

Texas Council on Consumer Direction

Bylaws

1. Name and Legal Authority

The Texas Council on Consumer Direction (“the Council”) is established under Texas Government Code § 531.012.

of its creation, the Council will be abolished on July 1, 2020, unless Texas Government Code § 2110.008(b) is amended to provide a later date of abolition.

2. Purpose and Role

The purpose of the Council is to advise the Texas Health and Human Services Commission (“HHSC”) on matters as described below:

- A. Advise HHSC on the development, implementation, expansion, and delivery of services through consumer direction in all programs offering long-term services and supports. Long-term services and supports enhance a consumer's ability to have freedom and exercise control and authority over the consumer's choices, regardless of age or disability.
- B. The Council makes recommendations to HHSC to:
 - o Expand the delivery of services through consumer direction to other programs serving persons with disabilities and elderly persons under Texas Government Code, Chapter 531, Subchapter B;
 - o Expand the array of services delivered through consumer direction;
 - o Increase the use of consumer direction models by consumers;
 - o Optimize consumer choice of Financial Management Services Agencies (FMSAs);
 - o Expand access to support advisors for consumers receiving long-term care services and supports through consumer direction;

- Monitor and analyze research for best practices in self-determination, consumer direction, and training;
- Provide guidance and support to consumer outreach efforts;
- Increase informed choices, opportunities, and supports as a means to lead self-determined lives through the use of consumer direction models; and
- Perform other tasks consistent with its purpose as requested by the Executive Commissioner.

The Council submits recommendations to HHSC as described below:

- A. The Council files an annual written report to the Executive Commissioner no later than October 1st. The report includes:
 - A list of the meeting dates;
 - The members' attendance records;
 - A brief description of actions taken by the Council, including staff and member orientation, training, strategic planning, retention, and evaluation efforts;
 - A description of how the Council accomplished its tasks;
 - A summary of the status of any rules that the Council recommended to HHSC;
 - A description of activities the Council anticipates undertaking in the next fiscal year;
 - Recommended amendments to this section; and
 - The costs related to the Council, including the cost of HHSC staff time spent supporting the Council's activities and the source of funds used to support the Council's activities.

3. Council Composition

The Council is composed of 17 voting members and 8 non-voting members appointed by the HHS executive commissioner as described in Texas Administrative Code §351.817.

This membership includes:

- A. Three members to serve as consumers or potential consumers of the array of services provided through consumer direction;

- B. Two members to serve as advocates for elderly persons who are consumers of the array of services provided to elderly persons through consumer direction;
- C. Two members to serve as advocates for persons with disabilities who are consumers of the array of services provided to persons with disabilities through consumer direction;
- D. Three members to represent financial management services agencies providing services through consumer direction;
- E. One member to represent a STAR+PLUS managed care organization;
- F. One member to represent a STAR Kids managed care organization;
- G. One member who serves as a mental health services advocate for consumers who receive consumer-directed services;
- H. One member who represents a Local Intellectual and Developmental Disability Authority (LIDDA) for consumers who receive consumer-directed services;
- I. One member with experience providing personal care attendants for consumers who receive consumer-directed services;
- J. One member to serve as an advocate for pediatric consumers or potential consumers of the array of services provided through consumer direction; and
- K. One member to represent family members of pediatric consumers or potential consumers of the array of services provided through consumer direction.

To the greatest extent possible, the HHS executive commissioner appoints members who reflect the diversity of the state, including:

- Individuals with an intellectual disability or related condition;
- Individuals with a physical disability;
- Individuals who are age 65 or older;
- Individuals with mental health needs; and
- Individuals with children with high medical needs.

Nonvoting members. Each of the eight nonvoting members is appointed by his or her respective agency as follows:

- Two representatives with an expertise in consumer direction from HHSC or another state agency as considered necessary by the Executive Commissioner;

- Two representatives from the Texas Workforce Commission, one representing state unemployment and one representing employment services for individuals with disabilities;
- One representative with expertise on managed care organizations from HHSC or another state agency as considered necessary by the Executive Commissioner;
- One representative of the Texas Department of Family and Protective Services; and
- One representative with expertise in mental health from HHSC or another state agency as considered necessary by the Executive Commissioner.

4. Member Terms

All members except ex officio members will serve a term of four years. The expiration of membership terms occurs on August 31st of each year. Regardless of the term limit, a member serves until his/her replacement has been appointed. This ensures sufficient, appropriate representation.

5. Resignations and Vacancies

If any member of the Council wishes to resign, the member will contact, in writing, the current Chair and HHSC Council Liaison requesting the appointment of a successor member.

In the event of a vacancy for any reason, agency staff will work with the HHS Executive Commissioner to solicit applications as appropriate to fill the vacancy with a representative of the same membership category to serve the unexpired portion of the term of the vacant position. Persons who submitted applications within the previous year through the HHSC may be reconsidered for membership.

6. Presiding Chair and Vice-Chair

In compliance with Government Code §2110.003, Council members elect the Chair and Vice-Chair of the Council.

Members may be nominated or self-nominate for the position of Chair. The Chair must represent a consumer of the array of services provided through consumer direction or an advocate for consumers of the array of services provided through consumer direction. The majority of votes will determine the Chair. The Chair will serve until July 1, 2020. The Chair will serve no more than two consecutive terms. In the event that the Chair is unable to complete his/her term for any reason, a new Chair will be elected to serve the remainder of the Chair's term.

Members may be nominated or self-nominate for the position of Vice-Chair. The majority of votes will determine the Vice-Chair. The Vice-Chair will serve no more than two consecutive terms. In the event that the Vice-Chair is unable to complete his/her term for any reason, a new Vice-Chair will be elected to serve the remainder of the Vice-Chair's term.

The role of the Chair and Vice-Chair is to:

- A. Report to HHSC;
- B. Participate in agenda planning and preparation for Council meetings;
- C. Provide leadership in conducting Council meetings;
- D. Promote, maintain, and encourage a participatory environment;
- E. Identify the need for, and work with Council Liaison, to call meetings to accomplish the work of the Council;
- F. Ensure the Council adheres to its charge;
- G. Call for the development of subcommittees (if applicable and with approval of agency staff); and
- H. Confer with HHSC staff to acquire the support needed for Council operations.

7. Council Operations and Meetings

- A. Meetings

1. The Council meets during regular business hours at least quarterly at the call of the Chair.
2. The Council is subject to Texas Government Code Chapter 551 (the Texas Open Meetings Act) as if it were a governmental body.

B. Quorum

A majority of voting members (one over 50 percent) constitutes a quorum for the purpose of transacting official business. (To calculate a majority for a Council with an odd number of members, divide the membership by two and round up to the next whole number.) If less than a quorum of the Council is present, members may not vote upon action items but may take testimony and public comments so long as the meeting is being conducted in accordance with the Texas Open Meetings Act.

C. Voting

1. Voting members have the right to vote on any subject that is listed on the agenda. However, members must abstain from deliberating or voting on issues that would provide monetary or other gain to the member or that could present, or reasonably appear to present, a conflict of interest.
2. The Council may determine procedural matters by majority vote of a quorum of the Council, or may use Robert's Rules of Order as a guide to its operations and proceedings.
3. Voting Council members may also vote on operational or procedural matters that come before the Council.
4. A member may participate and, if the member is a voting member, vote by telephone conference as deemed necessary by agency staff.
5. A member may not authorize another individual to represent the member by proxy.
6. For all business except adopting or amending bylaws, a simple majority is needed. (A simple majority is defined as more than half of the votes cast by persons entitled to vote who are in attendance with a quorum, excluding abstentions.)
7. Except for bylaw amendments, Council recommendations will be adopted pursuant to a simple majority vote on a motion duly made and seconded.

D. Adoption and Revision to Bylaws

1. Council members or HHSC staff may propose changes to these bylaws. All proposed changes from Council members, along

with the rationale for the changes, should be submitted in writing to the HHSC Council Liaison at least 30 days prior to the next Council meeting for inclusion in the publication of the agenda in the *Texas Register* and distribution to the members for their consideration. Amendments will be passed and become effective based on a two-thirds vote of a quorum of the Council, pending review and approval by HHSC staff.

2. The Council will review the Bylaws by December 31 of every even-numbered year. Council -proposed amendments that occur as a result of the biennial review will be considered in a meeting and will be passed and become effective based on a two-thirds vote of a quorum of the Council, pending review and approval by HHSC staff.
3. All proposed changes are subject to review and approval by HHSC staff.
4. The Bylaws will become effective as of the date they are adopted by the Council. The Council will make note of the date of the adoption of the Bylaws in its minutes. Members will sign a Statement by Members when bylaws are amended (see attached Statement).

8. Responsibilities of Members

A. Attendance

Members are expected to attend all meetings. A member unable to attend a meeting should notify the Council Liaison in advance. The Council Liaison will notify the Chair and appropriate program staff. Members, other than ex officio/state agency representative members, may not send a substitute to attend a meeting in their place.

If any member misses 50 percent of quarterly meetings within a one year period with or without notice to the Council Liaison, the member may be removed from the Council.

B. Member expectations:

1. Attend meetings;
2. Participate in subcommittees as assigned;
3. Review agendas and other information sent by staff prior to each meeting;
4. Participate in discussions at meetings;

5. Submit travel expenses (if applicable and if reimbursement is desired) within 30 calendar days of the meeting;
6. Abstain from deliberating or voting on issues that would provide monetary or other gain to the member or that could present, or reasonably appear to present, a conflict of interest;
7. Attend/participate in an orientation session for the Council;
8. Complete the Texas Open Meetings Act Training and Public Information Act Training within 90 days of appointment and submit the Certificates of Completion to the Council Liaison. If a member has taken the trainings within the last five years, a copy of the Certificates of Completion may be submitted to the Council Liaison in lieu of taking the trainings;
9. Sign and submit to the Council Liaison the Statement by Members document (attached) within 30 days after appointment. This document includes a Conflict of Interest Statement and a Nondisclosure Agreement to which Council members must agree;
10. Notify the Council Chair and Council Liaison if a change of status alters the category of membership that the member was filling or if any circumstance occurs that prevents the member from being able to discharge his or her duties;
11. Maintain a high level of integrity that warrants public trust, including complying with all applicable ethics guidance provided by HHSC's Ethics Officers and all aspects of the Texas Open Meetings Act and Public Information Act; and
12. Hold and maintain in strictest confidence all confidential information and all agency-generated information in draft form, until such time as the information or document is released and made public, the HHS Executive Commissioner has approved the release in writing, or the HHS Ethics Policy permits release. This requirement survives the member's tenure on the Council. For purposes of these bylaws and the Nondisclosure Agreement, the term "confidential information" includes all information protected by the Health Insurance Portability and Accountability Act (HIPAA), information that has commercial value or use, such as trade secrets, and information communicated in confidence by the HHS System.

Failure to comply with member expectations numbers 6-12 above are grounds for dismissal and may result in removal from the Council.

C. A Council member may not:

1. Participate in legislative or advocacy activities using his/her title or position on this Texas Council on Consumer Direction without written approval from the Council Chair and the HHS Ethics Office in coordination with the HHS Government Relations Office and the Council Liaison; however, members may represent themselves or other entities in the legislative process.
2. Accept payment for any services offered to the member because of his/her position on the Council.
3. Disclose confidential information or draft information (from any source including grants, requests for proposals, and contracts) acquired through his or her participation on the Council until such time as that information or document is released and made public, the HHS Executive Commissioner has approved the release in writing, or the HHS Ethics Policy permits release. This includes all forms of communication including written, verbal, and social media.

A violation of any of these items are grounds for dismissal and may result in removal from the Council.

9. Removal from the Council

The HHS Executive Commissioner may remove a member from the Council for the following reasons:

- A. A member votes or deliberates on an issue that would provide monetary or other gain or that presents a conflict of interest to the member or an entity with which the member is closely affiliated.
- B. A member refuses to sign or violates the Statement by Members, which includes the Conflict of Interest statement and Nondisclosure Agreement, or another Nondisclosure Agreement.
- C. A member does not maintain a high level of integrity that warrants public trust, including complying with all applicable ethics guidance provided by HHSC's Ethics Officers and all aspects of the Texas Open Meetings Act and Public Information Act.

- D. A member changes status that alters the category of membership that they were filling.
- E. A member participates in legislative or advocacy activities using his/her title or position on the Texas Council on Consumer Direction without approval from the Council chair and the HHS Ethics Office in coordination with the HHS Government Relations Office and Council Liaison.
- F. A member receives payment for any services requested because he or she holds a position on the Council.
- G. A member discloses confidential or draft information acquired through his or her participation on the Council not in accordance with the Bylaws.
- H. A member, in a 12-month period, misses 50 percent of quarterly meetings with or without notice to HHSC staff.
- I. The executive commissioner may remove a member who has violated the conflict of interest provisions or made a statement in violation of the Statements by Members form. Decisions to remove a member of the Council (by anyone other than the HHS Executive Commissioner) due to violations of this nature will require input from HHS legal counsel.

10. Subcommittees

Unless otherwise noted in statute, the Chair, with the approval of agency staff, may establish subcommittees that meet at other times for purposes of studying and making recommendations on issues the Council determines appropriate to the charge of the Council. A subcommittee may be created for a limited period of time and will cease to exist when the assigned tasks are completed or upon determination of the Chair, or it may be a standing subcommittee. The Chair and agency staff will evaluate the need for all existing subcommittees annually.

Subcommittee Operations and Meetings

- A. Unless otherwise noted in statute or required by a grant document, members of subcommittees are required to be members of the Council.

- B. Except as set out in #D below, subcommittee(s) will follow the general rules of the Council as applicable.
- C. Subcommittee(s) must keep minutes of the meetings and report back to the full body.
- D. The presence of a quorum of the full Council at a subcommittee meeting:
 - 1. Constitutes a full Council meeting that requires posting appropriate notice of the meeting as a full Council meeting in accordance with the Texas Open Meetings Act; and
 - 2. Requires the subcommittee meeting to be held in compliance with the Texas Open Meetings Act to include posting appropriate notice of the subcommittee meeting.

11. Subject Matter Experts

HHSC recognizes the value of subject matter experts (SMEs) to provide information to the Council as it develops recommendations and initiatives relative to its charge(s). The primary role of a SME is to provide objective, independent information and analysis to be considered by the Council. SME participation will be subject to the request of voting Council members and will fall within the following guidelines:

- A. A SME may be invited to provide information on specific subjects and topics at the discretion of voting Council members, the Chair, and HHSC staff;
- B. An invited SME may be recognized by staff, the Council Chair, or Vice-Chair to provide information or analysis during allotted time periods at a specified Council or subcommittee meeting;
- C. SMEs will participate in questions and answers at the direction of the staff, Council Chair, or Vice-Chair;
- D. All SMEs will participate and serve at the pleasure of the Council;
- E. SMEs do not hold any official capacity on the Council or subcommittees and do not have rights of deliberation or the right to vote on any Council activities or decisions;
- F. SMEs should disclose any conflicts of interest they may have prior to providing information to the Council;
- G. None of the information or guidance contained in this section shall prevent any individual from participating in or providing comments to the Council as allowed under the Texas Open Meetings Act.

12. Responsibilities of Support Staff

HHSC support staff (e.g., Presiding Officer, Council Coordinator, Appointed State Agency Representatives, and Stakeholder Relations) will provide reasonable administrative and technical support and coordination for all Council and subcommittee activities. HHSC will coordinate as needed to provide the accommodations and supports needed by a Council member requiring accommodations to enable him/her to fully participate in Council and subcommittee meetings and activities.

Staff is expected to perform the following tasks:

- A. Develop effective working relationships with Council members;
- B. Solicit nominations for membership in accordance with the appropriate HHS procedures;
- C. Provide meeting dates and attendance records to Council members for the Council's annual written report to the Executive Commissioner. Review, make non-substantive editorial changes, and submit the Council's annual written report to the Executive Commissioner.
- D. Serve as liaison between members and operating agencies' staff; and
- E. Plan, coordinate, and organize Council and subcommittee meetings and activities, including but not limited to:
 1. Schedule meeting dates and ensure meeting sites are set up;
 2. Notify members of upcoming meeting dates, times, and locations;
 3. Develop agenda and support materials for each meeting;
 4. Prepare and oversee that the agenda is posted in the *Texas Register* in a timely manner and on the HHSC website;
 5. Serve as point of contact for the public including ensuring contact information, agendas, and meeting support materials are easily accessible on the HHSC website;
 6. Prepare and distribute information and materials for member review;
 7. Prepare and maintain Council records and documentation in accordance with the HHSC records retention policy; and

- 8. Assist eligible members with travel arrangements and reimbursement.
- F. Staff may perform other duties within staff discretion provided the necessary resources are available.

13. Compensation and Travel Reimbursement

To the extent permitted by the current General Appropriations Act, a member of the Texas Council on Consumer with IDD who is receiving services under the Medicaid waiver programs, or relatives of individuals with IDD receiving services under these programs, may be reimbursed for his/her travel to and from meetings if funds are available and in accordance with the HHSC Travel Policy. Other members are responsible for their own travel expenses. Members eligible for such reimbursement are subject to rates established in the General Appropriations Act. Staff will assist members in requesting reimbursement. Council members are responsible for providing the required information as per instructions provided within 30 calendar days of the meeting.

A member who would like to seek travel reimbursement must:

- A. Keep accurate record of allowable travel expenses (as per the HHSC Travel Policy) during travel to attend Council meetings; and
- B. Submit receipts and appropriate documentation to the Council liaison in a timely manner.

Bylaws approved on _____ by a two-thirds vote of a quorum of the Council.

 Chairperson
 Printed Name

 Signature

 HHSC
 Printed Name

 Signature

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Statement by Members

- The HHSC and the Texas Council on Consumer Direction (“Council”) are not bound in any way by any statement or action on the part of any Council member except when a statement or action is in pursuit of specific instructions from HHSC or the Council.
- The Council and its members may not participate in legislative or advocacy activities using his/her title or position on this Council without approval from the Council chair and the HHS Ethics Office in coordination with the Government Relations Office. Council members are not prohibited from representing themselves or other entities in the legislative or advocacy process.
- A Council member may not accept payment for services that are requested because of the members’ title or position on this Council.
- A Council member shall not accept or solicit any benefit that might reasonably tend to influence the member in the discharge of the member's official Council duties.
- A Council member shall not knowingly solicit, accept, or agree to accept any benefit for having exercised the member's official powers or duties in favor of another person.
- A Council member shall complete the Texas Open Meetings Act Training and the Public Information Act Training within 90 days of appointment and submit the Certificates of Completion to the Council Liaison. If a member has taken the training within the last five years, a copy of the Certificate of Completion may be submitted to the Council Liaison in lieu of taking the training.
- Nondisclosure agreement. A Council member may not disclose confidential information or agency-generated information in draft form acquired through his or her Council membership, unless HHSC has released and made public the information or document, the HHS Executive Commissioner has approved the release in writing, or the HHS Ethics Policy permits release. This requirement survives the member’s tenure on the Council. For purposes of the Nondisclosure Agreement, the term “confidential information” includes all information protected by the Health Insurance Portability and Accountability Act (HIPAA), information that has commercial value or use, such as trade secrets, and information communicated in confidence by the HHS System.
- Conflict of Interest Statement. I agree to disclose any personal or private interest that myself or my family have in a measure, proposal, or decision pending before HHSC. (“Personal or private interest” does not include the member’s engagement in a profession, trade, or occupation when the member’s interest is the same as all others similarly engaged in the profession, trade, or occupation, or if the member merely provides a personal experience, with no personal or private financial interest, in giving feedback on the subject matter.) If there is a direct personal or financial interest in a motion under consideration, I further agree to disclose that fact in a public meeting and will recuse myself from any Council deliberations or decisions on that matter.

I have been provided a copy of the Texas Council on Consumer Direction bylaws. I understand that as a member of the Council I must adhere to the bylaws.

Advisory Board Member Signature

Printed Name

Date

Revisions Tracking Page

Document Version #	Revision Date	Revisions / Purpose	Author

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