

New Mexico Developmental Disabilities Council Update

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NM Legislative Health and Human Services Committee
October 5, 2022



NM Developmental Disabilities Council

State agency that empowers and serves New Mexicans living with intellectual, developmental, or other disabilities

Council purpose by federal & state mandate:
Advocacy, systems change, and capacity building

Council membership is statutorily mandated and appointed by the Governor.

Photo of a smiling woman holding a smiling girl with Down Syndrome. Source: www.ddc.org



NM DDC Programs

Center for Self-Advocacy

- Advocate Leadership Academy
- Marilyn Martinez State Jobs Program

Office of Guardianship

- Adult guardianship and legal services to income-eligible New Mexicans with disabilities
- Additional guardianship oversight duties (HB 234, 2021)

Office of the Special Education Ombud

- Established in 2021
- Advocates with students with disabilities and their families to obtain individualized educational services in public schools

- In FY22, CSA trained over 800 individuals with disabilities and their family members on leadership, self-advocacy, and disability-related issues in self-advocacy conferences, advocacy programs, and classrooms.
- In FY22, 9 future leaders (Native American, Hispanic, and a majority of women participants) completed the Advocate Leadership Academy. Over 70 alumni have completed the program, and many hold leadership positions across the state.
- CSA staff present at UNM trainings, including THRIVE, Partners in Policymaking, and New Mexico LEND.
- CSA staff lead and participate in projects, boards, committees, and various agency and community groups.
- In FY22, CSA activities reached about 2,790 people.
- CSA launched the Marilyn Martinez State Jobs Program in October 2021. CSA hired its inaugural class of job trainees in April 2022.

Center for
Self-Advocacy
(CSA)

Office of Guardianship (OOG)

- Professional guardianship services to 979 protected persons
- Legal services to over 50 individuals in guardianship proceedings
- OOG's waitlist: 163
- FY22 completed new cases: 156
- Wait list ballooned from 52 in January 2022 to 182 by the end of FY22—a **350% increase**.

HB 234 Guardianship Oversight (2021)

NM DDC, recognizing the need to strengthen guardianship oversight in New Mexico, worked to draft and pass House Bill 234 in the 2021 Regular Legislative Session.

HB 234 directed OOG to:

- Conduct annual comprehensive service reviews of every professional guardianship agency providing state-funded guardianship services.
- Conduct protected person welfare visits.
- Recruit and train volunteer court visitors.
- Conduct a court visitor pilot project in partnership with the Administrative Office of the Courts (AOC).
- Publish an annual report.

H234 directed the judiciary to:

- Establish AOC's Guardianship Annual Report Review Division.
- Establish the Working Interdisciplinary Network of Guardianship Stakeholders (WINGS).
- Require legal professionals and guardians to identify the least restrictive options throughout the guardianship process.

- Extensive, detailed evaluation of state-funded guardianship services provided by professional guardians
- Developed as pilot projects in FY17 and FY18
- Close examination of each guardianship service provider's operations:
 - Policies and procedures
 - Protected person welfare visits
- Evaluate whether state-funded professional guardians are complying with the terms of its agreement with OOG, the National Guardianship Association's Standards of Ethics, New Mexico law, and each protected person's court orders
- Conducted by an outside agency
- Evaluation team includes a certified guardian and a New Mexico licensed attorney

Comprehensive Service Review (CSR)

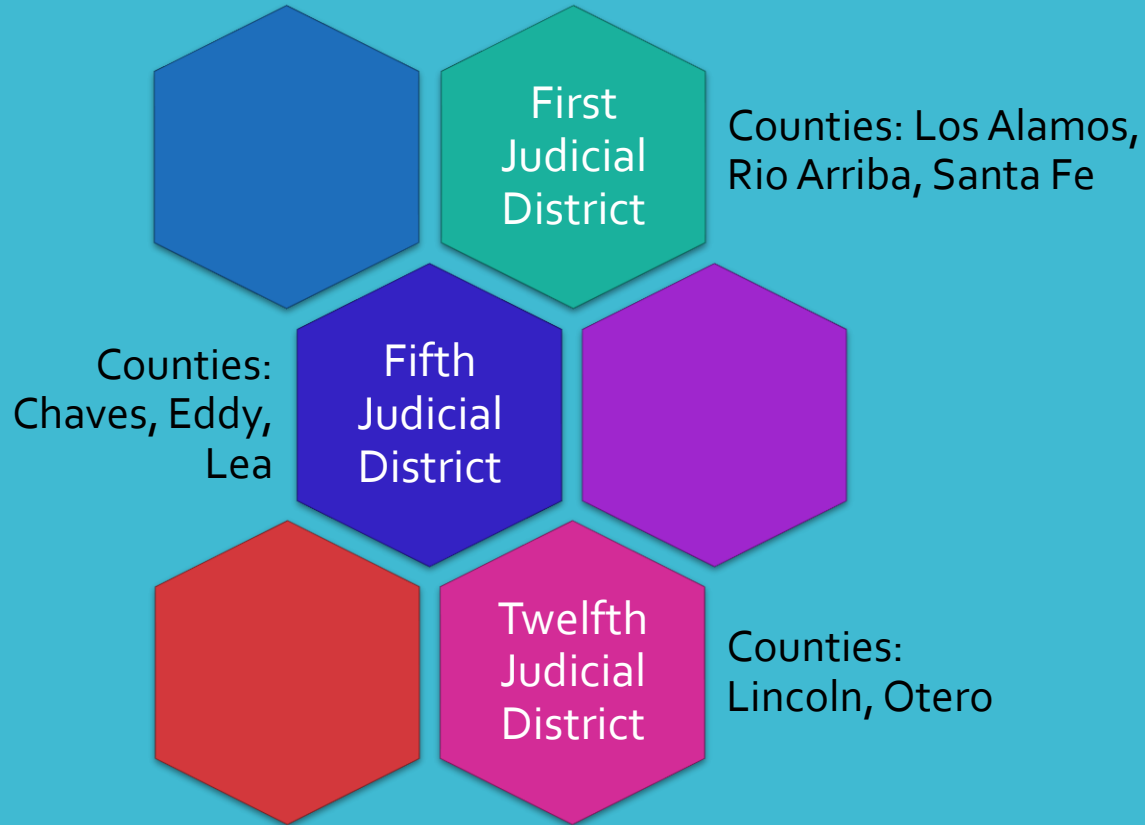
FY18	FY19	FY20	FY21	FY22	FY23 (to date)
<p>Number of CSRs completed: 5</p>	<p>Number of CSRs completed: 16</p> <p>Number of agencies with deficiencies: 6</p>	<p>Number of CSRs completed: 20</p> <p>No action necessary: 1</p> <p>Request for additional documentation or information: 17</p> <p>Corrective action plans implemented: 2</p>	<p>Number of CSRs completed: 13</p> <p>No action necessary: 1</p> <p>Request for additional documentation or information: 7</p> <p>Corrective action plans implemented: 2</p> <p>Contracts terminated: 2</p>	<p>Number of CSRs completed: 24</p> <p>No action necessary: 11</p> <p>Request for additional documentation or information: 3</p> <p>Corrective action plans implemented: 9</p> <p>Contracts terminated: 3</p>	<p>Number of CSRs completed: 5</p> <p>No action necessary: 5</p> <p>Request for additional documentation or information: 0</p> <p>Corrective action plans implemented: 0</p>

CSR Trends

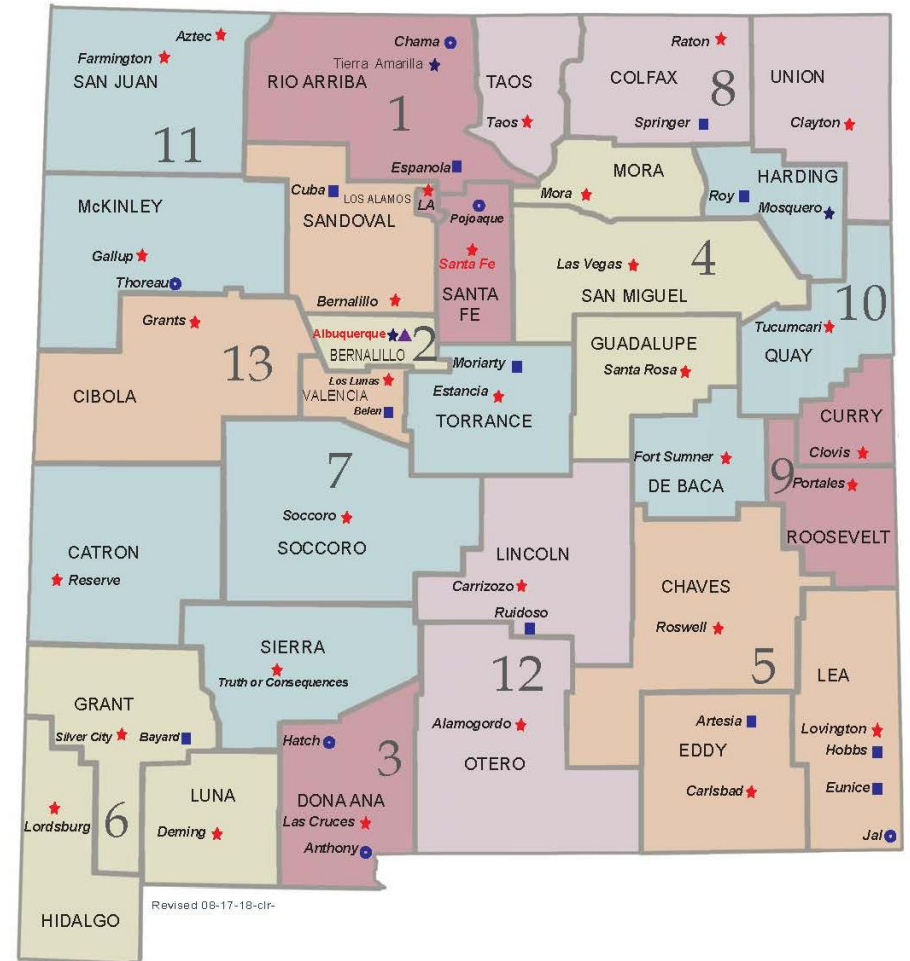
OOG FY24 Budget Request

- \$600,000 OOG Provider Rate Increases (recurring)
 - The Legislature funded a rate study for OOG providers in FY21 and only partially funded the rate increases for FY23. This budget request fully funds the recommended rate increases for FY24.
- \$850,000 OOG Waitlist Management (recurring)
 - The request will fund 250 new cases in FY24.
- \$332,000 for FY23 Guardianship Waitlist Management (non-recurring)
 - The request will partially fund 160 cases in FY23.

Court Visitor Pilot Project



NEW MEXICO STATE COURTS



Supreme Court
Santa Fe

Court Of Appeals
Santa Fe & Albuquerque

- ★ District & Magistrate Courts
- ★ District Courts
- Bernalillo County Metropolitan Court
- Magistrate Full Courts
- Magistrate Circuit Courts

Judicial District Courts by County:

1st	2nd	3rd	4th	5th	6th	7th
Los Alamos	Bernalillo	Doña Ana	Guadalupe	Chaves	Grant	Catron
Rio Arriba			Mora	Eddy	Luna	Sierra
Santa Fe			San Miguel	Lea	Hidalgo	Socorro
						Torrance
8th	9th	10th	11th	12th	13th	
Colfax	Curry	De Baca	McKinley	Lincoln	Cibola	
Taos	Roosevelt	Harding	San Juan	Otero	Sandoval	
Union		Quay			Valencia	

Supported Decision Making (SDM) Task Force

- \$15,000 in FY22 for supported decision making task force
- Review existing SDM models and solicit key stakeholder input in order to develop a strategy for implementing SDM in New Mexico
- The 25 task force members included:
 - Protected persons subject to guardianship
 - Persons relying on alternatives to guardianship
 - Persons with disabilities
 - Family members of persons with disabilities
 - Professional guardians/conservators
 - Legal services organizations
 - Disability advocates
 - Service providers
 - Policy experts
 - Attorneys
 - Judiciary
- Convened 3 task force meetings and additional subcommittee meetings

What is supported decision making?

- **Supported Decision Making** (SDM) is a process by which the **Principal** makes their own decisions with the assistance of a trusted group of **Supporters**.
- *Supporters do not make decisions for the principal.*
- A **Supported Decision Making Agreement** (SDMA) memorializes that arrangement and details the identity of each supporter and their roles.
- SDMA's can be used:
 - To help the principal develop decision making skills and supports;
 - To legitimize and explain the involvement of supporters to third parties;
 - To ensure that the principal's decisions are still honored even when they are made with the assistance of supporters;
 - In conjunction with other instruments, such as releases of information, powers of attorneys, or advance directives;
 - As an alternative to guardianship or within guardianship, either to supplement a limited guardianship, to prioritize self-determination within a plenary guardianship, or as part of a plan to transition a person out of guardianship.
- SDM is inherently a highly individualized process, and SDM agreements should be tailored to the principal's unique needs.

SDM Task Force Findings

- Guardianship is:
 - Often the “go-to” intervention for individuals with disabilities, even when it is not necessary;
 - Sometimes ordered with insufficient medical justification or exploration of least restrictive alternatives;
 - Often the default because people and courts assume people with disabilities lack capacity.
- Pipelines to guardianship include schools, foster care, medical facilities, the criminal justice system, and institutions serving unhoused individuals.
- SDM is a valuable mechanism:
 - For maximizing the autonomy, agency, and civil rights of New Mexicans living with disabilities;
 - As an alternative to unnecessary guardianships;
 - As an accommodation to help people with disabilities exercise legal capacity in a manner equal to others.
- SDM represents a paradigm shift that challenges paternalistic ideas about the inability of individuals with disabilities to direct their own lives, and about the need to prioritize their protection versus their autonomy. Adoption of SDM will require buy-in from stakeholders and a significant cultural shift.

SDM Task Force Conclusions

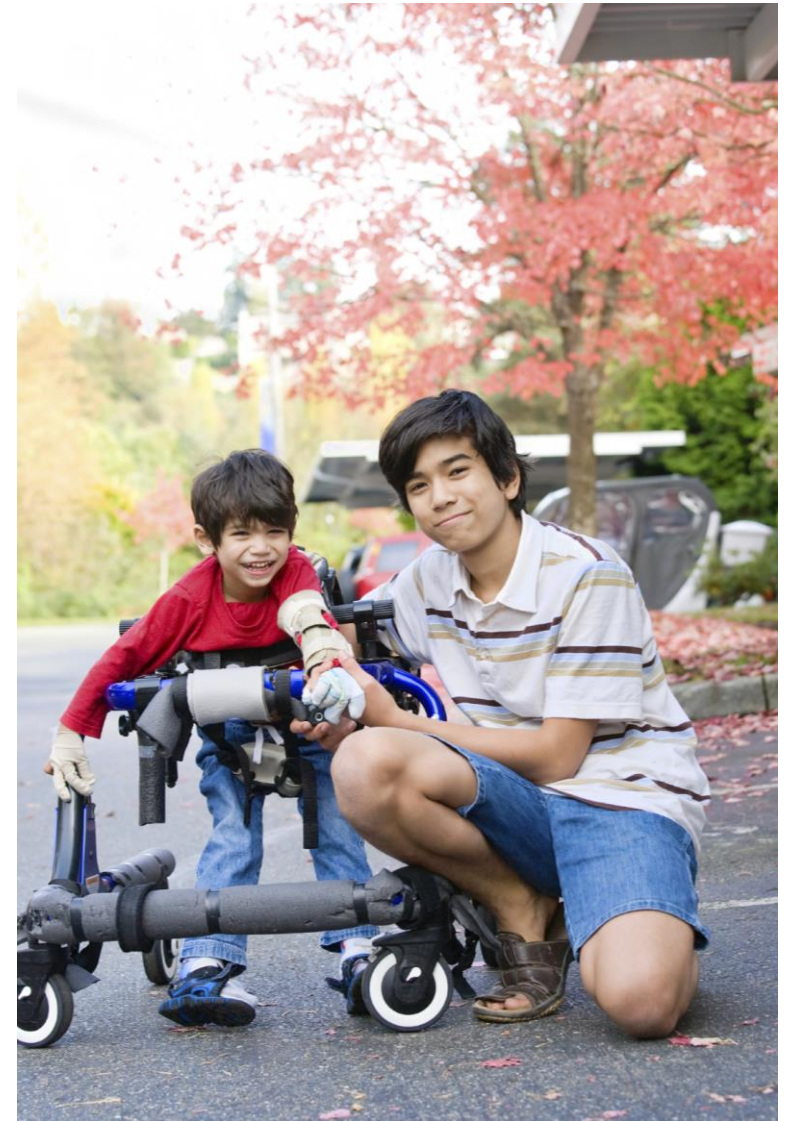
- Legislation will be the most effective strategy for SDM implementation in New Mexico by:
 - Clarifying how the model works;
 - Creating a uniform process and form;
 - Lending the legitimacy necessary for the model's acceptance by individuals, service providers, and institutions.
- Model form should:
 - Be written in plain language and explain what SDM is;
 - Be highly customizable for individualized needs;
 - Contain information about FERPA, HIPAA, or other necessary releases;
 - Explain how to report suspected abuse, neglect, or exploitation.
- Principal should have broad discretion to select their own supporters, with few exceptions. Potential conflicts of interest will be managed by supporters' duty of care as outlined in the statute.
- An indemnity provision will be important to ensure third-party acceptance of SDM agreements.
- Engagement of stakeholders, education and outreach, and the development of resources and infrastructure will also be critical components for SDM success.

HB 222 Special Education Ombud (2021)

“All too often, families must battle with schools over the details of individual education plans or the extent of services their children need. From now on, students and families will have an expert ally who understands the process from beginning to end.”

– *Governor Michelle Lujan Grisham*

Photo of a smiling young boy in a walker with a smiling teenage boy kneeling next to him outdoors.
Source: EPICS.



Office of the Special Education Ombud (OSEO)

- New program launched on December 1, 2021
- Statewide network of trained volunteer ombuds
- Requiring public schools to prominently display and individually provide ombud information to every student
- Empowering students & families by providing resources & support in navigating the complex special education system
- Systems change advocacy through collaboration & accountability
- Annual report on the state of special education in New Mexico
- Special Education State Ombud: Michelle Tregembo
- Partnering with advocacy groups, including Parents Reaching Out, EPICS, NADLC, DRNM, Elevate the Spectrum

Duties of the Special Education Ombud

- Serve as a source of information on state and federal laws and regulations governing special education.
- Assist parents in developing strategies to address issues and resolve concerns.
- Promote collaboration and meaningful communication between parents, schools, and district personnel.
- Serve as a hub of resources for disability-related information, referrals to advocacy groups, and services for individuals with disabilities.
- Make recommendations to NMPED, the Executive, and other state agencies to problem solve systemic concerns emerging from OSEO's work.
- Gather, analyze, and report on special education data from sources across stakeholder groups.

- From December 1, 2021, to September 15, 2022, OSEO has served 165 families in 29 school districts and 19 counties in every region across the state.
 - Advocated with students and families at over 70 meetings
 - Shared information and resources, answered questions, and reviewed options for next steps with students and families.
- OSEO developed a 16-hour initial training for volunteer ombuds, followed by shadowing, hands-on training, and supervised casework. OSEO has recruited and is currently training 10 volunteer ombuds.
- From December 1, 2021, to September 15, 2022, OSEO completed 24 presentations to hundreds of people across the state, including students, families, teachers, administrators, special education directors, and superintendents.

OSEO Update

DDC Feedback on LHHS Concerns

DD Waiver rapid allocation

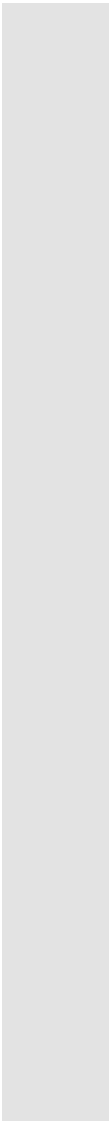
- What DD Council members have encountered
- What the Special Education State Ombud has encountered

Direct service professional (DSP) rates

- Mandated rates
- Adequate funding



DD Council Policy Priorities

- State agency accessibility
 - Accessibility in higher education
 - Restraint and seclusion in schools
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Questions?