



THE ARC OF NEW MEXICO LEGISLATIVE PRIORITIES (2023)

1. Wage increase for the workforce providing supports to individuals with I/DD through a rate increase for providers.

The recommendations of the rate study for the DD Waiver should be fully funded to assure quality services. Any increase in provider rates should include an increase of wages for direct support professional (“DSP”) staff. The Arc of NM considers the increase of wages for direct support staff in the DD Waiver system as the top priority this year.

There is currently a bill being proposed by the NM Caregivers Coalition requesting \$8.4 million to increase Direct Support Professionals (DSPs) salaries to a level of at least 150% of the highest local, state, or federal minimum wage in that area of New Mexico. There is a competing bill being proposed by ADDCP seeking \$7.7 million to fund provider agencies, which is being brought by Representative Thomson, which will provide some additional funding for DSPs.

2. Supported Decision-Making

Supported decision-making (SDM) should be used in addition to or in lieu of guardianships. Recently, eleven (11) other states passed laws in the 2021 sessions authorizing supported decision-making. SDM allows more discretion for people with disabilities to exercise their own independence and decision-making. I/DD individuals will be given much more discretion (in comparison to a guardianship) to determine such matters as housing, their medical care, how they want to spend their money, and the general day-to-day decisions that other individuals in society generally enjoy. Supported decision-making will make I/DD clients better self-advocates. Additionally, there is no fiduciary duty to the person who is assisting in helping make decisions. Also, having the supported decision-making documents in writing really protects and eases the mind of third parties who are justifiably relying on the authority set forth in the document. The fact that it is signed by the I/DD individual and contains the parameters of what decisions they are seeking support for allows third parties to rely on such written agreements.

With the most recent legislative session, legislators set up a Task Force for the consideration of drafting a new statute authorizing supported decision-making in New Mexico. The Task Force has created statutory language creating SDM, changes to the guardianship statute to incorporate SDM into consideration by the courts, and created a recommended form to be utilized in drafting SDM agreements. There were a number of legislators on the Task Force and it is still being discussed who will bring the legislation

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this next Legislative Session in January 2023. It currently looks like it will be Representative Joanne Ferrary from Las Cruces.

3. Education – training of school officials in de-escalation strategies and elimination of restraints and seclusion of I/DD students

The Arc of NM is aware of the fact that many students with disabilities face suspension or expulsion from school for relatively minor infractions. The Arc is seeking training for teachers, school resource officers (SROs), and school administrators to deescalate minor infractions involving people with disabilities and to educate teachers and law enforcement regarding positive behavioral supports. No restraints, corporal punishment, or seclusion should be used with I/DD individuals.

Almost every legislative session, a legislator brings a bill before the Legislature seeking to prohibit the use of restraints, corporal punishment, and seclusion. It is expected that Senate Majority Whip (and guest panelist at the 2022 Arc of New Mexico Annual Conference) Linda Lopez will carry a bill on this subject in the next legislative session.

4. First responder training and education concerning people with disabilities

Recently, the State of New Mexico and the entire country created the 988 phone number to call for assistance for individuals experience mental health issues. In conjunction with this new creation, first responders (law enforcement, fire, EMTs, etc.) should be educated on how to interact with I/DD community members when dispatched and when interacting with victims, witnesses, or suspects.

Sexual assault of people with I/DD is extremely prevalent, occurring at the rate of seven (7) times the rate of people without disabilities. First responders and health care professionals (EMTs, SANE nurses, ER doctors, etc.) are in the unique, frontline position to educate their patients about, and potentially stop or prevent sexual violence and abuse. However, they often have little or no experience talking about this issue with people who have I/DD. It is recommended that training occur regarding talking about sexual assault with people with I/DD during the initial education of doctors, nurses, medical assistants, and law enforcement officers in their initial education at medical schools, universities, colleges, and police academies, so that they are aware of best practices when communicating with I/DD victims of sexual assault.

A number of states have recently developed statewide commissions to address such training. One example is Colorado, which recently passed HB 21-1122, which created a commission of twelve (12) individuals, selected by the State's Attorney General to determine what training is needed and to assist in the implementation of the training. Of the twelve (12) member committee, composition is made up of the following: 1) two individuals with disabilities; 2) two parents of children with disabilities; 3) two people from advocacy organizations; 4) one person from the disability community; 5) one

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representative of statewide organization of current and former law enforcement; 6) one representative of statewide police chiefs; 7) one representative of statewide sheriffs; 8) one member of the Post board on officer standards and training; and 9) one member of the Post curriculum subject matter team.

We are proposing the creation of a similar commission or similar advisory council that would be responsible for overseeing the training of first responders throughout the State of New Mexico.

5. Employment and Wages

Members of the I/DD community remain among the least employed segment of our society. The Arc of NM supports an increase in funding for state vocational rehabilitation programs to ensure supported employment, customized employment, and workforce development programs.

Additionally, the Arc of NM is seeking to eliminate subminimum wages for I/DD community members. Originally, subminimum wages were authorized almost one hundred (100) years ago due to not having many jobs appropriate for I/DD individuals at that time. Since then, society has changed significantly through technology and an increase in the number of jobs. COVID has also decreased the workforce and jobs are currently plentiful. Eight (8) other states are phasing out subminimum wages over a period of years. Each state has recognized that 14(c) was passed during the Great Depression to incentivize employers to hire I/DD individuals for more menial jobs. Society has changed markedly since then.

Due to the subminimum wages, I/DD individuals oftentimes are only paid pennies on the dollar. They frequently are unable to find employment that provides them with a livable wage. It should be noted that the federal government is considering the elimination of subminimum wages. The Arc NM would note that one hurdle to integrated employment for members of the I/DD community is the scarcity of job coaches and direct care attendants.

The Arc is seeking to expand the training, internships, and jobs for I/DD community members. The I/DD community needs more access to trained job coaches to assist them with finding employment. There should be an allocation of money by the Legislature to increase the training and education for more job coaches to assist placing I/DD individuals in a more inclusive setting.

6. Affordable Housing

Being part of the community and living as independently as possible are among the most important values and goals shared by people with disabilities, their families, and advocates. A home of one's own – either rented or owned – is the cornerstone of

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independence for people with disabilities. However, across the U.S. people with disabilities, including people with intellectual and developmental disabilities (IDD), face a severe housing crisis.

For people with disabilities, there are far too many barriers to housing. Without affordable, accessible housing in the community, many are at risk of institutionalization or homelessness.

Across the nation, many people with disabilities are experiencing an **affordability** crisis. Most people with disabilities who rely on federal monthly Supplemental Security Income (SSI) have incomes averaging only about \$9,156 per year – low enough to be priced out of every rental housing market in the state. Additionally, many people with IDD live with **aging caregivers** (age 60 and older). As this generation of caregivers continues to age, many of their adult children with IDD may be at risk of institutionalization or homelessness.

An accessible home offers specific features or technologies such as lowered kitchen counters and sinks, widened doorways, and wheel-in showers. For people who use mobility devices, finding housing with even basic **accessibility** features (e.g. an entrance with no steps) can be daunting, if not entirely impossible or unaffordable. The **availability** of affordable, accessible housing remains far less than the need, leaving far too many people with IDD institutionalized, homeless, or in [“worst case” housing](#) (paying too much in rent to afford other basics or living in severely inadequate conditions).

The Arc of New Mexico and the national Arc support key programs at the U.S. Department of Housing and Urban Development (HUD) that seek to increase affordable housing for people with disabilities that include:

Section 811 Supportive Housing for Persons with Disabilities Program. Section 811 is the only HUD program dedicated to producing affordable, accessible housing in the community for non-elderly, very low-income people with significant disabilities.

Section 8 Housing Choice Vouchers. HUD’s Section 8 Housing Choice Voucher program helps very low-income families, the elderly, and people with disabilities afford rental housing in the private market. About 1 in 3 households using Section 8 vouchers are headed by a non-elderly (under age 62) person with a disability.

National Housing Trust Fund. The National Housing Trust Fund (NHTF) is a new, dedicated fund that provides grants to states to build, preserve, and rehabilitate housing for people with the lowest incomes.

The Arc of New Mexico also supports legislation that would establish a specific “disability housing trust fund” for the construction of affordable housing for very low-income people and people with intellectual and developmental disabilities (IDD). Specifically, this housing trust fund would provide a pool of money for the building of houses, duplexes and other small living units. Currently, there is a statewide housing fund, the New Mexico Mortgage Housing Trust

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Fund that has been developed in 2005 by the State Legislature that was just recently finally funded on an annual basis in 2022 with recurring funds. However, the current housing trust fund is primarily concentrated on building larger apartment complexes and condominiums that are not necessarily accessible to individuals with mobility devices or who are in need of other accessibility features.

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