



April 20, 2020

Sent Via Email: com@dc.gov; Wayne.Turnage@dc.gov; Laquandra.Nesbitt@dc.gov; Andrew.Reese@dc.gov.

Mayor Muriel Bowser
Deputy Mayor Wayne Turnage
1350 Pennsylvania Ave NW
Washington, D.C. 20004

Dr. LaQuandra Nesbitt
Director, D.C. Health
899 North Capitol Street, N.E.
Washington, D.C. 20002

Andrew Reese
Director, Department on Disability Services
250 E Street, S.W.
Washington, D.C. 20024

Re: Need to Act to Protect D.C. Residents with Intellectual Disabilities

Dear Mayor Bowser, Deputy Mayor Turnage, Director Nesbitt and Director Reese,

Disability Rights DC (DRDC) at University Legal Services is the federally-designated protection and advocacy program for people with disabilities in the District of Columbia. As such, DRDC advocates to protect the rights of DC residents with disabilities and to protect them from abuse and neglect. DRDC requests that you take immediate action to protect the health of District residents with intellectual disabilities supported by the Department on Disability Services (DDS) during the COVID-19 pandemic as delineated below.

The District Must Track and Disclose to the Public the Number of People Supported by DDS Who Have Tested Positive for COVID-19.

DDS reported at their April 17, 2020 weekly community forum that 49 people with intellectual disabilities supported by DDS have tested positive and eight have died from COVID-19. As approximately 2200 D.C. residents are currently supported by DDS, this translates to two percent of the total DDS population, which is six times the occurrence when compared with the D.C. population as a whole. And this is likely an underestimate of the prevalence of COVID-

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19, given the limited access to testing. The District is currently publicly reporting, with daily updates, on the occurrence of COVID-19 in St. Elizabeths Hospital, the Department of Corrections, the Department of Youth Rehabilitation Services and homeless shelters,¹ yet has failed to report the same statistics daily for the people supported by DDS despite the devastating spread of COVID-19 throughout this vulnerable population. And while DDS has begun requiring its providers to report as an “incident” any staff who test positive for COVID-19, these statistics are not included in the Mayor’s daily updates shared with the public on the District’s Coronavirus data website.

The fact that DDS’ residential placements² are managed by private providers who contract with the D.C. government and not the D.C. government directly does not alter the District’s responsibility to protect this population from harm. Many of the residential homes where people with intellectual disabilities are placed are licensed by DC Health and services and staffing are funded by both DDS and the Department of Health Care Finance. Therefore, DDS must provide this information to the Mayor’s office and it should be reported to the public along with the statistics for other vulnerable populations.³ District residents with intellectual disabilities must not be forgotten.

The District Must Ensure that DDS Has a Comprehensive and Coordinated Plan to Protect the Individuals They Support

Although DRDC recognizes that D.C. Health is the primary District agency responding to the COVID-19 pandemic, DDS must play a more involved, proactive and collaborative role in providing the necessary technical support for its providers and for the people they support. DDS’ active involvement is essential as it has the expertise in supporting people with intellectual disabilities, who often have specific health and behavioral needs that must be addressed. DDS should establish a crisis team, with physicians and nurses with expertise in working with people with intellectual disabilities, along with competent DDS staff, who can provide immediate assistance to providers when someone in a DDS residential placement tests positive for COVID-19 and to act to limit and prevent the spread of COVID-19 across all residential settings including those individuals living with family members. The crisis team should formulate directives for all providers to follow, instructing providers how to identify and act when DDS consumers and staff are symptomatic, require testing, isolation, hospitalization, and aftercare,

¹ See Covid-19 data in the District of Columbia, <https://coronavirus.dc.gov/page/coronavirus-data>.

² DDS places the people it supports in a variety of residential settings. Those settings include Intermediate Care Facilities (funded by D.C. Medicaid), Residential Habilitation homes (group homes, funded by the D.C. Medicaid I/DD Waiver and DDS), Supported Living residences (apartments or small homes of three or less, funded by the D.C. Medicaid II/DD Waiver and DDS) and Host Homes (funded by the D.C. Medicaid I/DD Waiver and DDS). DDS also supports individuals with intellectual disabilities who live in their natural homes, both independently or with family members.

³ DRDC recognizes that DDS has begun reporting in its weekly community forums on the number of DDS consumers who have tested positive and have died as a result of COVID-19 and the number of staff who have tested positive for COVID-19. DRDC appreciates this reporting. However, this information is not widely received by the public and not updated daily and therefore, it should be reported on the Mayor’s Coronavirus data website.

including the providers' obligation to hold their placements for readmission. Guidance on D.C. Health's website and in a Mayoral Order are helpful but not a sufficient means to provide this critical information and assistance.

The team would assist D.C. Health in coordinating or scheduling testing of residents and staff, securing staffing, acquiring PPE, providing technical assistance to providers and assisting in identifying other physical locations if any residents must be moved. The team should proactively identify providers with vacant homes and help secure hotel rooms, as it is inevitable that quarantine locations will be necessary, and automatic nursing facility placement is not appropriate.

Community physicians and nurses who have expertise in the DDS service delivery system and in the health needs of people with intellectual disabilities are a critical component of this team. Dr. Brown, a part-time physician DDS is contracting with to provide technical assistance and quality oversight, should be actively involved on the crisis team with all providers who are supporting people who have tested positive for COVID-19 and to assist in mitigating the spread of COVID-19 in residential settings, but he cannot be the only physician involved. DRDC recommends the District consult with Dr. Kim Bullock, academic faculty at the Georgetown School of Medicine and an emergency room physician in D.C. who worked for over a decade with DDS consumers and has extensive local and national experience with providing health care to this population, for assistance and recommendations.

DDS Should Take Swift Action to Provide Community Services for DDS Consumers who are Currently Institutionalized at St. Elizabeths Hospital and Other Area Psychiatric Facilities

As you are aware, COVID-19 has spread quickly through St. Elizabeths Hospital and will likely continue to spread throughout the large institution. As of April 19th, 37 patients there have tested positive, 57 staff have tested positive and four patients have died.⁴ There are individuals with intellectual disabilities currently placed at St. Elizabeths Hospital who are eligible for DDA services, are already on the rolls of DDA and therefore, should have immediate access to services. DDS must act now to identify residential placements for these individuals, including emergency respite placements. DDS must also expedite the applications of D.C. residents who have applied for DDA services and are currently institutionalized at St. Elizabeths Hospital and other area psychiatric facilities. The likelihood of positive health outcomes increases if these D.C. residents are moved out of large congregate settings and into the community, supported by providers with expertise in working with individuals with intellectual disabilities. The District should ensure that DDS, in coordination with the Department of Behavioral Health and D.C. Health, develops a safe transition for the patients with intellectual disabilities at St. Elizabeths Hospital and other D.C. psychiatric facilities.

⁴ <https://coronavirus.dc.gov/page/coronavirus-data>.

The District Must Ensure that DDS Tracks the Health Status and Employment Assignments of Provider Staff

It is very likely that the 49 individuals who have tested positive have contracted COVID-19 from staff. Prior to this health crisis, direct care staff and supervisors worked for multiple providers and that number has likely increased now. DDS has, however, failed to develop a system to track staff and the provider agencies to which they are employed. Tracking this information is essential to preventing cross-contamination among providers and residential placements. Providers must be immediately notified if a direct care staff has worked for another provider where someone tested positive, both to protect staff and the residents with intellectual disabilities. The Mayor should direct DDS to develop a system to track this critical information.

The District Must Ensure that All Providers Have Sufficient PPE, Medical and Cleaning Supplies

While the April 15, 2020 Mayor's Order directs providers supporting people with intellectual disabilities in their residence to have adequate PPE, cleaning supplies and medical equipment, it fails to place any obligation or responsibility on the District government to secure such equipment. DRDC is pleased to hear that providers are now starting to receive some of the PPE they need from D.C. Health and requests that D.C. Health continues to provide these supplies to providers, who may have difficulty in acquiring the PPE themselves. In addition, while the Mayor's Order requires providers to take the temperatures of employees and residents, providers have reported they lack an adequate supply of thermometers and probe covers. DDS must take action, along with D.C. Health, to ensure that the residential providers continue to have sufficient PPE for direct care staff, nurses and residents, disinfectant supplies and thermometers, including probe covers.

The District Must Provide Increased Wages to Direct Care Staff Now

Direct care staff are on the frontline and provide care that does not allow them to social distance. These essential workers are putting their own health at risk to support District residents with disabilities. The District must adequately compensate direct care staff for the care they provide.

The District's Appendix K submission to CMS provides for some pay increases for staff but is not adequate to compensate staff and to encourage staff to continue their employment. The District's submission only provides an increase to direct care staff working with waiver recipients when the individuals are medically quarantined due to COVID-19. Staff's wages must be increased, whether they are supporting someone who has tested positive or not. Staff are currently risking their lives, for less than \$15 an hour. Staff feed, bathe and plan activities for District residents with intellectual disabilities, many whom rely on others for most or all of their activities of daily living. They deserve an increase to their hourly rate now in all homes, with all people. And there should be an even higher rate when staff are supporting individuals who have tested positive. If the District fails to amend their Appendix K submission to fairly compensate

staff, the staffing shortages will continue to grow and District residents with significant intellectual, medical and behavioral needs will likely be left without the support they require.

I am aware there are many urgent needs in the District at this time and appreciate your attention to these issues, affecting D.C. residents with intellectual disabilities.

Sincerely,

/s/ Sandy Bernstein
Sandy Bernstein, Esq.
Legal Director

cc: Councilmember Nadeau
Councilmember Gray