



Justice Center for the Protection of People with Special Needs

ANDREW M. CUOMO
Governor

DENISE M. MIRANDA
Executive Director

NYS Justice Center for the Protection of People with Special Needs Advisory Council Meeting Summary June 24, 2021

Advisory Council Members Present: William Gettman (Chair), Denise Figueroa, Jason Hershberger, Walt Joseph, Ronald Lehrer, Delores McFadden, Kathy O'Keefe, Harvey Rosenthal, Jeff Savoy, Mary St. Mark

Advisory Council Members Not Present: Norwig Debye-Saxinger, Jeremy Klemanski, Glenn Liebman, Joe Macbeth, Tom McAlvanah, Judith O'Rourke, Clint Perrin, and Euphemia Strauchn

Justice Center Staff Present: Christine Buttigieg, Director of Communications, Laura Darman, Executive Deputy Director, Denise Miranda, Executive Director, Rebecca Mudie, Director of Intergovernmental Affairs, Davin Robinson, Deputy Director Outreach, Prevention and Support

I. Justice Center Updates

Advisory Council Membership

Megan O'Connor-Hebert's appointment to the Advisory Council was approved by the New York State Senate. Ms. O'Connor-Hebert is currently the vice president of care management at Care Design NY and has also worked at OPWDD and CQC. Members are invited to attend an orientation meeting for Ms. O'Connor-Hebert on August 12, 2020.

Hanns Meissner submitted his resignation from the Advisory Council prior to the meeting. His three years of service on the Advisory Council were recognized.

Legislative Updates

There were three bills considered in the NYS Assembly and Senate during the legislative session that ended earlier in the month. Only one of them passed the Assembly and the Senate. The bill that passed both houses expands Category Two notifications to OPWDD providers when all appeals by the subject are exhausted. Currently OPWDD providers are the only providers that can get information about Category 2 findings and they can only check for Category 2 findings as part of the pre-employment checks.

The bill that would expand the entities that can check the Staff Exclusion List before hiring to all adult homes, nursing homes, home health aides as well as all summer camps passed the Senate unanimously but did not advance in the Assembly.

A bill was introduced late in the legislative session to reconcile the Justice Center's Special Prosecutor authority with the recent Court of Appeals decision. This bill would allow the Justice Center to continue to assist local DAs throughout the state, with the consent of the DA, who would have ultimate authority over the case. It also amends the criminal procedure law to specifically delineate the Justice Center's sworn investigators as police officers, as opposed to deriving their police powers from being DA's investigators. This bill did not pass either house.

HALT Legislation

A new state law strictly limiting the amount of time inmates can spend in solitary confinement and increasing the amount of treatment and programming available to inmates with SHU sanctions was recently enacted. Under this new law, the Justice Center is charged with monitoring compliance and publishing an annual report on compliance with the law.

Release of Investigative Summary Reports

The Justice Center has an internal working group looking at the Protection of People with Special Needs act to make changes that will support a timelier release of investigative summary reports to subjects and provider agencies. The Justice Center believes that people who are subjects of substantiated reports are entitled to know the basis for their substantiated finding as soon as possible. A final draft of the summary reports will be shared with the Advisory Council for feedback prior to implementation.

Law Enforcement Disciplinary Records

A new state law requires disclosure of disciplinary records of law enforcement officers. The Justice Center is working on a process for disclosure of this information for its law enforcement officers.

Surrogate Decision-Making Committee (SDMC) Database

The new data base for SDMC has been delayed due to the COVID outbreak in India which has slowed down the ability of the developers living in India to complete the data base. The data base is now expected to be fully functional in February 2022 instead of in the fall of 2021.

TRAID

The Justice Center issued an RFP for operations of the 12 regional TRAIID Centers and received 13 responses. Award letters have been issued for the next five years of operations of these centers.

Return to Work

The Justice Center has been gradually phasing in a return to work in offices and expects to resume normal working hours in the fall.

II. Justice Center Abuse Prevention Committee Updates

Updates from the Justice Center's Prevention Committee meetings held in June of 2020 were presented. The Prevention Committee reviewed trends from corrective actions plans and investigations. The National Alliance for Direct Support Professionals attended one of the committee meetings to discuss the high vacancy rates in direct support positions and the importance of ongoing training on the Justice Center's Code of Conduct.

III. Legislation and Regulations Committee

The legislation and regulations committee met on May 26, 2021. The committee discussed the three legislative proposals discussed during the Justice Center updates portion of the meeting. Committee members will continue to work with the Justice Center to obtain support and enactment of these proposals.

Committee priorities for 2021

The Committee discussed legislative priorities for the upcoming session which included:

- the Staff Exclusion List (SEL) expansion bill passing the Assembly;
- working with legislators on willingness to amend/update the Justice Center statutes; and
- have reasonable conversations about departmental proposals

IV. Workforce Issues Committee

The committee met on June 4 and discussed the upcoming Code of Conduct Awards. The Justice Center is accepting nominations for the 2021 Code of Conduct awards. The deadline for submissions is July 9. The committee had a wide-ranging discussion about vaccine hesitancy among staff and the difficulties provider agencies are having recruiting and keeping staff.

Committee priorities for 2021

1. Increase the number of nominees for the Code of Conduct awards.
2. Identify any VPCR data that might guide the committee to make recommendations to the Justice Center and/or state oversight agencies regarding workforce issues.
3. Advocate for fair resources and wages for the workforce.
4. Advocate for a consistent approach to sharing information about staff who have been substantiated for Category 2 offences across state oversight agencies.

V. Abuse Prevention Committee

The abuse prevention committee met on June 21, 2021 and received an update on the Justice Center's internal Abuse Prevention committee.

Committee priorities for 2021

1. Review VPCR data and make recommendations to the Justice Center concerning prevention activities.
2. Develop a survey for provider agencies to obtain feedback on prevention tools developed by the Justice Center.

VI. Investigator and Law Enforcement Training Committee

The committee met on June 4, 2021. In response to the committee's recommendation to increase training opportunities for investigative staff at State Oversight Agencies (SOA) and provider agencies, the Justice Center will be offering two web-based trainings in 2021. The first training will be held on July 29 and it will be on the Justice Center's SOA-led investigative strategy memo. The second training will be on Sepsis in November. Committee members are encouraged to attend whenever possible.

The Justice Center's in-service training for investigative staff will cover investigative skills, legal issues and medical issues. Many of the courses are open to all Justice Center staff and this committee. Several outside experts are contributing to the course content this year, including Jason Hershberger, MD.

Committee priorities for 2021

1. Monitor investigative case cycle time and make recommendations as appropriate.
2. Review internal and external investigator training activities and assess opportunities for promoting Justice Center investigative training.
3. Review and promote as necessary any opportunities for law enforcement training on the Justice Center as well as disability awareness training.

Next Meeting:
Code of Conduct Award Ceremony
September 23, 2021 via Webex