 27, 2020 that we have hired a new office associate who will begin on August 3rd. Rafael Rolon-Muniz, originally from Puerto Rico, who now lives in Washington DC. He will be doing communications and website work, plus working with Robin on operations and finance.

Questions/Comments

Kim Mercer-Schleider—Kim first said that she really likes the new format of the CEO update aligned with the Strategic Plan and encouraged continued use of this way of reporting. She then asked a question:– “When will we receive follow-up to questions and provision of examples that were promised by ACL/OGM following the webinar held with ACL back in April?” She stated concern that while it’s great that we continue to secure appropriations increases most year, it is still difficult to understand how that translates through the funding formula as some Councils get increases and others do not.

Donna replied that the answers to the questions that we submitted immediately after the webinar are currently on hold. She thinks that David Jones, once he gets settled, will respond. Donna will be sure to touch base with ACL and OIDD in a couple of weeks to bring this back to their attention.

Ann Trudgeon asked if David Jones is from Philadelphia. Donna responded that is not likely as he has been working in the federal government in Washington, DC for many years. He is coming to ACL from the Office of Disability Employment Policy at the Department of Labor. Donna noted that this is another indication that employment will be a major focus for OIDD for the foreseeable future.

Committee Reports

* Policy Committee—Kristin Britton
  + Under the Policy Committee two task forces have been established and continue to have important conversations. They are the Medicaid Waiver Unwinding Task Force and State Budget Emergency Task Force. The first group worked to gather information that was shaped into a very important letter with recommendations sent to CMS as reported by Donna. The State Budget Emergency Budget Task Force is continuing to support many Councils with messaging, resources and ideas for combatting budget cuts largely due to COVID-19 that are certain to have an impact on people with I/DD.
    - Survey on the State Budget TF was sent out to Councils and is still open. We are asking that all Councils fill out so that we can get consistent messaging.
  + NACDD endorsed two amicus briefs to educate district courts on why a new Title IX regulation will undermine the antidiscrimination purpose of the law, does not comply with the Administrative Procedure Act, and will cause irreparable harm to underserved students, including students with disabilities.
    - The cases are Pennsylvania, *et. al.* v. Devos (US District Court for the Southern New York District) and Equal Rights Advocates, *et. al.* v. Devos(US District Court for the Massachusetts District)*.* The regulation at issue (which NACDD opposed during public comment) makes schools less safe for students with disabilities to be protected from sexual harassment and assault because it changes Title IX’s enforcement to 1) deter underserved students from reporting; 2) changes to reporting requirements and narrowing the scope of sexual harassment investigations; 3) fails to address discriminatory practices based on bias and stereotype in Title IX proceedings; 4) requires law enforcement intervention which is known to deter reporting; and 5) requires quasi-criminal cross-examination procedure and heightened standard of proof will create an inaccessible, inequitable and traumatizing process for students with disabilities involved in sexual harassment and assault cases.
    - Due to time constraints, the PPC Chair and Board President expedited consideration that was later shared with the board and the committee.
  + Working on appropriations and HEROES ACT
    - Appropriations: The House Appropriations Committee approved $80M for State Councils on Developmental Disabilities.
    - Emergency Appropriations: The House passed HEROES Act included $10M for DD Act Programs to address COVID-19 related needs. Senators Warren (MA), Casey, Jr. (PA), Chris Van Hollen (MD), Sherrod Brown (OH), and Tim Kaine (VA), sent a letter to Senate leadership requesting $30 million in financial support for the Developmental Disabilities Network in the next COVID-19 relief package
* Self-Advocacy—Eric Stoker
  + The committee will next meet on August 11th at 2pm ET.
  + Agenda items will include review/reminder of resources available to Councils and self-advocacy organizations that have been developed to support advocacy in the states and territories.
    - A report out from committee members on how they have been supporting self-advocates and advocacy efforts during the COVID pandemic and other important updates and information.
* Finance—Julie Horntvedt
  + Mark Lewis (OK) and Julie have been working on updates to the Finance Policies Manual and will bring the changes back to the Finance committee. Once approved they will be brought to full Board for consideration.
  + The Committee had tabled discussion on the NACDD dues formula to ensure parity because of the pandemic but will now resume discussions.
  + Julie highlighted that the staff created a special budget narrative (sent out this morning). The narrative outlines the savings that NACDD currently has due to the pandemic and highlights the current revenue streams versus where we have not had to spend money because of cancelled in-person events, lack of travel, etc. She noted that there is a large surplus as of now. While that may go down a bit by the end of the fiscal year, it will still be a net excess. No questions or comments were brought forward.
* Member Services—Robin Troutman
  + Robin highlighted that many webinars that Donna spoke about in her report were hosted by the Member Services Committee. There were 3 webinars, Partners in Policymaking from the Living Room, Emergency Management, and Plain Language resources.
  + The next major Member Services event will be August 6th at 2pm ET. This will be the 2020 Champions of Equal Opportunity awards ceremony, and it will be followed by a panel discussion with advocates from across our network. They will share their thoughts on their own advocacy, how the 30th Anniversary of the DD Act, and the 50th anniversary of DD Councils have impacted advocacy and changed community living and much more. An invitation to the event went out last week to the network and we are asking that the invitation be shared widely. The recipients of the CEO Self-Advocacy awards are from Alaska and Nebraska.

Update on Allotment issue—Steve Gieber

* Steve Gieber reiterated the issue that Kim Mercer-Schleider asked about earlier about Councils wanting further information from ACL/OGM on the funding formula. As discussed earlier, Donna will go back to ACL to get answers to the questions we had back in the Spring.

Update on obligation/liquidation—Steve Gieber

* Donna raised the concern that there remains chatter on the Executive Director listserv about confusion and concern with the grant flexibilities that were reviewed by Allison Cruz on a webinar in April. Donna asked if Board members were still feeling confused and if more discussion is still needed.
* Kim Mercer-Schleider—The issues have not gone away but is there a way that we can revisit with ACL? Is there an opening for the conversation?
* Donna then asked Sheryl Matney to review the grant flexibilities under COVID and to discuss whether there is more understanding needed.
  + The questions are around if Councils are still experiencing challenges. Councils are having trouble estimating how long processes will take given remote work, state budget issues, and cost containment issues.
    - If there is a request to ask ACL to make further extensions, ACL will need information to address the request. Every single grant award (18, 19, 20) got an extension for COVID flexibilities. The question is around FY18 since they already received an extra year to fix previous issues, but do they get an additional year on top since they were at month 30 of 36.
    - In July 2018, Councils were allowed extended work into the third year to obligate with a program instruction in February in 2019. The COVID flexibilities are not adding another year on top of that. There is an extra year for 19 and 20 to be able to obligate and do the work.
    - Because the majority of Councils were able to obligate the majority of the FY18 funds (based on PPR) ACL does not consider it a systemic issue. There is a possibility for an individual Council to request a special consideration.
    - If NACDD wants to consider a national request for all DD Councils, more data will be necessary to determine what monies are not being obligated and why. To date this information has been difficult to gather because there are some Council Directors who are hesitant to report because the information is subject to a FOIA request.

Questions/comments

* Kim reflected that for her State of Illinois the problem is not procedural. They were able to obligate their money in time and assure the work was being done, but they do not like the new system. While they found a way to work within the new system, it does not mean that the new system is better. They will continue to perform under the interpretation of ACL, but it does not mean they agree with the interpretation.
  + Donna said that Wanda Willis had the same comment. Just because the Councils can do it, it doesn’t mean they believe it is the best practice to get work done.
  + Donna asked what the Board thinks could be done or should be done. How can NACDD staff support its membership moving forward? Donna stated that there is currently no crack in the window to seek further changes with ACL/OGM, but that if there is more data to gather or lessons learned from how operations are currently going, we should be collecting that and have it ready to use when there is an opportunity.
  + Ann Trudgeon said that COVID is a perfect opportunity to show that the extensions provided have been useful and that if leniency can be given now, why not always? Ann also noted that there is very likely to be a delay in receipt of funding for the coming year because of the election. Continuing Resolutions are expected which will mean that money is delayed getting to Councils and for many, without a final NOFA they cannot put out their sub-grants. Councils need to be able to plan for all kinds of things and pushing to get something done quickly is not always in the best interest of people with I/DD.
  + Beth Swedeen—Are there any changes to staffing at OGM that can be helpful to re-opening the discussion?
    - Donna answered that while William Kim is no longer there, his boss and Jennifer Johnson are both still there and are following the same interpretation

Steve suggests moving this conversation to after the board call since more needs to be discussed.

Beth Swedeen suggested we have more consistent meetings on this topic so that we do not lose momentum on the messaging, and that if there is an opportunity to revisit when we are ready.

Ann Trudgeon suggested getting another data point on how long it takes Councils to be able to put their grants out – a survey of states on their process from receipt of award to money out the door could be helpful for identify what changes might be helpful.

Donna will convene a new workgroup to revisit this conversation.

Follow up on messaging/communications group—Beth Swedeen and Kim Mercer-Schleider

* Kim and Beth reported that ACL has now contracted with a PR firm to do assess messaging currently being used and whether or not that messaging is helpful to ACL in promoting Councils and Council work when speaking with other government agencies and when they need examples and information about how Councils are working on a hot-button issue.
* 9 Councils are expected to be interviewed (3 small, 3 medium, 3 large). Questions asked were about perceptions of what Councils do and what their value is. Councils interviewed were asked what they wish ACL and others knew about them and could easily explain to others.
* Follow-up data will be analyzed and shared back with the Councils in order to support better messaging creation.

General Assembly Meeting—Steve Gieber

* Please hold September 2nd at 2pm ET for the Assembly meeting where we will hold board elections and vote on the dues. More information on voting for new Board members and on the dues will be coming soon.

Next Board meeting—September

* Robin will send out dates. The September Board meeting will be primarily to approve the new budget and the next quarterly Board meeting will be in October and will include the new Board members.

Motion to move into executive session—Shannon Buller; Val Bishop seconded. Motion carried. Board meeting went into Executive Session at 3:44pm.

Board Executive Session began at 3:44pm and concluded at 4:21pm.