Legislative Oversight Committee

Study of the
Department of Disabilities and Special Needs
November 2, 2018

FULL COMMITTEE OPTIONS STANDARD PRACTICE 13	FULL COMMITTEE ACTION(S)	DATE(S) OF FULL COMMITTEE ACTION(S)
(1) Refer the study and investigation back to the Subcommittee or an ad hoc committee for further evaluation; (2) Approve the Subcommittee's study; or (3) Further evaluate the agency as a full Committee, utilizing any of the available tools of legislative oversight	Study Available for Consideration Study Presentation, Discussion, and Approval	October 5, 2018 October 23, 2018 with opportunity for Members to provide comments open until November 2, 2018

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AGENCY SNAPSHOT

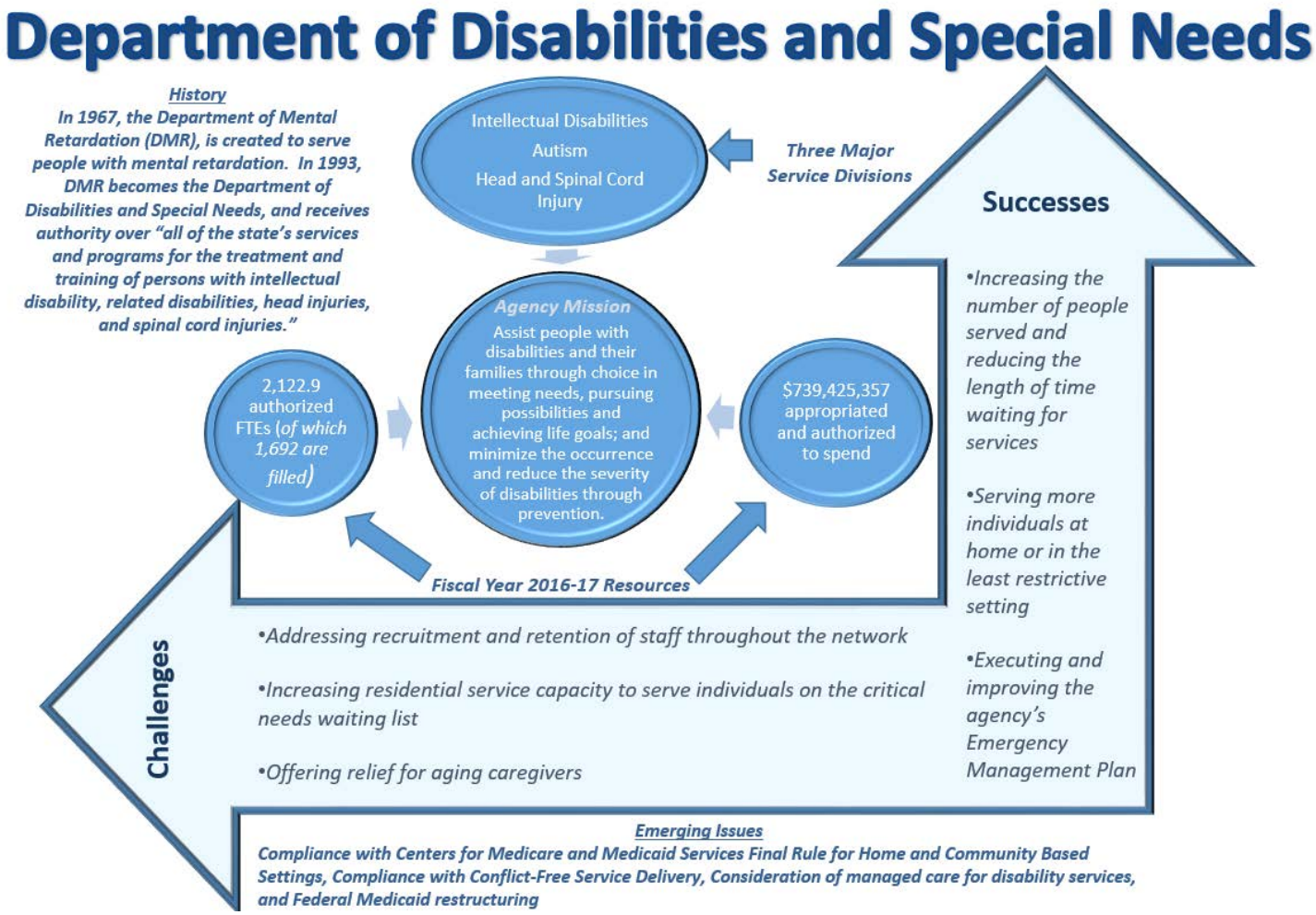


Figure 1. Snapshot of agency that includes its history, mission, resources, successes, challenges, and emerging issues. Challenges, successes, and emerging issues presented are identified by the agency.[1]

EXECUTIVE SUMMARY

Purpose of Oversight Study

As stated in S.C. Code of Laws § 2-2-20(B), "[t]he **purpose of these oversight studies** and investigations is to **determine if agency laws and programs** within the subject matter jurisdiction of a standing committee: (1) **are being implemented** and carried out **in accordance with the intent of the General Assembly; and** (2) **should be continued, curtailed, or eliminated**." In making these determinations, the Committee evaluates (1) the application, administration, execution, and effectiveness of the agency's laws and programs, (2) the organization and operation of the agency, and (3) any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation pertaining to the agency.[2]

Study Process

The House Legislative Oversight Committee's (Committee) process for studying the Department of Disabilities and Special Needs (DDSN, agency, or Department) includes actions by the full Committee; Healthcare and Regulatory Subcommittee (Subcommittee); the agency; and the public. A summary of the key dates and actions are listed below in Figure 2.

Legislative Oversight Committee Actions

- January 10, 2017 - Prioritizes the agency for study
- January 18, 2017 - Provides agency with notice about the oversight process
- February 9, 2017-March 13, 2017 - Solicits input from the public about the agency in the form of an online public survey
- March 2, 2017 - Holds **Meeting 1** to obtain **public input** about the agency
- October 23, 2018 - Holds **Meeting 10** to receive a **presentation of, discuss, and approve the study**

Healthcare and Regulatory Subcommittee Actions

- September 18, 2017 - Subcommittee holds **Meeting 2** to discuss agency **history, governance, services, and customers**
- October 10, 2017 - Subcommittee holds **Meeting 3** to discuss **agency finances and responses to questions** from September 18, 2017 meeting
- October 24, 2017 - Subcommittee holds **Meeting 4** to continue to discuss **agency finances and responses to questions** from the September 18, 2017, and October 10, 2017 meetings
- November 6, 2017 - Subcommittee holds **Meeting 5** to discuss **human resources and responses to questions** from the October 24, 2017 meeting
- November 30, 2017 - Subcommittee holds **Meeting 6** to receive testimony from the **Department of Health and Human Services, Vocational Rehabilitation Department, and directors of Disabilities and Special Needs Boards and other providers**
- February 1, 2018 - Subcommittee holds **Meeting 7** to receive testimony about an **internal review of the provider payment system**
- July 30, 2018 - Subcommittee holds **Meeting 8** to receive testimony about the agency's **performance management**
- August 30, 2018 - Subcommittee holds **Meeting 9** to discuss **study recommendations**

Department of Disabilities and Special Needs Actions

- March 2015 - Submits its **Annual Restructuring and Seven-Year Plan Report**
- September 2016 and 2017 - Submits its **Annual Accountability Reports**, which serve as its **Annual Restructuring Reports**
- May 1, 2017 - Submits its **Program Evaluation Report**
- September 2017 - August 2018 - Meets with and **responds to Subcommittee's inquiries**

Public's Actions

- February 9, 2017-March 13, 2017 - Provides input about agency via **online public survey**
- March 2, 2017 - Provides **testimony** to the full Committee
- Ongoing - **Submits written comments on the Oversight Committee's webpage** on the General Assembly's website (www.scstatehouse.gov)

Figure 2. Summary of key dates and actions of the study process.

Recommendations

The **Committee has 17 recommendations** arising from its study of the agency. These recommendations fall into four categories: (1) recommendations to the Department of Disabilities and Special Needs; (2) recommendations to the Commission on Disabilities and Special Needs; (3) recommendations to the Committee; and (4) recommendations to the General Assembly.

Table 1. Summary of recommendations arising from the study process.

Recommendations to the Department of Disabilities and Special Needs	
Direct Care Professionals	1.) The Department of Disabilities and Special Needs seek funding to create a grant program or incentives for providers to expand the pool of direct care professionals through shadowing programs, recognition programs, grassroots campaigns and training efforts designed to expand awareness about the profession and encourage greater participation by potential employees, specifically students preparing to graduate high school.
Agency Progress Report	2.) The State Director should report to the Committee in six months regarding changes implemented as a result of the Legislative Oversight process and the agency's internal improvement processes.
Commissioner Training	3.) The Department of Disabilities and Special Needs should further develop training for new Commissioners, including expanded onboarding and continuing education.
Recommendation to the Commission on Disabilities and Special Needs	
Regulations	4.) The Commission on Disabilities and Special Needs should undertake a complete review of the agency's regulatory environment, including existing and needed regulations. If that review reveals regulations that should be promulgated, amended, or repealed, the Commission should proceed through the procedures in Title 1, Chapter 23 of the South Carolina Code of Laws, related to state agency rulemaking.
Recommendation to the House Legislative Oversight Committee	
Regulations	5.) The Committee should formally communicate to the House Regulations and Administrative Procedures Committee that the Commission on Disabilities and Special Needs has reviewed some regulations, and determined they should be amended. This study will be available as a resource whenever the Commission promulgates new regulations or proposes amendments to existing regulations.
Recommendations to the General Assembly	
Cabinet Agency	6.) The General Assembly should consider making the Department of Disabilities and Special Needs a cabinet agency. Specifically, the Governor, with the advice and consent of the Senate, should appoint the agency head. In addition, the Commission on Disabilities and Special Needs should continue to exist in an advisory capacity. All responsibilities currently assigned to the Commission, should devolve to the Department.
Criteria for Commission Membership	7.) The General Assembly should consider amending S.C. Code Ann. § 44-20-210 to establish knowledge and expertise criteria for membership on the Commission on Disabilities and Special Needs.
Role of County Boards	8.) The General Assembly should consider amending S.C. Code Ann. § 44-20-30 such that the county disabilities and special needs boards serve in an advisory capacity to the county director. All responsibilities currently assigned to county boards, including hiring of the county director, should devolve to the Department. The county disabilities and special needs board office should become a county office of the Department of Disabilities and Special Needs.
Service Providers	9.) The General Assembly should consider amending S.C. Code Ann. § 44-20-370(A) to reflect that services are offered through private qualified providers as well as county Disabilities and Special Needs (DSN) boards. In addition, the Committee recommends the agency develop a definition of "qualified provider," for inclusion in Title 44, Chapter 20 of the S.C. Code of Laws.
Self-Sufficiency Fund	10.) The General Assembly should consider repealing S.C. Code Ann. § 44-28-10 through § 44-28-80 because the fund was not established and in 2016, the General Assembly established the South Carolina ABLE savings program, which serves the same purpose, and is made possible by the federal Achieving a Better Life Experience Act.
Disability Trust Fund	11.) The General Assembly should consider repealing S.C. Code Ann. § 44-28-310 through § 44-28-370 because the fund was never established and in 2016, the General Assembly established the South Carolina ABLE savings program, which serves the same purpose.
Intellectual Disability Definition	12.) The General Assembly should consider amending S.C. Code Ann § 44-23-10(22) so that the definition of intellectual disability is consistent with the definition in S.C. Code Ann. § 44-20-30(12).[34]

	13.) The General Assembly should consider amending S.C. Code Ann. § 44-25-20(g), to replace "mental deficiency" and its definition with "intellectual disability," as defined in S.C. Code Ann § 44-20-30(12). In addition, the Committee recommends that "mental deficiency" be replaced with "intellectual disability" through Title 44, Chapter 25.
Federal Fair Housing Law	14.) The General Assembly should consider amending S.C. Code Ann. § 6-29-770 to remove the requirement that notice be given for a home for persons with disabilities, as it violates federal Fair Housing laws.[5]
Health Care Decision Priority List	15.) The General Assembly should consider amending S.C. Code Ann. § 44-66-30(A) to give DDSN last priority in health care decisions for persons unable to consent, as "a person given authority to make health care decisions for the patient by another statutory provision." Section 44-26-40, § 44-26-50, and § 44-26-60(C) should all be amended to refer to the correct priority number in § 44-66-30.
Day Programs	16.) The General Assembly should consider amending S.C. Code Ann. § 43-35-10(4) to include day programs in the definition of "facility" in the Omnibus Adult Protection Act.
Case Dispositions	17.) The General Assembly should consider amending S.C. Code Ann. § 43-35-60 to require investigating agencies to share specific abuse, neglect, or exploitation case dispositions with the relevant state agency.

There are no specific recommendations with regards to continuance of agency programs or elimination of agency programs.

AGENCY OVERVIEW

History

The **Department of Disabilities and Special Needs provides the Committee with an overview of the agency's history**.[6] In addition, Committee staff confirms the accuracy of assertions of legislative action.

1916 – 1917 South Carolina conducts a survey of people considered "feebleminded." The survey results recommend establishing a residential institution for people with mental retardation.

1918 The General Assembly authorizes construction of the S.C. State Training School for the Feebleminded in Clinton. The institution is operated as a corporate body under direction of the Board of Regents at the State Hospital.[7] It has separate management and location from the State Hospital and serves people with only mental retardation.

1952 The State Board of Regents becomes the South Carolina Mental Health Commission. The State Training School falls under the commission's jurisdiction. The General Assembly authorizes construction of Pineland State Training School and Hospital near Columbia. Pineland is an institution for black people with mental retardation operated by the Mental Health Commission.

1954 – 1963 The State Training School in Clinton is renamed Whitten Village in honor of its founder, Dr. Benjamin Whitten.[8] The General Assembly removes Whitten Village from the jurisdiction of the Mental Health Commission. The institution is governed by its own board of trustees.[9]

1963 The General Assembly authorizes construction of a third institution, the South Carolina Retarded Children's Habilitation Center, in Ladson, just outside Charleston.[10]

President John F. Kennedy's administration earmarks federal funds for each state to develop a plan for serving people with mental retardation. Governor Donald Russell appoints an advisory council to plan long-term mental retardation services. The council later becomes the Governor's Interagency Council on Mental Retardation Planning. Its work continues into the administration of Governor Robert E. McNair.

1967 The S.C. Department of Mental Retardation is created in May. Governor Robert McNair appoints the members of DMR's first commission.[11]

The General Assembly authorizes construction of the S.C. State Training School for the Feebleminded in Clinton. The institution is operated as a corporate body under direction of the Board of Regents at the State Hospital. It has separate management and location from the State Hospital and serves people with only mental retardation.

At that time, approximately 3,700 people with mental retardation receive care in the state's institutions, and nearly 1,300 people are on a waiting list to receive care.

1969 The state is divided into four regions for efficient service delivery in the Coastal, Midlands, Piedmont, and Pee Dee areas of the state. Dr. Charles D. Barnett becomes the State Director.

1970 On April 16, Governor John C. West signs the Mentally Retarded Persons Act into law. The law defines DMR's function and provides structure for delivering a full range of programs for people with intellectual disabilities.

The Restructuring Act of 1993 creates the new Department of Disabilities and Special Needs (DDSN). DDSN's mission is expanded to serve individuals with brain injury, spinal cord injury, or similar disabilities.

The names of the state's institutions are changed to reflect the new regional administration. Pineland State Training School is transferred from the S.C. Department of Mental Health to the new S.C. Department of Mental Retardation and becomes Midlands Center, and the S.C. Retarded Children's Habilitation Center becomes Coastal Center.[12]

1972 – 1973 Coastal Center establishes the first office of legal advocacy for people with mental retardation. The office is established to share responsibility for safeguarding individuals' rights with parents and members of the community. When Protection and Advocacy for the Handicapped is established in 1977, the office is no longer needed.

DMR purchases Live Oak Village, a nursing home in Summerville. Live Oak Village becomes a satellite skilled-nursing facility of Coastal Center.

1974 – 1975 Governor John C. West signs Act 1127 of 1974 into law. The new law sets forth guidelines for the establishment and membership of county mental retardation boards. Laurens and Greenville counties establish the first mental retardation boards. South Carolina developed mental retardation boards to serve all 46 counties. Services provided in the community through the local mental retardation boards offer families an alternative to regional center services.[13]

DMR purchases the Hartsville Nursing Home. The facility is renovated and renamed the Thad E. Saleeby Developmental Center, after former state Representative Thad E. Saleeby.

1988 Dr. Phillip S. Massey becomes the State Director.

1993 The Restructuring Act of 1993 creates the new Department of Disabilities and Special Needs. Three divisions are created within the agency: Mental Retardation Division, Head and Spinal Cord Injury Division and the Autism Division. Mental retardation boards became disabilities and special needs boards. The Program for Individuals with Autism is transferred from the Department of Mental Health to DDSN. DDSN's mission is expanded to serve individuals with brain injury, spinal cord injury or similar disabilities.[14]

1996 Dr. Stan Butkus becomes the State Director.

1998 Person-centered services are implemented to increase self-determination and choice of services and service providers.

2002 Committed to offering individuals and families additional choices of qualified providers, DDSN works with the State Budget and Control Board's Material and Management office to issue a nationwide recruitment of new providers of disability services. Some disabilities and special needs boards expand services into other counties and numerous private providers began offering services.

2006 The General Assembly creates the Pervasive Developmental Disorder Program via special proviso to provide Early Intensive Behavioral Intervention to young children on the Autism Spectrum.[15]

2009 Dr. Eugene A. Laurent becomes the Interim State Director. Dr. Beverly A.H. Buscemi becomes the State Director.

2011 Governor Nikki R. Haley Haley signs Act 47 which removed the "R" (Retardation) word in South Carolina.[16]

2017 -2018 Mr. Pat Maley becomes the Interim State Director. Ms. Mary Poole becomes the State Director.

Legal Obligations

Statute

The Department of Disabilities and Special Needs is primarily governed by Title 44, Chapter 20 of the S.C. Code of Laws. In addition, Title 44, Chapters 38, 21, 23, 26, 28, 44, 66, 28, 25, and 7; Title 6, Chapter 9; Title 40, Chapter 35; Title 43, Chapter 35; and Title 63, Chapter 7 all impact the operations of the Department. In addition, federal statutes related to disabilities, housing, insurance, and education also govern the operations of the department.

In its Program Evaluation Report, the agency provides a list of statutes that impact it.[17] Those statutes are categorized as follows:

- South Carolina Intellectual Disability, Related Disabilities, Head Injuries, and Spinal Cord Injuries Act;
- Head and Spinal Cord Injuries;
- Family Support Services;
- Provisions Applicable to both Mentally Ill Persons and Persons with Intellectual Disability;
- Rights of Clients with Intellectual Disability;
- Self-Sufficiency Trust Fund, Disability Trust Fund, Aid for Developmentally Disabled;
- South Carolina Birth Defects Act;
- Adult Health Care Consent Act;
- Interstate Compact on Mental Health;
- Hospitals, Tuberculosis Camps, and Health Service Districts;
- South Carolina Local Government Comprehensive Planning Enabling Act;
- Long Term Health Care Administrators;
- Omnibus Adult Protection Act;
- Child Protection and Permanency;
- Fair Housing Act (federal);
- American with Disabilities Act (federal) ;
- Rehabilitation Act (federal);
- Medicaid (federal);
- Health Insurance Portability and Accounting Act (HIPPA) (federal); and
- Individuals with Disabilities Education Act (IDEA) (federal).

Regulation

The Department of Disabilities and Special Needs is governed by Section 88 of the S.C. Code of Regulations. In its Program Evaluation Report, the Department provides a list of regulations governing it. Those regulations address license requirements for facilities and programs, recreational camps for persons with intellectual disability, day programs for persons with intellectual disability, and unclassified facilities and programs.

Purpose, Mission, and Vision

Purpose

S.C. Code Ann. § 44-20-20 provides the legislative purpose for creating the Department of Disabilities and Special Needs:

> The State of South Carolina recognizes that a person with intellectual disability, a related disability, head injury, or spinal cord injury is a person who experiences the benefits of family, education, employment, and community as do all citizens. It is the purpose of this chapter to assist persons with intellectual disability, related disabilities, head injuries, or spinal cord injuries by providing services to enable them to participate as valued members of their communities to the maximum extent practical and to live with their families or in family settings in the community in the least restrictive environment available.
>
> When persons with intellectual disability, related disabilities, head injuries, or spinal cord injuries cannot live in communities or with their families, the State shall provide quality care and treatment in the least restrictive environment practical.
>
> In order to plan and coordinate state and locally funded services for persons with intellectual disability, related disabilities, head injuries, or spinal cord injuries, a statewide network of local boards of disabilities and special needs is established. Services will be delivered to clients in their homes or communities through these boards and other local providers.
>
> It is recognized that persons with intellectual disability, related disabilities, head injuries, or spinal cord injuries have the right to receive services from public and other agencies that provide services to South Carolina citizens and to have those services coordinated with the services needed because of their disabilities.
>
> South Carolina recognizes the value of preventing intellectual disability, related disabilities, head injuries, and spinal cord injuries through education and research and supports efforts to this end.
>
> The State recognizes the importance of the role of parents and families in shaping services for persons with intellectual disability, related disabilities, head injuries, or spinal cord injuries as well as the importance of providing services to families to enable them to care for a family member with these disabilities.
>
> Admission to services of the South Carolina Department of Disabilities and Special Needs does not terminate or reduce the rights and responsibilities of parents. Parental involvement and participation in mutual planning with the department to meet the needs of the client facilitates decisions and treatment plans that serve the best interest and welfare of the client.

Mission

The agency's mission is to "[a]ssist people with disabilities and their families through choice in meeting needs, pursuing possibilities and achieving life goals; and minimize the occurrence and reduce the severity of disabilities through prevention."[18]

Vision

The agency's vision is "to provide the very best services to assist all persons with disabilities and their families in South Carolina."[19]

Agency Organization

Governing Body

Pursuant to S.C. Code Ann. § 44-20-210, DDSN is governed by a seven member commission. Each Commissioner represents a congressional district. Commissioners are appointed by the Governor with the advice and consent of the Senate. The appointments are for four year terms; however, a commissioner may serve until a successor is appointed. Commissioners can be removed by the Governor, and the Governor may appoint a new commissioner to the unexpired term. The Commission appoints the State Director.[20]

The Commission meets approximately twelve times each year. The meetings are broadcast via video conference technology to three regional centers and several community provider locations. Recent minutes of the meetings and accompanying documentation are posted on the agency website. The Commission has three standing committees — Finance and Audit, Policy, and Legislative. These three standing committees meet a minimum of twice a year, but usually more frequently.[21]

Table 2 lists the current commissioners, congressional district represented, and date the member's term expires.

Table 2. Agency commission members (current as of September 20, 2018).

Congressional District	Position	Current Members	Appointed By	Appointed Date	Expiration Date
1st	Chair	Eva Ravenel*	Governor Nikki R. Haley	8/31/2012	6/30/2016
2nd	Member	Lorri S. Unumb	Governor Henry McMaster	2/8/2018	6/30/2020
3rd	Member	Vicki A. Thompson*	Governor Nikki R. Haley	5/19/2015	6/30/2017
4th	Member	Christopher G. Neeley	Governor Henry McMaster	2/8/2018	6/30/2021
5th	Member	Gary C. Lemel*	Governor Nikki R. Haley	5/19/2015	6/30/2018
6th	Member	VACANT	Governor Nikki R. Haley		
7th	Member	Samuel F. Broughton Jr.*	Governor Nikki R. Haley	4/7/2016	6/30/2018

Table Note: An asterick (*) indicates commissioner is serving in a holdover capacity.

Agency Organizational Units

Every agency has an organization or hierarchy that is reflected in the agency's organizational chart. Within the organization are separate units. An agency may refer to these units as departments, divisions, functional areas, cost centers, etc. Each unit is responsible for contributing to the agency's ability to provide services and products.

During the study process the Committee asks the agency about its organization and major operating programs.[22] The Department of Disabilities and Special Needs informs the Committee it is comprised of 26 major organizational units, which are described in Table 3. The organization of the agency is shown in Figure 3.

Table 3. DDSN organizational units (current as of May 2017).

Organizational Unit	Fiscal Year	Unit Turnover	Required Certification
The **AGENCY HEAD - EXECUTIVE SUITE** organizational unit provides key leadership so agency personnel may deliver the established mission of the agency.	2013-14	0%	X
	2014-15	0%	X
	2015-16	0%	X
The **OFFICE OF GENERAL COUNSEL** is legal counsel for the agency. Duties include representing the agency in state courts, monitoring cases handled by outside counsel, and offering legal advice on various agency issues.	2013-14	0%	✓
	2014-15	0%	✓
	2015-16	0%	✓
The **GOVERNMENT AND COMMUNITY RELATIONS** organizational unit is the agency's liaison and representative before the Governor's Office, General Assembly, legislative staff, media, stakeholders, and the general public. Responsible for managing constituent concerns, Freedom of Information Act requests, and general inquiries. Advises the State Director and executive staff with regard to policies, regulations, legislation, media communication, and community education.	2013-14	0%	X
	2014-15	0%	X
	2015-16	0%	X
The **ADMINISTRATION** office consists of the division of the chief financial officer, and the division directors of the units created to ensure fiscal accountability of the agency.	2013-14	0%	X
	2014-15	0%	X
	2015-16	0%	X
The **BUDGET** office is responsible for the oversight, planning, development, organization and maintenance of the agency's complete budgetary system, totaling approximately $740M. The division evaluates policies, plans and programs for cost effectiveness and overall fiscal impact. The budget division conducts research and analyses to support decision making and monitors agency expenditures and revenues. The division is responsible for external budgetary policy interpretation and participation in development of internal procedures. The division coordinates with staff outside the agency concerning budgetary and planning requirements.	2013-14	0%	X
	2014-15	0%	X
	2015-16	14.3%	X
The **FINANCE AND ACCOUNTING** organizational unit ensures revenues and expenditures for the agency are properly processed and accounted for according to generally accepted accounting principles, state laws, and regulations. The division is also responsible for processing all Medicaid claims for eligible services provided to consumers in our network.	2013-14	0%	X
	2014-15	14.3%	X
	2015-16	50%	X
The **COST ANALYSIS** organizational unit is responsible for developing and maintaining rates paid to providers; developing and reconciling contracts with providers; filing cost reports for the department; and ensuring that providers are paid timely. Also, the unit performs analyses to track expenditures, trends, and contract compliance.	2013-14	40%	X
	2014-15	16.7%	X
	2015-16	33.3%	X
The **ENGINEERING AND PLANNING** organizational unit ensures that buildings owned by the Department are constructed, renovated, and life cycle maintained in good condition for the health and safety of clients, staff, and others, and in accordance with state laws and regulations. The division is also responsible for procurement of professional design services, procurement and contract	2013-14	0%	✓
	2014-15	0%	✓

Organizational Unit	Fiscal Year	Unit Turnover	Required Certification
administration for construction contracts, and procurement of inspection services related to building systems. The division assists other DDSN divisions and provider organizations with various capital and construction projects related to DDSN's mission.	2015-16	0%	✓
The **INFORMATION TECHNOLOGY** organizational unit directs and manages the agency's information technology program. This includes planning, policy development, technology procurement, program management, systems development, design and operation of the agency information technology systems. This division is responsible for the agencies office automation, information technology architecture, information technology infrastructure, and records management systems.	2013-14	0%	X
	2014-15	13.3%	X
	2015-16	8.9%	X
The **PROCUREMENT** organizational unit oversees the following functions agency wide: procurement services, fixed assets, vehicle management, nutrition services, mail services, laundry services, housekeeping services, ground maintenance, regional inventories, drug and alcohol testing for CDL drivers, surplus property, contract administration, copier management, SCEMIS (State Fleet) coordinator, building card access system, recycle program, building maintenance and services, state contracts, p-card administration, and gas card security.	2013-14	91.7%	✓
	2014-15	0%	✓
	2015-16	50%	✓
The **OFFICE OF POLICY** develops and maintains agency policies. The following divisions are contained within the supervision of the Office of Policy: Autism Division, Eligibility Division, Head and Spinal Cord Injury Division, Intellectual Disability/Related Disabilities Division, Quality Management Division and Waiver Administration Division.	2013-14	0%	X
	2014-15	0%	X
	2015-16	0%	X
The **INTELLECTUAL DISABILITIES AND RELATED DISABILITIES** organizational unit develops policies, procedures and standards that govern the delivery of services provided through the agency; operates two Medicaid Home and Community Based Waivers; facilitate the coordination of DDSN services with services provided by other state agencies; assist in the qualification of providers of agency services; provide training, assistance and support to the agency's qualified providers.	2013-14	0%	X
	2014-15	0%	X
	2015-16	15.4%	X
The **AUTISM** division is responsible for providing training and consultation to parents and professionals on matters pertinent to Autism Spectrum Disorder (ASD), and for conducting evaluations to determine the presence of ASD.	2013-14	22.05%	X
	2014-15	5.06%	X
	2015-16	16.34%	X
The **HEAD AND SPINAL CORD INJURY** division oversees the delivery of services provided through DDSN, operates the Head and Spinal Cord Injury Waiver, provides training and technical support to DDSN qualified providers, and supports and implements prevention and awareness initiatives.	2013-14	50%	X
	2014-15	0%	X
	2015-16	66.7%	X
The **QUALITY MANAGEMENT** division works to improve the health, safety, and welfare of DDSN's service recipients and monitors compliance with state and federal regulations and Medicaid requirements.	2013-14	0%	X
	2014-15	0%	X
	2015-16	16.7%	X
The **ELIGIBILITY** division determines DDSN eligibility based on set criteria and completes administrative duties such as determining Level of Care for Medicaid Waivers and Tax Equity and Fiscal Responsibility Act eligibility.	2013-14	20%	X
	2014-15	8.3%	X

Organizational Unit	Fiscal Year	Unit Turnover	Required Certification
	2015-16	0%	X
The **OPERATIONS** office provides oversight and leadership to the District I and District II Offices, four Intermediate Care Facilities for Individuals with Intellectual Disability (ICF/IID) Residential Regional Centers, the Office of Clinical Services and the Office of Children's Services. Most areas are directly involved in serving individuals directly or training and monitoring DSN Boards and private providers serving eligible individuals.	2013-14	0%	X
	2014-15	0%	X
	2015-16	0%	X
CHILDREN'S SERVICES is responsible for monitoring and training the DSN Board and private early intervention providers delivering early intervention services to children birth to six years old. Staff serve on numerous interagency committees.	2013-14	0%	X
	2014-15	25%	X
	2015-16	25%	X
CLINICAL SERVICES is responsible for conducting psychological evaluations of individuals charged with a crime who are thought to be unable to competently stand trial. Staff in this unit arrange in-home and residential services for judicially admitted individuals; arrange in-home and residential services for children with dual developmental and psychiatric disabilities; and are involved in numerous interagency initiatives.	2013-14	45%	✓
	2014-15	0%	✓
	2015-16	58.3%	✓
DISTRICT OFFICES I AND II provide training to the DSN Boards and private providers delivering community services to individuals residing in the western (District I) and eastern (District II) halves of the state. Staff respond to individuals who are in crisis. The District I Director supervises the Midlands Regional Center and Whitten Regional Center facility administrators. The District I Office is located on the grounds of Whitten Center. The District II Director supervises the Coastal Regional Center and Pee Dee/Saleeby Regional Center facility administrators. The District II Office is located on the grounds of Coastal Center.	2013-14	0%	X
	2014-15	6.7%	X
	2015-16	0%	X
The **MIDLANDS REGIONAL CENTER** is a residential ICF/IID facility in Columbia. Staff at this center provide a broad array of medical, therapeutic, recreational, and personal care to individuals with some of the most severe disabilities of any served by DDSN. Services are provided 24 hours per day all year.	2013-14	25.11%	✓
	2014-15	26.91%	✓
	2015-16	32.72%	✓
The **PIEDMONT (WHITTEN) REGIONAL CENTER** is a residential ICF/IID facility in Clinton. Staff at this center provide a broad array of medical, therapeutic, recreational, and personal care to individuals with some of the most severe disabilities of any served by DDSN. Services are provided 24 hours per day all year.	2013-14	43.86%	✓
	2014-15	39.16%	✓
	2015-16	36.14%	✓
The **COASTAL REGIONAL CENTER** is a residential ICF/IID facility located in Summerville. Staff at this center provide a broad array of medical, therapeutic, recreational, and personal care to individuals with some of the most severe disabilities of any served by DDSN. Services are provided 24 hours per day all year.	2013-14	20.79%	✓
	2014-15	27.59%	✓
	2015-16	29.45%	✓
The **PEE DEE/SALEEBY REGIONAL CENTER** is a residential ICF/IID facility in Florence and Hartsville. Staff at this center provide a broad array of medical, therapeutic, recreational, and personal care to individuals with some of the most severe disabilities of any served by DDSN. Services are provided 24 hours per day all year.	2013-14	16.65%	✓
	2014-15	26.11%	✓
	2015-16	27.15%	✓
	2013-14	14.29%	X

Organizational Unit	Fiscal Year	Unit Turnover	Required Certification
The **INTERNAL AUDIT** organizational unit performs audits of the agency and its contractors' processes and business practices. This unit reports to the DSN Commission.	2014-15	14.29%	X
	2015-16	0%	X
The **HUMAN RESOURCES** organizational unit designs, implements, and monitors the administration and coordination of the agency's human resources programs. It anticipates and plans for long-term HR needs and trends.	2013-14	20.03%	X
	2014-15	9.76%	X
	2015-16	4.55%	X

Organizational Chart

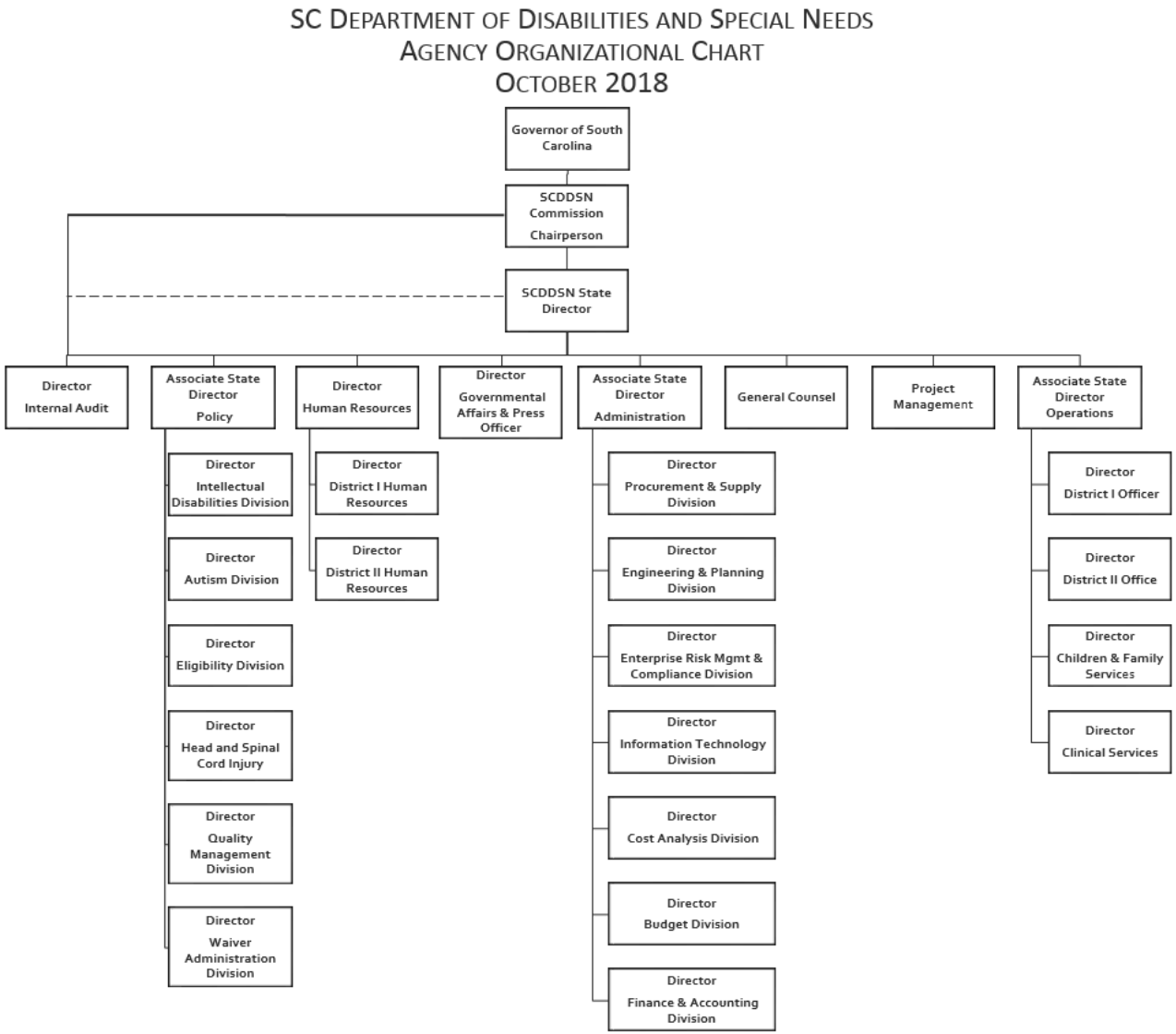


Figure 3. Organizational chart provided by the agency. (Current as of October 5, 2018).[23]

Internal Audit Process

In the Program Evaluation Report, the Committee asks the agency to provide information about its internal audit process, if it has one. The agency provides the information below.[24]

Currently, the agency has an Internal Audit Division (IAD) which employs eight FTEs and one temporary employee. Based on documentation on file within the Division, the first audit report was issued in August 1978. The IAD Director reports administratively to the agency's State Director and functionally to the DDSN Commission.

The IAD audit universe includes the DDSN provider network, DDSN regional centers, as well as DDSN operations. The vast majority of DDSN funding flows to the provider network and as such the majority of audit resources are devoted to this area. The IAD conducts a systemic risk assessment and based on these results, the IAD Director in consultation with Internal Audit staff determine when an entity is audited. A total of 115 audits are published in fiscal years 2012 through 2016. The IAD recently conducts a self-assessment, the documentation of which is housed in the IAD and is available for review. In 2018, IAD redirects some resources from community contract audits to agency internal operational audits.

Provider Network Structure

Primarily, services to DDSN clients are provided by county-based disabilities and special needs boards and private qualified providers. During the September 18, 2017, Subcommittee meeting, agency staff differentiate between the two types of providers, as described in Table 4.

Table 4. Characteristics of county-based local DSN boards and private qualified providers.

Dimension	County-Based Local DSN Boards	Private Qualified Providers
Legal Structure	• Public (Must comply with the Freedom of Information Act and other aspects of local government) • Independent legal entities from the State Agency	• For Profit • Not for Profit • Independent legal entities from the State Agency
Accountability	• Through public board appointments, contracts, standards, and state law with state level oversight provided by DDSN • Through contractual arrangements, quality assurance reviews, and licensing inspections to ensure quality and strict compliance with standards	• Through contracts, standards, directives, and state law with state level oversight provided by DDSN • Through contractual arrangements, quality assurance reviews, and licensing inspections to ensure quality and strict compliance with standards
Employees	• Not state employees • DDSN does not have direct authority over any of the local DSN Board employees • Can participate in the State Retirement System and in State Insurance Plans	• Not state employees • DDSN does not have direct authority over any of the local DSN Board employees
Services	• Provide case management, direct and indirect services and supports to individuals with disabilities	• Currently a private entity cannot provide both direct services and case management

		• Entities must choose
Funding and Payment from DDSN	• Receive funds from DDSN in a prospective per person per month payment (band payment) to provide or purchase services	• Receive funds from DDSN in a retrospective payment after services are rendered • The rate paid is equivalent to the payment rate for the DSN County Boards • There is no cost settlement process for the retrospective payment • Funds may be recouped if services are not provided in accordance with contractual requirements
Fiscal Agent	• Serve as the fiscal agent for all service recipients that live in the family home in their county o Pays other providers for services rendered out of the per member, per month band payment o Funds up to a certain percentage not expended on services are returned to the Agency	• Not a fiscal agent

The agency also provides a graphical description of the organization of the system designed to provide services and support to DDSN clients.[25]

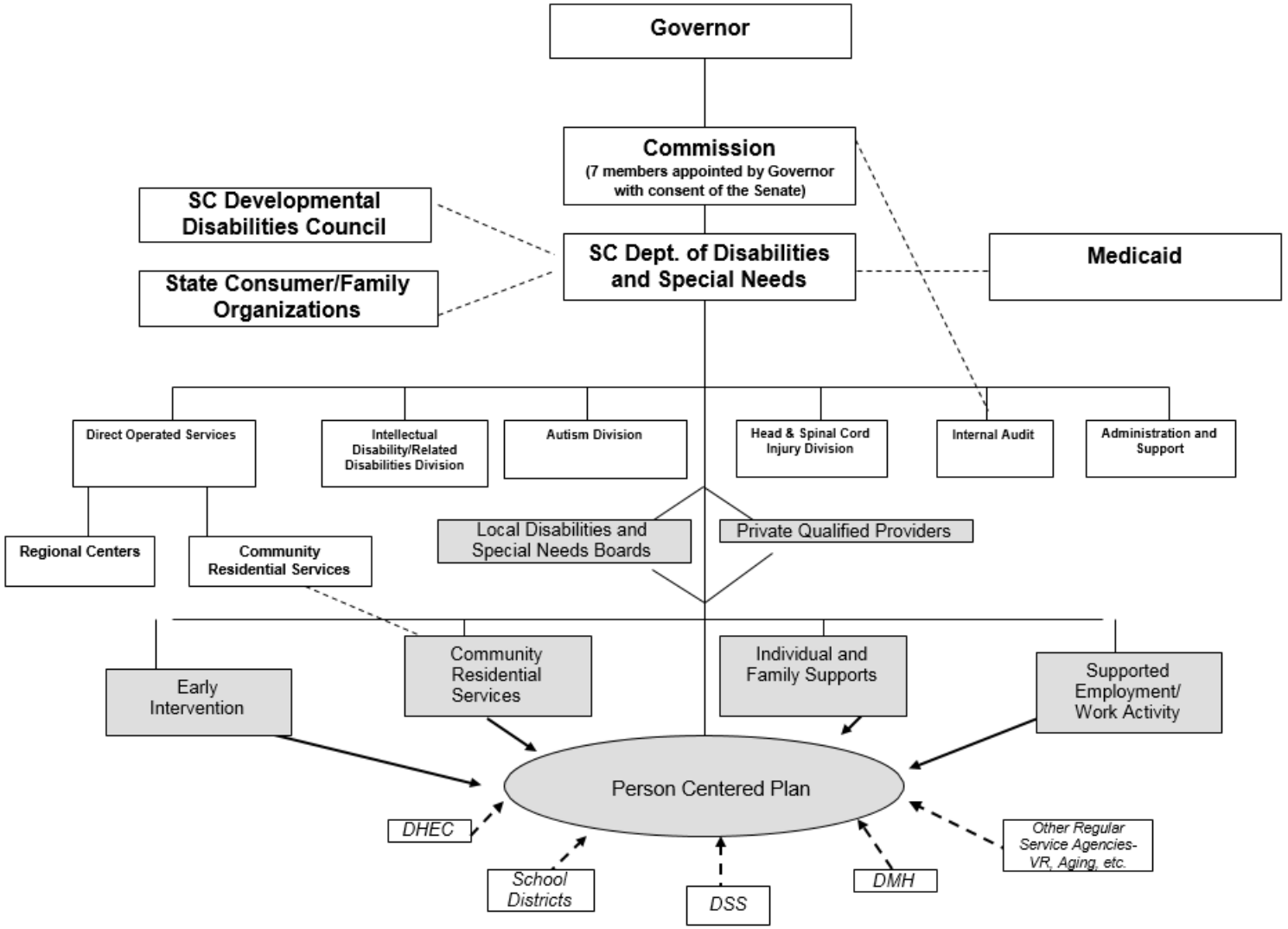


Figure 4. System organization.

Strategic Resource Allocation and Performance

Annually, each agency submits a strategic plan. Of interest to the oversight process is the total resources available to an agency and how the agency allocates human and financial resources across the agency's strategic plan. Tables 5, 7, 9, and 11 illustrate the agency's allocation of its financial and human resources among its goals and strategies in fiscal years 2015-16 and 2016-17. Also of interest during the study process is how the agency measures its performance in implementing the goals, strategies, and objectives of its strategic plan. Tables 6, 8, 10, and 12 show performance in measures associated with each strategic plan section. During the July 30, 2018, meeting DDSN staff provide additional measures used for performance management.

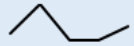
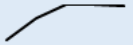
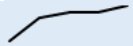
2015-16		2016-17	
Total # of FTEs	Total amount Appropriated and Authorized to Spend	Total # of FTEs	Total amount Appropriated and Authorized to Spend
Authorized: 2,122 Available: 1,987 Utilized: 1,697	$679,547,683	Authorized: 2,122 Available: 1,987 Utilized: 1,685	$739,425,357

Goal 1: Prevent disabilities and ameliorate impact of disabilities

Table 5. Goal one (Prevent disabilities and ameliorate impact of disabilities) 2015-16 consumers served, FTEs, and amount spent; 2016-17 FTEs and amount budgeted.

	2015-16			2016-17	
Strategic Plan Part	Number of Consumers Served	Number of FTE Equivalents Utilized	Total Amount Spent	Number of FTE Equivalents Planned to Utilize	Total Amount Budgeted
Strategy 1.1: Greenwood Genetic Center Birth Defect Services Prevent and mitigate birth defects	1,669	<1	$10,366,281	<1	$11,811,376
Strategy 1.2: Early Childhood Developmental Delay Services (BabyNet & Early Intervention) Mitigate developmental delays (ages 0-6)	9,098	2	$23,336,768	2	$31,479,472
Strategy 1.3: Post-Acute Traumatic Brain or Spinal Cord Injury Rehabilitation Services Ameliorate impact of traumatic brain and spinal cord injuries	54	<1	$2,692,717	<1	$3,100,000
Strategy 1.4: Pervasive Developmental Disorder (Autism) Services Mitigate developmental disorders and associated long-term medical costs	1,255 - waiver 6,000 - other	2	$8,111,577	2	$10,323,590

Table 6. Goal one associated performance measures.

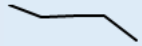
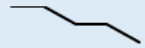
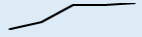
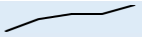
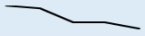
Performance Measure		FY 12	FY 13	FY 14	FY 15	FY 16	FY 17	National Benchmark
Annual Rate of neural tube defect births Per 10K Live birth	Target:	7	8	8	6.9	6.9	7.5	7
	Actual:	7.2	8.5	6.9	6.9	7.5		
Annual number of children with metabolic disorders receiving curative treatment	Target:	125	190	190	208	208	203	
	Actual:	118	174	208	208	203		
Average percent gain in standardized adaptive behavior domain scores for children in the Pervasive Developmental Disorder Waiver after two years of service	Target:	11%	11%	11%	10.40%			
	Actual:	10.40%	10.40%	10.40%				
Percentage of children over 36 months receiving early intervention services prior to third birthday	Target:	77%	87.50%	87.50%	86.20%	86.20%	87.50%	
	Actual:	75.60%	84.40%	86.20%	86.20%	88.90%		
Number of individuals receiving post acute rehabilitation services	Target:					54	54	
	Actual:				54	61		

Goal 2: Provide services in community integrated and least restrictive settings and promote individual independence

Table 7. Goal two (Provide services in community integrated and least restrictive settings and promote individual independence) 2015-16 consumers served, FTEs, and amount spent; 2016-17 FTEs and amount budgeted.

	2015-16			2016-17	
Strategic Plan Part	Number of Consumers Served	Number of FTE Equivalents Utilized	Total Amount Spent	Number of FTE Equivalents Planned to Utilize	Total Amount Budgeted
Strategy 2.1: In-Home Family Support Services (least restrictive community setting) Serves consumers at home, which is the least restrictive community based setting; promotes community integration, higher quality of life, consumer choice, lower costs, and individual independence	37,330	24	$66,851,682	25	$128,148,699
Strategy 2.2: Community Residential Services (residential habilitation services while still in the community) Serves consumers requiring residential habilitation services while still in a community based setting; promotes community integration, higher quality of life, consumer choice, lower costs, and individual independence	4,639	91	$314,137,241	99	$339,047,125
Strategy 2.3: Regional Center Residential Services (severe or profound disabilities) Serves fragile consumers with severe or profound disabilities where community based services are not appropriate	666	1,495	$86,111,572	1,765	$100,833,502
Strategy 2.4: Adult Development and Employment Support Services Promotes independence, community involvement, and quality of life	6,399 day program 2,359 supported employment	1	$ 71,934,699	1	$80,338,186
Strategy 2.5: Service Coordination (case management) Provides consumer advocate and logistical support to ensure consumer needs met	17,237	5	$ 18,542,692	5	$22,893,752

Table 8. Goal two associated performance measures.

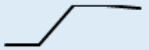
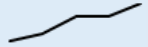
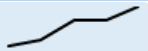
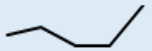
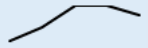
Performance Measure	Best State		FY 12	FY 13	FY 14	FY 15	FY 16	FY 17	National Benchmark
United Cerebral Palsy Community Inclusion Ranking (National Benchmark)	AZ	Target:	6th	6th	6th	14th	9th	14th	25th
		Actual:	6th	9th	14th	9th	14th		
Number of Children Served in Psychiatric Residential Treatment Facilities		Target:	70	70	55	64	64	45	
		Actual:	75	62	64	64	39		
Number of Children Served in Regional Centers		Target:	4	4	5	5	5	5	
		Actual:	6	6	5	5	4		
Ratio of Persons Served In HCB Waivers Versus ICF/IID	AZ	Target:	8	8.5	8.5	9.6	9.6	9.6	
		Actual:	7.4	8	9.6	9.6	9.8		
Number of Persons Served in Nursing Facilities Per 100,000 General Population and Compare to National Benchmark	OH	Target:	3.8	4	4	4.6	4.6	5	8.9
		Actual:	3.9	4.4	4.6	4.6	5		
Number of Persons Served in 16 + Bed Institutions Per 100K General Population	HI	Target:	20.1	20.1	20.1	19.7	19.7	19.7	25
		Actual:	20.3	20.2	19.7	19.7	19.5		
Number of Persons Served Less Restrictive Residential Settings		Target:					940	926	
		Actual:					926		
Percent of Individuals Receiving Day Services Who are Served in Integrated Employment Settings	WA	Target:	30%	30%	30%	29%	29%	29%	19%
		Actual:	29%	29%	29%	29%	29%		
Number of Individuals Moving from Regional Centers		Target:					24	24	
		Actual:					26		

Goal 3 Protect health, safety, and welfare of individuals served

Table 9. Goal three (Protect health, safety, and welfare of individuals served) 2015-16 consumers served, FTEs, and amount spent; 2016-17 FTEs and amount budgeted.

	2015-16			2016-17	
Strategic Plan Part	Number of Consumers Served	Number of FTE Equivalents Utilized	Total Amount Spent	Number of FTE Equivalents Planned to Utilize	Total Amount Budgeted
Strategy 3.1: Quality Assurance Monitoring of Providers' Compliance with Contract Operational Performance; Consumer Health, Safety and Welfare; and Facility Licensing Standards Ensure quality outcomes consistent with contract requirements with emphasis on consumer health, safety & welfare	All eligible consumers	5	$1,827,922	6	$1,883,953
Strategy 3.2: Monitor Providers' Financial Management and Operational Requirements Provide assurance of providers compliance with DDSN contract and policy fiscal requirements	All eligible consumers	8	$585,352	8	$658,546

Table 10. Goal three associated performance measures.

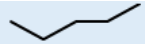
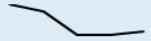
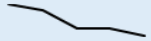
Performance Measure		FY 12	FY 13	FY 14	FY 15	FY 16	FY 17
Annual Rate of Substantiated Allegations of Abuse/Neglect/Exploitation Per 100 Served in Community Residential Settings	Target:	quarterly trend analysis	quarterly trend analysis	0	0.07	0.07	0.17
	Actual:	0.3	0.1	0.07	0.07	0.17	
Annual Rate of Substantiated Allegations of Abuse/Neglect/Exploitation Per 100 Served in Regional Centers	Target:	quarterly trend analysis	quarterly trend analysis	0	0.25	0.25	0.28
	Actual:	0	0	0.3	0.3	0.28	
Annual Rate of Critical Incidents Per 100 Served in Community Residential Settings	Target:	15	15	15	19	19	21.1
	Actual:	15.61	16.53	19.14	19.14	21.1	
Annual Rate of Critical Incidents Per 100 Served in Regional Centers	Target:	29	29	29	39	39	45.9
	Actual:	29.6	31.9	40.1	40.1	45.9	
Annual Rate of Fall Related Critical Incidents Per 100 Served in Community Residential Settings	Target:	1.25	1.3	1.3	1.12	1.12	2.11
	Actual:	1.38	1.56	1.12	1.12	2.11	
Annual Rate of Fall Related Critical Incidents Per 100 Served in Regional Centers	Target:	0.45	0.75	0.75	1.12	1.35	1.35
	Actual:	0.53	0.93	1.54	1.54	1.28	
Percentage of Critical Incidents which Measure Consumer Behavioral Adverse Event or Inquiry	Target:						85%
	Actual:					28%	

Goal 4: Meet the needs of the maximum number of eligible individuals through efficient and effective use of available resources

Table 11. Goal 4 (Meet the needs of the maximum number of eligible individuals through efficient and effective use of available resources) 2015-16 consumers served, FTEs, and amount spent; 2016-17 FTEs and amount budgeted.

	2015-16			2016-17	
Strategic Plan Part	Number of Consumers Served	Number of FTE Equivalents Utilized	Total Amount Spent	Number of FTE Equivalents Planned to Utilize	Total Amount Budgeted
Strategy 4.1: Monitor Organizational Effectiveness Through Benchmarks Provides indicators of organizational effectiveness to executive management, oversight, and the public	All eligible consumers	64	$7,169,393	74	$8,907,156

Table 12. Goal 4 associated performance measures.

Performance Measure		FY 12	FY 13	FY 14	FY 15	FY 16	FY 17
Entity that Approves Medicaid Waiver Authorization	Target:					DDSN	DDSN
	Actual:					Case Management Providers	
Percent of DDSN Consumers Served by Only DDSN	Target:	93.50%	93.50%	93.50%	93%	93%	93%
	Actual:	93%	92.50%	93%	93%	93.50%	
Percent of DDSN Consumers Served by DDSN and One Other State Agency	Target:					6.10%	6.10%
	Actual:				6.10%	5.70%	
Percent of DDSN Consumers Served by DDSN and More Than One Other State Agency	Target:					0.90%	0.90%
	Actual:				0.90%	0.80%	
Number of Individuals on DDSN Managed HCB Waiver Waiting Lists	Target:	10,500	10,000	10,000	10,300	10,300	12,600
	Actual:	11,212	10,660	10,464	10,464	12,598	
Average Time of Wait (in years) for Individuals Enrolled in ID/RD Waiver	Target:	5	5.5	5.5	3.4	3.4	3.9
	Actual:	6.7	6	3.5	3.5	3.9	
Average Time of Wait (in years) for Individuals Enrolled in CS Waiver	Target:	3.5	3	3	1.4	1.4	1.4
	Actual:	4.1	3.4	1.5	1.5	0.8	
Average Time of Wait (in years) for Individuals Enrolled in HASCI Waiver	Target:	1	0	0	0	0	0
	Actual:	2.2	0	0	0	0	
Percent Growth in Residential Service Capacity Needed to Eliminate Residential Waiting List	Target:					4.50%	5%
	Actual:				4.50%	5%	
Number of Persons with Significant Behavioral Needs Served in DDSN Operated Community Residences	Target:					3	9
	Actual:					0	

Human Resources

The Department of Administration's Division of State Human Resources provides the numbers of authorized, actual, and filled full time employee (FTE) positions for the last five fiscal years.[26] Tables 13, 14, and 15 provide that information. The Authorized Total FTE is as of July 1 of the fiscal year, as stated in the Appropriations Act. The Actual Total FTE is the sum of Filled FTE and Vacant FTE, based on what the agency has entered in South Carolina Enterprise Information System (SCEIS) and is as of June 30. If Actual is more than Authorized, it may be because during the course of the year, the Executive Budget Office authorizes interim FTE positions. The agency typically requests authorization for these positions in the next budget. If Actual is less than Authorized, it is because the agency has not set up all of the Authorized positions in SCEIS yet. Filled FTEs are positions the agency has set up in SCEIS in which someone is actually working. The Division of State Human Resources also provides the total salaries associated with the agency's filled FTEs. Figure 6 is a chart that shows the agency's gain/loss of filled FTEs and the gain/loss of salary burden on the agency at the same time.[27]

Table 13. DDSN Authorized FTE Positions (FY 2013-FY 2017).

	2012-13	2013-14	2014-15	2015-16	2016-17
Total	2,191.40	2,152.40	2,122.90	2,122.90	2,122.90
State	1,497.85	1,483.85	1,462.85	1,462.85	1,462.85
Federal	0.00	0.00	0.00	0.00	0.00
Other	693.55	668.55	660.05	660.05	660.05

Table 14. DDSN Actual FTE Positions (FY 2013-FY 2017).

	2012-13	2013-14	2014-15	2015-16	2016-17
Total	2,144.75	2,111.75	2,074.50	2,046.00	2,048.00
State	1,556.75	1,499.25	1,474.00	1,454.00	1,459.00
Federal	0.00	0.00	0.00	0.00	0.00
Other	588.00	612.50	600.50	592.00	589.00

Table 15. DDSN Filled FTE Positions (FY 2013-FY 2017).

	2012-13	2013-14	2014-15	2015-16	2016-17
Total	1,901.50	1,873.25	1,855.00	1,781.50	1,692.00
State	1,359.00	1,342.25	1,311.00	1,280.50	1,222.50
Federal	0.00	0.00	0.00	0.00	0.00
Other	542.50	531.00	544.00	501.00	469.50

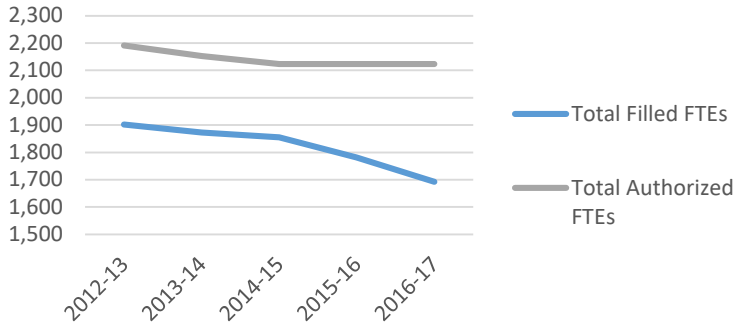


Figure 5. Total Authorized and Filled FTEs (FY 2013-FY 2017).

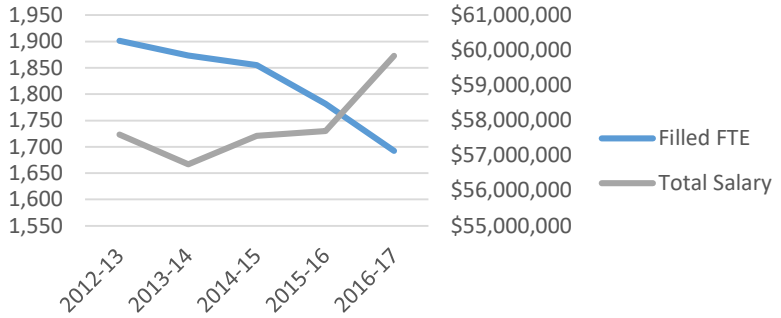


Figure 6. Total Filled FTEs and Total Salary Associated with FTEs (FY 2013-FY 2017).

STUDY PROCESS

Agency Selection

The Department of Disabilities and Special Needs is an agency subject to legislative oversight.[28] On January 10, 2017, during the 122nd General Assembly, the Committee prioritizes the agency for study.[29]

As the Committee encourages **collaboration in its legislative oversight process**, the Committee notifies the following individuals about the agency study: Speaker of the House, standing committee chairs in the House, members of the House, Clerk of the Senate, and Governor.

Subcommittee Membership

The **Healthcare and Regulatory Subcommittee of the House Legislative Oversight Committee studies the agency**.[30] The Honorable Phyllis J. Henderson serves as chair. Other Subcommittee Members include:

- The Honorable William "Bill" Bowers;
- The Honorable MaryGail Douglas; and
- The Honorable Bill Taylor.

Agency Reports to Legislative Oversight Committee

During the legislative oversight process, the **Committee asks the agency to conduct self-analysis** by requiring it to complete and submit annual Restructuring Reports, a Seven-Year Plan for cost savings and increased efficiencies, and a Program Evaluation Report. The Committee posts each report on the agency page of the Committee's website.

Restructuring Report

The Annual Restructuring Report fulfills the requirement in S.C. Code § 1-30-10(G)(1) that annually each agency report to the General Assembly "detailed and comprehensive recommendations for the purposes of merging or eliminating duplicative or unnecessary divisions, programs, or personnel within each department to provide a more efficient administration of government services." The report, at a minimum, includes information in the following areas - history, mission and vision, laws strategic plan, human and financial resources, performance measures, and restructuring recommendations.

The Department of Disabilities and Special Needs submits its Annual Restructuring Report in March 2015 and on January 11, 2016.[31] The agency's 2015-2016 Annual Accountability Report to the Governor and General Assembly, which it submits in September of 2016 serves as its 2017 Annual Restructuring Report.[32] The agency's 2016-2017 Annual Accountability Report to the Governor and General Assembly, which it submits in September of 2017 serves as its 2018 Annual Restructuring Report.[33]

Seven-Year Plan for Cost Savings and Increased Efficiencies

S.C. Code § 1-30-10 requires agencies to submit "a seven year plan that provides initiatives and/or planned actions that implement cost savings and increased efficiencies of services and responsibilities

within the projected seven-year period." The Department of Disabilities and Special Needs submits its plan in March 2015.[34]

Program Evaluation Report

When an agency is selected for study, the Committee may acquire evidence or information by any lawful means, including, but not limited to, "requiring the agency to prepare and submit to the investigating committee a Program Evaluation Report by a date specified by the investigating committee." S.C. Code §2-2-60 outlines what an investigating committee's request for a Program Evaluation Report must contain. Also it provides a list of information an investigating committee may request. The Committee sends guidelines for the Department of Disabilities and Special Needs' Program Evaluation Report (PER) on February 13, 2017. The agency submits its report on May 1, 2017.

The PER includes information in the following areas - agency snapshot, agency legal directives, strategic plan and resources, performance, agency ideas/recommendations, and additional documents. The Program Evaluation Report serves as the base document for the Committee's study of the agency.

Information from the Public

Public input is a cornerstone of the House Legislative Oversight Committee's process.[35] There are a variety of opportunities for public input during the legislative oversight process. Members of the public have an opportunity to participate anonymously in a public survey, provide comments anonymously via a link on the Committee's website, and appear in person before the Committee.[36] During the study, media articles related to the agency are compiled for member review.

Public Survey

From February 9, 2017, to March 13, 2017, the Committee posts an online survey to solicit comments from the public about the Department of Disabilities and Special Needs and four other agencies. The Committee sends information about this survey to all House members to forward to their constituents. Additionally, in an effort to communicate this public input opportunity widely, the Committee issues a statewide media release.[37]

Four hundred fifty-three respondents to the survey choose to answer questions about DDSN, with at least one response coming from 39 of South Carolina's 46 counties.[38] Respondents are primarily from Richland, Lexington, Charleston, Greenville, and Spartanburg Counties.[39] These comments are not considered testimony.[40] As the survey notes, "input and observations from those citizens who [chose] to provide responses are very important . . . because they may help direct the Committee to potential areas for improvement with these agencies."[41] The survey results are posted on the Committee's website. The public is informed it may continue to submit written comments about agencies online after the public survey closes.[42]

Of those survey participants that respond to questions related to DDSN, 66% have a positive or very positive opinion of the agency.[43]

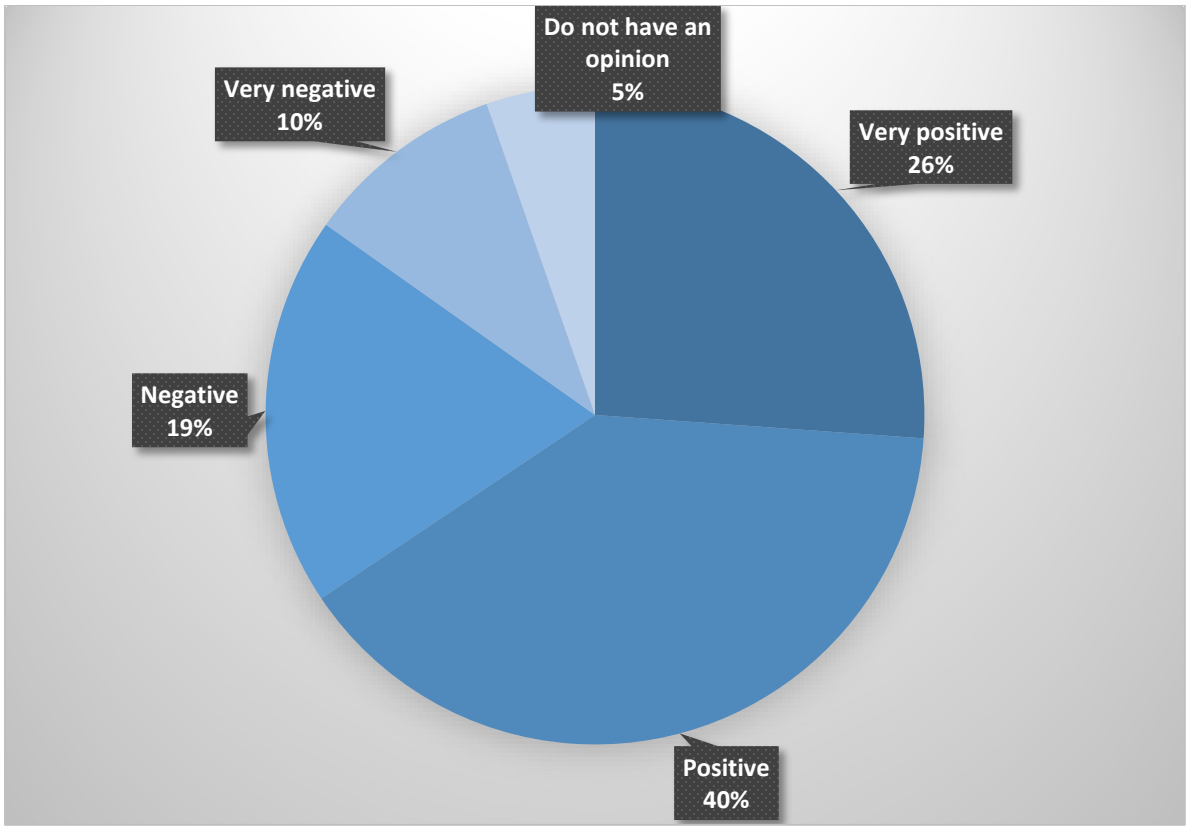


Figure 7. Public opinion of DDSN from public survey.

Over 75% of the public survey respondents base their opinions on personal or business with the agency. There are comments about the wait list, commission, staff dedication, local board oversight, communications, website, placement in state government, payment system, and funding.[44]

Public Input via Committee Website

Throughout the course of the study, people are able to submit comments anonymously on the Committee website. The Committee posts comments verbatim to the website, but they are not the comment or expression of the House Legislative Oversight Committee, any of its Subcommittees, or the House of Representatives.[45] The Committee receives four comments via this method. Topics include personnel policies, wages, and quality of care.

Public Input via In-Person Testimony

During the study, the Committee offers the opportunity for the public to appear and provide sworn testimony.[46] A press release announcing this opportunity is sent to media outlets statewide on February 26, 2017.[47] The Committee holds a meeting dedicated to public input about Department of Disabilities and Special Needs and other agencies on March 2, 2017.[48] Further detail on the public input meeting is in the meetings section of this report.

Meetings Regarding the Agency

The Committee meets with, or about, the agency on three occasions, and the Subcommittee meets with, or about, the agency on eight occasions. All meetings are open to the public and stream live online; also,

the videos are archived and the minutes are available online. A timeline of meetings is set forth in Figure 2, beginning on page seven.

122nd General Assembly (2017-2018)

January 2017

On **January 10, 2017**, the full Committee selects the agency for study.[49]

March 2017

On **March 2, 2017**, the full Committee holds its **first meeting** with the agency. Committee Chairman Wm. Weston J. Newton states the purpose of this meeting is to **receive public testimony** regarding DDSN and other agencies.[50] Constituents that have had experience with the agency testify.[51]

September 2017

On **September 18, 2017**, the Subcommittee holds **Meeting 2** with the agency. The Subcommittee receives testimony and ask questions about the agency's mission, roles, governing structure, provider network, prioritization of services, changing populations, service expansion, waiting lists, quality assurance process, incident management reporting, abuse/neglect/exploitation reporting, provider performance, current challenges, and pending system changes. Members also ask questions about the following, which State Director Buscemi answers:

- Provider choice;
- Medicaid funding;
- Provider personnel policies related to abuse and neglect allegations;
- Employee turnover; and
- Other state systems.[52]

October 2017

On **October 10, 2017**, the Subcommittee holds **Meeting 3** with the agency. The Subcommittee receives testimony and members ask questions about the agency's finances, governance, and services. Members also ask questions about the following, which State Director Buscemi answers:

- Provider licensing;
- Room and board funding;
- Local board oversight;
- Band payment system; and
- Service suspension.[53]

On **October 24, 2017**, the Subcommittee holds **Meeting 4** with the agency. The Subcommittee receives testimony from Commission Chair Eva Ravenel and Commissioner Bill Danielson. Members ask the Commissioners about the following:

- Commission role;
- Commission oversight of providers;
- Commission operations;
- Commission training; and
- Band payment system.

State Director Buscemi provides testimony about the band payment system, room and board, national benchmarks, regional centers, and client employment best practices. Members ask questions about the following:

- Tri-Development Center (Aiken board) operation of intermediate care facilities;
- Other state payment systems; and
- Board surplus funds.[54]

November 2017

On **November 6, 2017**, the Subcommittee holds **Meeting 5** with the agency. The Subcommittee receives testimony and members ask questions about the agency's human resources, including turnover. State Director Buscemi also provides testimony about steps taken to address direct support professional turnover.[55]

Associate State Director Susan Beck provides testimony and responds to questions about students transitioning from primarily receiving services in the school system, to receiving services from DDSN. She also provides testimony about abuse, neglect, and exploitation allegations and incident management.

Associate State Director Tom Waring provides testimony and responds to questions about agency computer systems and the compatibility of agency legacy systems with the statewide South Carolina Enterprise Information System (SCEIS).[56]

On **November 30, 2017**, the Subcommittee holds **Meeting 6** with the agency. Department of Health and Human Services Interim Director Joshua Baker provides testimony about Medicaid and DDSN, General Medicaid authority, fee-for-service, coordinated care, and waiver services billing.

Laura Spears, Transition Services Coordinator; Mark Wade, Assistant Commissioner; and Margaret Alewine, Director of Planning and Program Evaluation; from the Department of Vocational Rehabilitation, provide testimony about the transition of DDSN-eligible youth out of school and into the workforce.

Subcommittee members ask questions about the sub-minimum wage and youth enrollment, which Coordinator Spears and different agency representatives answer.

Seven provider executive directors provide testimony about their relationship with the agency and their concerns. Executive directors presented in the following order:

- Thoyd Warren, Sumter County Disabilities and Special Needs;[57]
- Mary Poole, MaxAbilities (York);[58]
- Ralph Courtney, Tri-Development Center (Aiken);
- Gerald Bernard, Charles Lea Center (Spartanburg);
- Susan John, Horry County Disabilities and Special Needs;
- Judy Johnson, Babcock Center (Lexington); and
- Tyler Rex, Thrive Upstate (Greenville).[59]

February 2018

On **February 1, 2018**, the Subcommittee holds **Meeting 7** with the agency. The Subcommittee receives testimony about the provider payment system, from Interim State Director Pat Maley. Mr. Maley provides a report of a payment system study he completed in the fall of 2017, including strengths and weaknesses of the current system, direction for improvement, and input from other states. Subcommittee members ask questions about band rate approval, outliers, administrative costs, and the payment study contracted for by DHHS.[60]

July 2018

On **July 30, 2018**, the Subcommittee holds **Meeting 8** with the agency. The Subcommittee receives testimony about the agency's enterprise performance management system, from Interim State Director Pat Maley. Specifically, he addresses:

- Enterprise Performance Management and information systems being built to measure effectiveness and operations;
- What new performance management system measures;
- Previous year's annual report data and how DDSN will utilize data;
- South Carolina compared to other states;
- DDSN weakness in measuring its own performance and how it is growing and developing new processes to measure data and make it very transparent and descriptive;
- Complaints that DDSN is not honest because when they ask for information they get differing information;
- A series of media articles;
- National Core Indicators; and
- Residential observations targeted at detecting abuse and neglect.

Subcommittee members ask questions about his testimony, Commission oversight when performance is poor, and family participation in decision-making.[61]

August 2018

On **August 30, 2018**, the Subcommittee holds **Meeting 9** with the agency to take what the Subcommittee has learned about the agency, and determine if there are any recommendations, either to the agency itself or for changes to the law. Interim Director Maley is available for questions.

Subcommittee members make various motions. A roll call vote is held, and the motions pass. Motion topics include:

- Pilot program to expand pool of direct care professionals;
- Applicant notification;
- Self-sufficiency fund;
- Disability trust fund;
- Definition of intellectual disability;
- Definition of mental deficiency;
- Government entity zoning ordinances;
- Healthcare decision priority list;
- Definition of facility; and
- Sharing of information related to ANE investigations.[62]

October 2018

On **October 23, 2018,** the full Committee holds **Meeting 10** with the agency. Committee members make motions to amend the report. A roll call vote is held, and the motions pass. Motion topics include:

- Commissioner training; and
- Governance.

The Honorable Phyllis Henderson moves the Committee approve the Subcommittee study. Committee members have until November 2, 2018, to submit statements to be included in the Committee report.

Study Process Completion

Pursuant to Committee Standard Practice 13.4, Committee members may provide a separate written statement for inclusion with the Committee's Study report. The study, and written statements, are published online and the agency, as well as all House Standing Committees, receive a copy. The Committee may offer at least one briefing to members of the House about the contents of the final oversight study approved by the Committee.[63] The Committee Chair may provide briefings to the public about the final oversight study.[64]

To support the Committee's ongoing oversight by maintaining current information about the agency, the agency receives an annual Request for Information.

RECOMMENDATIONS

The following **recommendations include areas** the Committee identifies **for potential improvement**. The **Committee recognizes these recommendations will not satisfy everyone nor address every issue or potential area of improvement at the agency**. These recommendations are based on the agency's self-analysis requested by the Committee, discussions with the agency during multiple meetings, and analysis of the information obtained by the Committee. This information, including, but not limited to, the Program Evaluation Report, Accountability Report, Restructuring Report and videos of meetings with the agency, is available on the Committee's website.

Continue

The **Committee does not have any specific recommendations with regards to continuance of agency programs.**

Revise

The **Committee has seventeen recommendations for revisions.** The Committee's recommendations fall into four categories: (1) recommendations to the Department of Disabilities and Special Needs, (2) recommendation to the Commission on Disabilities and Special Needs, (3) recommendation to the Committee, and (4) recommendations to the General Assembly. An overview of these recommendations is provided in Table 1 on page 8.

Recommendations to the Department of Disabilities and Special Needs

Incentives to Expand the Pool of Direct Care Professionals

The Committee has **one recommendation related to expanding the pool of direct care professionals,** and a summary is set forth in Table 16.

Table 16. Recommendation to the Department of Disabilities and Special Needs.

Recommendation to Department of Disabilities and Special Needs	
Expand Potential Pool of Direct Care Professionals	1.) The Department of Disabilities and Special Needs should seek funding to create a grant program or incentives for providers to expand the pool of Direct Care Professionals through shadowing programs, recognition programs, grassroots campaigns and training efforts designed to expand awareness about the profession and encourage greater participation by potential employees, specifically students preparing to graduate high school.

Throughout the study, DDSN staff present evidence regarding the "shrinking work force to supply staff to serve consumers."[65] DDSN staff assert that direct support professional "stability is an important factor to the delivery of quality services" and that high "turnover and recruitment difficulties result in significant vacancies and increased overtime." Agency steps to address this issue include: providing recruitment/retention grants to providers, surveying direct support professionals on work satisfaction, and implementing changes as a result of the survey.[66] Also, in the FY 2018 budget, DDSN receives $9 million in new funding to increase the hiring wage to $11 per hour, which the agency characterizes as a significant step in addressing competitive wages.[67] In the FY 2019 budget, DDSN receives $11.3 million to increase DDSN's direct care staff starting salaries to $12 per hour and a 3-4% increase to direct care wages for employees working with the department for at least five years.[68]

The purpose of this recommendation is to add another way to expand the pool of potential employees, by reaching them earlier and allowing them to get first-hand experience prior to applying for a direct support profession position.

Agency Follow Up

Table 17. Recommendation to the Department of Disabilities and Special Needs.

Recommendation to Department of Disabilities and Special Needs	
Provide Progress Report the Committee	2.) The State Director should report to the Committee in six months regarding changes implemented as a result of the Legislative Oversight process and the agency's internal improvement processes. This update should also include the status of additional mechanisms of feedback from stakeholders.

Commissioner Training

The Committee has **one recommendation related to commissioner training**. A summary is set forth in Table 18.

Table 18. Recommendation to the Department of Disabilities and Special Needs.

Recommendation to Department of Disabilities and Special Needs	
Expand Commissioner Training	3.) The Department of Disabilities and Special Needs should further develop training for new Commissioners, including expanded onboarding and continuing education.

At the October 24, 2017, Subcommittee meeting, Commission Chair Eva Ravenel testifies new Commissioners receive training from agency executive staff, and are encouraged to visit facilities to familiarize themselves with the system.[69] She also testifies that throughout a new commissioner's first three to six months, it is her practice to remain in constant contact to ensure the commissioner is grasping the information provided and agency processes.[70] In response to questions at the October 23, 2018, meeting, State Director Poole notes unlike past commissions, the current commission composition includes people with personal and professional knowledge of the system.[71] She also recommends the agency expand its commission orientation packet, and require commissioners to obtain relevant continuing education.[72]

Recommendation to the Commission on Disabilities and Special Needs

Regulations

The Committee has **two recommendations related to agency regulations**, one of which is for the DDSN Commission. A summary is set forth in Table 19.

Table 19. Recommendation to the Commission on Disabilities and Special Needs.

Recommendation to Commission on Disabilities and Special Needs	
Review Agency Regulatory Environment	4.) The Commission should undertake a complete review of the agency's regulatory environment, including existing and needed regulations. If that review reveals regulations that should be promulgated, amended, or repealed, the Commission should proceed through the procedures in Title 1, Chapter 23 of the South Carolina Code of Laws, related to state agency rulemaking.

S.C. Code Ann. § 44-20-220 provides the duties of the Commission on Disabilities and Special Needs, and states "The Commission shall determine policy and promulgate regulations governing the operation of the department and the employment of professional staff and personnel." The Commission has not proposed a new regulation, amendment or repeal of a regulation in at least two decades.[73] In 2017, the Commission approves a set of regulatory change recommendations to the Legislative Oversight Committee. Despite expressing a need, the Commission has yet to take steps to amend or repeal these regulations through the normal agency-initiated regulatory process.

Recommendation to the Legislative Oversight Committee

Regulations

The Committee has **two recommendations related to agency regulations**, one of which is to itself. A summary is set forth in Table 20.

Table 20. Recommendation to the Legislative Oversight Committee.

	Recommendation to the House Legislative Oversight Committee
Review Agency Regulatory Environment	5.) The Committee should formally communicate to the House Regulations and Administrative Procedures Committee that the Commission on Disabilities and Special Needs has reviewed some regulations and determined they should be amended. This study will be available as a resource whenever the Commission promulgates new regulations or proposes amendments to existing regulations

In October 2017, the Commission on Disabilities and Special Needs approves submission of thirteen recommendations for changes to existing regulations to the Legislative Oversight Committee. Despite indicating a need for changes, the Commission does not provide notice of drafting or take any other step in the regulatory process. In anticipation of the eventual action to be taken by the Commission on Disabilities and Special Needs, the Committee seeks to provide a resource for the regulatory process.

Recommendations to the General Assembly

Governing Body's Role and Criteria for Membership

The Committee has **two recommendations related to DDSN's associated governing bodies' roles and one recommendation related to criteria for Commission membership**. A summary is set forth in Table 21.

Table 21. Recommendations to the General Assembly.

	Recommendations to the General Assembly
Create a Cabinet Agency	6.) The General Assembly should consider making the Department of Disabilities and Special Needs a cabinet agency. Specifically, the Governor, with the advice and consent of the Senate, should appoint the agency head. In addition, the Commission on Disabilities and Special Needs should continue to exist in an advisory capacity. All responsibilities currently assigned to the Commission, should devolve to the Department.
Develop Criteria for Commission Membership	7.) The General Assembly should consider amending S.C. Code Ann. § 44-20-210 to establish knowledge and expertise criteria for membership on the Commission on Disabilities and Special Needs.

Redefine Role of County Boards	8.) The General Assembly should consider amending S.C. Code Ann. § 44-20-30 such that the county disabilities and special needs boards serve in an advisory capacity to the county director. All responsibilities currently assigned to county boards, including hiring of the county director, should devolve to the Department. The county disabilities and special needs board office should become a county office of the Department of Disabilities and Special Needs.

Throughout the study, Subcommittee members remark on the complexity of DDSN, from the structure to payment system. South Carolina is the only state where the intellectual disabilities agency is a standalone agency, governed by a commission of volunteers, and not in the same line of authority as the Medicaid agency.[74] Other standalone agencies have advisory groups, but they are not charged with determining policy for the agency or statewide system, or hiring the director.[75] Current Commission Chair Eva Ravenel provides testimony at the October 24, 2017, meeting. When asked how commissioners are appointed, she states "They are appointed by the Governor. I think the Governor is doing it wrong. You need someone who has a knowledge and passion for people with disabilities."[76] Structure is not necessarily correlated with performance. Using the United Cerebral Palsy Case for Inclusion rankings, cited by the agency as the "most comprehensive rating of state ID/DD service systems," three standalone agencies rank above South Carolina's ranking of 14 nationally, and four rank below it in overall scores.[77]

Agency Recommendations for Statutory Changes

As a part of the PER process, the Committee asks the agency to submit recommendations for statutory changes. These recommendations can be for myriad reasons including to update the Code of Laws to reflect current practices and to remove impediments to accomplishing the agency's mission. The Committee adopts **nine agency recommendations**, with some modifications**.** Summaries are set forth in Tables 22-27. The agency's proposed strikethrough and underline language is included in Appendix A. The agency makes additional recommendations, which the Committee receives for information purposes only. They are in Appendix B.

Table 22. Recommendation to clarify entities providing services.

Subject	Impacted Code Section	Recommendation
Clarify Entities Providing Services	S.C. Code Ann. § 44-20-370 (A)	9.) The General Assembly should consider amending S.C. Code Ann. § 44-20-370(A) to reflect that services are offered through private qualified providers as well as county DSN boards. In addition, the Committee recommends the agency develop a definition of "qualified provider," for inclusion in Title 44, Chapter 20 of the S.C. Code of Laws.

Private qualified providers account for 15% of service spending in the DDSN system.[78] Entities become qualified providers by responding to an ongoing solicitation for providers.[79] County-based disabilities and special needs boards are able to become private qualified providers if there are services the board would like to provide outside of its home county.

Table 23. Recommendations to repeal Self-Sufficiency and Disability Trust Funds.

Subject	Impacted Code Section	Recommendation

Repeal Self-Sufficiency Fund	S.C. Code Ann. § 44-28-10 through § 44-28-80	10.) The General Assembly should consider repealing S.C. Code Ann. § 44-28-10 through § 44-28-80 because the fund was not established and in 2016, the General Assembly established the South Carolina ABLE savings program, which serves the same purpose, and is made possible by the federal Achieving Better Life Experience Act.
Repeal Disability Trust Fund	S.C. Code Ann. § 44-28-310 through § 44-28-370	11.) The General Assembly should consider repealing S.C. Code Ann. § 44-28-310 through § 44-28-370 because the fund was never established and in 2016, the General Assembly established the South Carolina ABLE savings program, which serves the same purpose.

The Self-Sufficiency Trust Fund is established in 1992 to provide a "life-care planning option to meet the supplemental service needs of individuals with disabilities in order to enable parents and families to plan a more secure future for their disabled dependents without fear of loss of benefits or invasion of trust principal."[80] The Disability Trust Fund is established in 1992 to provide "supplemental services to meet the needs of low income and indigent individuals with disabilities."[81] The South Carolina ABLE Savings Program, established in 2016, authorizes:

> [E]stablishment of savings accounts empowering individuals with a disability and their families to save private funds which can be used to provide for disability-related expenses in a way that supplements, but does not supplant, benefits provided through private insurance, the Medicaid program under Title XIX of the Social Security Act, the supplemental security income program under Title XVI of the Social Security Act, the beneficiary's employment, and other sources; and to provide guidelines for the maintenance of these accounts.[82]

DDSN recommends repealing the Self-Sufficiency and Disability Trust Funds because they serve the same purpose as the later-enacted ABLE program. Other agencies serving clients qualifying for the two trust funds, including the Department of Mental Health and Vocational Rehabilitation, support repeal. If both sections are repealed, the result is repeal of all of Chapter 28 of Title 44.

Table 24. Recommendations to make definitions of "intellectual disability" consistent.

Subject	Impacted Code Section	Recommendation
Make Definitions of Intellectual Disability Consistent	S.C. Code Ann. § 44-23-10 (22)	12.) The General Assembly should consider amending S.C. Code Ann § 44-23-10(22) so that the definition of intellectual disability is consistent with the definition in S.C. Code Ann. § 44-20-30(12).[83][84]
Replace Mental Deficiency with Intellectual Disability	S.C. Code Ann. § 44-25-20(g)	13.) The General Assembly should consider amending S.C. Code Ann. § 44-25-20(g), to replace "mental deficiency" and its definition with "intellectual disability" and its definition as stated in S.C. Code Ann § 44-20-30(12). In addition, the Committee recommends that "mental deficiency" be replaced with "intellectual disability" throughout Title 44, Chapter 25.

Two nationally recognized entities provide definitions of "intellectual disabilities" similar to the definition the Department recommends. The **American Association of Intellectual and Developmental Disabilities**

defines intellectual disability as follows: "Intellectual disability is a disability characterized by significant limitations in both intellectual functioning and in adaptive behavior, which covers many everyday social and practical skills. This disability originates before the age of 18."[85] The **Diagnostic and Statistical Manual of Mental Disorders (DSM)** defines intellectual disability as a "disorder with onset during the developmental period that includes both intellectual and adaptive functioning deficits in conceptual, social, and practical domains."[86]

Chapter 25 of Title 44 is the Interstate Compact on Mental Health, which South Carolina enters in 1959. Changing the term should not impact the state's membership, as different states use different terms and definitions, including "mental deficiency, mental retardation, and intellectual disability."

Table 25. Recommendation to be in compliance with federal fair housing laws.

Subject	Impacted Code Section	Recommendation
Correct Inconsistency with Federal Fair Housing Law	S.C. Code Ann. § 6-29-770	14.) The General Assembly should consider amending S.C. Code Ann. § 6-29-770 to remove the requirement that notice be given for a home for persons with disabilities, as it violates federal Fair Housing Laws.[87]

In 1988, the protections against housing discrimination in the federal Fair Housing Act are extended to people with disabilities. Case law interpreting the Act state requirements for notice of a group home constitute a discriminatory classification in violation of the Act, when they are not imposed on any other properly zoned residential unit.

Table 26. Recommendation to adjust priority of people/entities making health care decisions.

Subject	Impacted Code Section	Recommendation
Adjust Priority List of Persons Who Can Make Health Care Decisions	S.C. Code Ann. § 44-66-30(A)	15.) The General Assembly should consider amending S.C. Code Ann. § 44-66-30(A) to give DDSN last priority in health care decisions for persons unable to consent, as "a person given authority to make health care decisions for the patient by another statutory provision." Section 44-26-40, § 44-26-50, and § 44-26-60(C) should all be amended to refer to the correct priority number in § 44-66-30.

The agency requests amendment to the Adult Health Care Consent Act, because in its most recent amendment, an inconsistency is created between DDSN statutes providing authority to use the Act and the Department's priority in the Act itself. As a result, there is uncertainty in the provider network regarding who to seek consent from for medical treatment, when the client is unable to consent. The agency seeks to be last in the priority order.[88]

Table 27. Recommendations related to the Omnibus Adult Protection Act.

Subject	Impacted Code Section	Recommendation
Add Day Program To	S.C. Code Ann. § 43-35-10(4)	16.) The General Assembly should consider amending S.C. Code Ann. § 43-35-10(4) to include day programs in the definition of "facility" in the Omnibus Adult Protection Act.

Definition of Facility		
Require Sharing of Case Disposition With Agency	S.C. Code Ann. § 43-35-60	17.) The General Assembly should consider amending S.C. Code Ann. § 43-35-60 to require investigating agencies to share specific abuse, neglect, or exploitation case dispositions with the relevant state agency.

Title 43, Chapter 35 is the Omnibus Adult Protection Act. Addition of day programs to the facilities definitions expands the settings subject to requirements in the Act.

The Department of Mental Health agrees with Recommendation 14, and SLED agrees in concept but asks the Committee consider requiring investigative entities to share closed case dispositions with the relevant state agency, so the agency can share it with the facility.

Eliminate

The Committee does not have any specific recommendations with regards to elimination of agency programs.

SELECTED AGENCY INFORMATION

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APPENDICES

Appendix A. Statutory Change Recommendations

Statute	§ 44-20-370 (A)
Explanation of Revision	**(Recommendation 6)** Amends statute to reflect that services are offered through private qualified providers as well as the county DSN boards.
Recommended Language	A) The department shall: (1) Notify applicants when they have qualified under the provisions of this chapter; (2) Establish standards of operation and service for private qualified providers and county disabilities and special needs programs funded in part or in whole by state appropriations to the department or through other fiscal resources under its control; (3) Review service plans submitted by private qualified providers and county boards of disabilities and special needs and determine priorities for funding plans or portions of the plans subject to available funds; (4) Review private qualified providers and county programs covered in this chapter; (5) Offer consultation and direction to private qualified providers and county boards; (B) The department shall seek to develop and utilize the most current and promising methods for the training of persons with intellectual disability, related disabilities, head injuries, and spinal cord injuries. It shall utilize the assistance, services, and findings of other state and federal agencies. The department shall disseminate these methods to private qualified providers and the county boards and programs providing related services.
Statute	§ 44-28-10 through § 44-28-80
Explanation of Revision	**(Recommendation 7)** Repeals self-sufficiency trust fund because it was never established and the ABLE act is now in effect.
Recommended Language	~~**SECTION 44-28-10.** Establishment of fund; purpose.~~ ~~There is established the Self-Sufficiency Trust Fund, separate and distinct from the general fund, in the State Treasury. The purpose of the Self-Sufficiency Trust Fund is to provide a life-care planning option to meet the supplemental service needs of individuals with disabilities in order to enable parents and families to plan a more secure future for their disabled dependents without fear of loss of benefits or invasion of trust principal.~~ ~~**SECTION 44-28-20.** Definition of "self-sufficiency trust."~~ ~~For the purpose of this chapter "a self-sufficiency trust" means a trust created by a nonprofit corporation exempt from federal income taxes pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986 and organized for purposes of providing care or treatment of one or more developmentally disabled, mentally ill, or physically handicapped persons eligible for services of the South Carolina Department of Disabilities and Special Needs, State Department of Mental Health, or the State Agency of Vocational Rehabilitation.~~ ~~**SECTION 44-28-30.** State Treasurer custodian of trust fund; agreement to specify supplemental care or treatment for each beneficiary.~~ ~~(A) The State Treasurer is the custodian of the Self-Sufficiency Trust Fund and pursuant to an agreement with the trustee of a self-sufficiency trust may accept money from a self-sufficiency trust in the name of a beneficiary for deposit in the Self-Sufficiency Trust Fund. The treasurer shall maintain a separate account in the Self-Sufficiency Trust Fund for each named beneficiary and shall promptly credit the account of a beneficiary with money received from a self-sufficiency trust on behalf of that beneficiary.~~ ~~(B) The agreement, naming one or more beneficiaries residing in this State who are developmentally disabled, mentally ill, or physically handicapped, must specify the supplemental care or treatment to be provided for each named beneficiary with the money deposited in the Self-Sufficiency Trust Fund.~~ ~~**SECTION 44-28-40.** Departments and Agency required to provide care or treatment using monies in fund account; vouchers.~~ ~~(A) The South Carolina Department of Disabilities and Special Needs, State Department of Mental Health, or the State Agency of Vocational Rehabilitation must provide care or treatment for a beneficiary from monies available from the beneficiary's account maintained in the Self-Sufficiency Trust Fund.~~

	~~(B) Upon proper certification by the South Carolina Department of Disabilities and Special Needs, the State Department of Mental Health, or the State Agency of Vocational Rehabilitation, the State Treasurer shall process vouchers from the Self-Sufficiency Trust Fund accounts for services provided pursuant to this section.~~ ~~**SECTION 44-28-50.** Receipt of monies from fund not to reduce, impair, or diminish other benefits.~~ ~~The receipt by a beneficiary of money from the Self-Sufficiency Trust Fund or of supplemental care or treatment provided with money from the fund may in no way reduce, impair, or diminish the benefits to which the beneficiary is otherwise entitled by law.~~ ~~**SECTION 44-28-60.** Money not usable for supplemental care and treatment to be returned to depositing trust; interest.~~ ~~If the State Treasurer after consultation with the South Carolina Department of Disabilities and Special Needs, the State Department of Mental Health, or the State Agency of Vocational Rehabilitation determines that the money in the account of a named beneficiary cannot be used for supplemental care or treatment of the beneficiary in a manner consistent with the agreement or upon request of the trustee of the self-sufficiency trust, the remaining money in the account and any accumulated interest promptly must be returned to the self-sufficiency trust which deposited the money in the Self-Sufficiency Trust Fund.~~ ~~**SECTION 44-28-70.** Crediting and allocation of interest.~~ ~~The State Treasurer shall credit interest earned on the Self-Sufficiency Trust Fund to the fund and shall allocate the interest pro rata to the accounts of the named beneficiaries of the fund.~~ ~~**SECTION 44-28-80.** Departments and Agency to promulgate regulations for implementation and administration of fund.~~ ~~The South Carolina Department of Disabilities and Special Needs, the State Department of Mental Health, and the State Agency of Vocational Rehabilitation shall promulgate regulations necessary for the implementation and administration of the Self-Sufficiency Trust Fund.~~
Statute	§ 44-28-310 through § 44-28-370
Explanation of Revision	**(Recommendation 8)** Repeals disability trust fund because it was never established and the ABLE act is now in effect.
Recommended Language	~~**SECTION 44-28-310.** Establishment of fund; purpose.~~ ~~There is established the Disability Trust Fund, separate and distinct from the general fund, in the State Treasury. The purpose of the Disability Trust Fund is to provide supplemental services to meet the needs of low-income and indigent individuals with disabilities.~~ ~~**SECTION 44-28-320.** Source of monies for fund.~~ ~~The State Treasurer may accept for deposit in the Disability Trust Fund:~~ ~~(1) monies left to the Disability Trust Fund by donors of a self-sufficiency trust defined in Article 1 of this chapter at the death of the disabled beneficiary; and~~ ~~(2) bequests and contributions from private donors, corporations, or foundations.~~ ~~**SECTION 44-28-330.** Use of monies in fund.~~ ~~Monies in the Disability Trust Fund must be expended solely to provide supplemental services to meet the need for care or treatment for low-income or indigent individuals with developmental disabilities, mental illness, or physical handicaps.~~ ~~**SECTION 44-28-340.** Interest earned to be credited to fund.~~ ~~The State Treasurer shall credit earned interest on the Disability Trust Fund to the fund.~~ ~~**SECTION 44-28-350.** Receipt of monies from fund not to reduce, impair, or diminish other benefits.~~ ~~The receipt by a beneficiary of money from the trust fund or of supplemental care or treatment provided with money from the trust fund does not in any way reduce, impair, or diminish the benefits to which the beneficiary is otherwise entitled by law.~~

	~~SECTION 44-28-360. Departments and Agency required to provide care or treatment to eligible beneficiaries using monies from fund.~~ ~~The South Carolina Department of Disabilities and Special Needs, State Department of Mental Health, or State Agency of Vocational Rehabilitation must provide care or treatment for the beneficiary from monies available from the Disability Trust Fund. These agencies are responsible only for the beneficiaries that meet their individual eligibility criteria.~~ ~~SECTION 44-28-370. Departments and Agency to promulgate regulations for implementation and administration of fund.~~ ~~The South Carolina Department of Disabilities and Special Needs, the State Department of Mental Health, and the State Department of Vocational Rehabilitation shall promulgate regulations necessary for the implementation and administration of the Disability Trust Fund.~~
Statute	§ 44-23-10 (22)
Explanation of Revision	**(Recommendation 9)** Makes definitions of intellectual disability consistent.
Recommended Language	(22) "Person with intellectual disability" means a person~~, other than a person with a mental illness primarily in need of mental health services, whose inadequately developed or impaired intelligence and adaptive level of behavior require for the person's benefit, or that of the public, special training, education, supervision, treatment, care, or control in the person's home or community or in a service facility or program under the control and management of the Department of Disabilities and Special Needs.~~ with significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period.
Statute	§ 44-25-20 (g)
Explanation of Revision	**(Recommendation 10)** Changes mental deficiency to intellectual disability.
Recommended Language	~~(g) "Mental deficiency" shall mean mental deficiency as defined by appropriate clinical authorities to such extent that a person so afflicted is incapable of managing himself and his affairs, but shall not include mental illness as defined herein.~~ "Intellectual disability" means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period. ***Replace mental deficiency with intellectual disability throughout chapter.**
Statute	§ 6-29-770
Explanation of Revision	**(Recommendation 11)** Removes section of code inconsistent with federal Fair Housing Laws.
Recommended Language	(E) The provisions of this section do not apply to a home serving nine or fewer mentally or physically handicapped persons provided the home provides care on a twenty-four hour basis and is approved or licensed by a state agency or department or under contract with the agency or department for that purpose. A home is construed to be a natural family or such similar term as may be utilized by any county or municipal zoning ordinance to refer to persons related by blood or marriage. ~~Prior to locating the home for the handicapped persons, the appropriate state agency or department or the private entity operating the home under contract must first give prior notice to the local governing body administering the pertinent zoning laws, advising of the exact site of any proposed home. The notice must also identify the individual representing the agency, department, or private entity for site selection purposes. If the local governing body objects to the selected site, the governing body must notify the site selection representative of the entity seeking to establish the home within fifteen days of receiving notice and must appoint a representative to assist the entity in selection of a comparable alternate site or structure, or both. The site selection representative of the entity seeking to establish the home and the representative of the local governing body shall select a third mutually agreeable person. The three persons have forty-five days to make a final selection of the site by majority vote. This final selection is binding on the entity and the governing body. In the event no selection has been made by the end of the forty-five day period, the entity establishing the home shall select the site without further proceedings~~. An application for variance or special exception is not required. No person may intervene to prevent the establishment of a community residence without reasonable justification.

Statute	§ 44-66-30(A); § 44-26-40; § 44-26-50; and § 44-26-60(C)
Explanation of Revision	**(Recommendation 12)** Make entities with authority to make healthcare decisions last in the priority and corrects code references.
Recommended Language	SECTION 44-66-30. Persons who may make health care decisions for patient who is unable to consent; order of priority; exceptions. (A) Where a patient is unable to consent, decisions concerning his health care may be made by the following persons in the following order of priority: (1) a guardian appointed by the court pursuant to Article 5, Part 3 of the South Carolina Probate Code, if the decision is within the scope of the guardianship; (2) an attorney-in-fact appointed by the patient in a durable power of attorney executed pursuant to Section 62-5-501, if the decision is within the scope of his authority; (3) a person given priority to make health care decisions for the patient <u>when the agency has taken custody of the patient</u> by another statutory provision; (4) a spouse of the patient unless the spouse and the patient are separated pursuant to one of the following: (a) entry of a pendente lite order in a divorce or separate maintenance action; (b) formal signing of a written property or marital settlement agreement; or (c) entry of a permanent order of separate maintenance and support or of a permanent order approving a property or marital settlement agreement between the parties; (5) an adult child of the patient, or if the patient has more than one adult child, a majority of the adult children who are reasonably available for consultation; (6) a parent of the patient; (7) an adult sibling of the patient, or if the patient has more than one adult sibling, a majority of the adult siblings who are reasonably available for consultation; (8) a grandparent of the patient, or if the patient has more than one grandparent, a majority of the grandparents who are reasonably available for consultation; (9) any other adult relative by blood or marriage who reasonably is believed by the health care professional to have a close personal relationship with the patient, or if the patient has more than one other adult relative, a majority of those other adult relatives who are reasonably available for consultation<u>;</u> (10) <u>a person given authority to make health care decisions for the patient by another statutory provision.</u> SECTION 44-26-40. Determination of competency to consent to or refuse major medical treatment. If a client resides in a facility operated by or contracted to by the department, the determination of that client's competency to consent to or refuse major medical treatment must be made pursuant to Section ~~44-66-20(6)~~ <u>44-66-20(8)</u> of the Adult Health Care Consent Act. The department shall abide by the decision of a client found competent to consent. SECTION 44-26-50. Health care decisions of client found incompetent to consent to or refuse major medical treatment. If the client is found incompetent to consent to or refuse major medical treatment, the decisions concerning his health care must be made pursuant to Section 44-66-30 of the Adult Health Care Consent Act. An authorized designee of the department may make a health care decision pursuant to Section ~~44-66-30(8)~~ <u>44-66-30(10)</u> of the Adult Health Care Consent Act. The person making the decision must be informed of the need for major medical treatment, alternative treatments, and the nature and implications of the proposed health care and shall consult the attending physician before making decisions. When feasible, the person making the decision shall observe or consult with the client found to be incompetent. SECTION 44-26-60. Health care decisions of minor clients. (A) If the client is a minor, the decisions concerning his health care must be made by the following persons in the following order of priority: (1) legal guardian; (2) parent; (3) grandparent or adult sibling; (4) other relative by blood or marriage who reasonably is believed by the health care professional to have a close personal relationship with the client;

	(5) other person who reasonably is believed by the health care professional to have a close personal relationship with the client; (6) authorized designee of the department. (B) If persons of equal priority disagree on whether certain health care must be provided to a client who is a minor, a person authorized in subsection (A), a health care provider involved in the care of the client, or another person interested in the welfare of the client may petition the probate court for an order determining what care is to be provided or for appointment of a temporary or permanent guardian. (C) Priority under this section must not be given to a person if a health care provider, responsible for the care of a client who is unable to consent, determines that the person is not reasonably available, is not willing to make health care decisions for the client, or is unable to consent as defined in Section ~~44-66-20(6)~~ 44-66-20(8) of the Adult Health Care Consent Act. (D) In an emergency health care may be provided without consent pursuant to Section 44-66-40 of the Adult Health Care Consent Act to a person found incompetent to consent to or refuse major medical treatment or who is incapacitated solely by virtue of minority.
Statute	§ 43-35-10(4)
Explanation of Revision	**(Recommendation 13)** Adds day programs to the list of facilities that are settings subject to the Omnibus Adult Protection Act (OAPA).
Recommended Language	4) "Facility" means a nursing care facility, community residential care facility, a psychiatric hospital, day program or any residential program operated or contracted for operation by the Department of Mental Health or the Department of Disabilities and Special Needs.
Statute	§ 43-35-60
Explanation of Revision	**(Recommendation 14)** Requires investigating entities to share specific case dispositions with the relevant state agency.
Recommended Language	Unless otherwise prohibited by law, a state agency, an investigative entity, and law enforcement may share information related to an investigation conducted as a result of a report made under this chapter. An investigative entity and law enforcement shall share specific case dispositions with the relevant state agency. Information in these investigative records must not be disclosed publicly.

Appendix B. Agency Recommendations Received for Information Purposes Only

Recommendations Internal Changes Included in PER

1. Internal Change: *Evaluation of Abuse, Neglect, and Exploitation (ANE) reporting and follow up system.*

- The Legislative Audit Council (LAC) reviewed DDSN in 2014 and made several recommendations related to the ANE system. Last year DDSN asked the South Carolina Inspector General (SIG) to conduct a review of one of the private providers, S.C. Mentor. In this review the SIG made several recommendations about the South Carolina statewide ANE system. Most of the recommendations related to ANE centered around improving timely investigation and ensuring appropriate follow through of ANE allegations by the individual service provider and DDSN.

- DDSN hosted meetings with state agencies involved in the statewide ANE reporting and investigation process to discuss the potential implementation of the recommendations. DDSN does not have authority to unilaterally change this statewide process; it requires the cooperation of multiple agencies. This multi-agency group has referred several recommendations to the Adult Protection Coordinating Council as the entity best suited for further discussion and possible decision making on some of the recommendations. A specific recommendation of South Carolina having a single point of entry for all reports of potential ANE, regardless of the location or age of the vulnerable individual is being specifically discussed in multiple agency work groups.

  - DDSN staff are currently participating in meeting with the Institute of Medicine and Public Health to establish an Adult Abuse Registry. The need for an Adult Abuse Registry has been noted in several prior reviews of DDSN and other agencies supporting vulnerable adults. DDSN also continues representation on the Adult Protection Coordinating Council where a sub-group is working on the need for a single contact point for all allegations of abuse, neglect or exploitation towards vulnerable adults. The current system is complex and requires different entities to receive reports, depending on the age of the person affected or where the person lives.

  - DDSN staff are currently reviewing Standard of Care related data from the State Long-Term Care Ombudsman's office to improve transparency in the data shared with the public. Based on Federal guidelines, the SLTCOP uses 101 classifications for Standard for Care violations. DDSN is organizing similar complaint types into 7 distinct categories for internal reporting purposes. This information can them be used to target specific agency training aimed at improving consumer satisfaction and the overall quality of care.

- DDSN has modified some of the agency process to implement other aspects of the recommendations of the SIG or LAC and others are still under consideration.

  a) **Stage of analysis;** Recommendations are complete; some internal changes have been implemented; some are still under consideration; and others require discussion, approval and implementation by multiple entities, including state agencies or local law enforcement.

  b) **Objectives and Associated Performance measures impacted and predicted impact;**

  - Annual Rate of Substantiated Allegations of Abuse/Neglect/Exploitation Per 100 Served in Community Residential Settings: The recommendations center around ways to improve the existing statewide ANE system, which included better program review and enhanced resources improve

timeliness of investigative closures and follow through from the provider and DDSN. These have the potential to improve the overall reporting and investigation of ANE allegations. If recommendations result in improved response and follow through and remediation of the circumstances surrounding allegations of ANE, potentially, the likelihood of repeated situations resulting in allegations of ANE will be lessened.

- Annual Rate of Substantiated Allegations of Abuse/Neglect/Exploitation Per 100 Served in Regional Centers: Many of the recommendations centered around those allegations that result in referrals to Local Law Enforcement (LLE). Most allegations of ANE at the regional centers are investigated by the South Carolina Law Enforcement Division (SLED) unless the allegation involves a minor, in which case the investigation will be referred to the South Carolina Department of Social Services (DSS). The response time for these investigations are generally quicker than LLE. However, other changes in the overall statewide system could affect the Regional Centers as well.

c) Costs of the objectives that will be impacted and the anticipated impact;

- Objective 3.1.8: The annual rate of substantiated ANE per 100 served will be less than 0.07% in community residential settings and 0.25% in Regional Centers. Changes internal to DDSN or to the statewide system of reporting and investigation of ANE have potential to impact the reporting and tracking of the allegations as well as the quality of care resulting in the number of allegations.

d) On which objective(s) the agency plans to utilize additional available funds if the change saves costs, or obtain funds if the change requires additional funds, and how the objective(s) receiving or releasing the funds will be impacted;

- The cost of implementation is not yet known.

e) Anticipated implementation date: Still under consideration and review; unknown.

2. Internal Change: Changes to the Tracking and Reporting of Critical Incidents

- DDSN tracked medically-oriented "critical incidents" and determined that they account for about 60% of all Critical Incident Reports submitted through the agency's web-based reporting system. Based on the fact that DDSN serves a population that is aging in place and some are receiving end of life care in their residential settings, DDSN will transition the medically-oriented events to Therap General Event Reporting (GER). The events that will be transitioned to Therap include hospitalizations, emergency room visits, illnesses such as flu or pneumonia, and major medical events (cardiac events, stroke, uncontrolled seizures, and admission to ICU or CCU). These events are medical in nature and are not the result of any action or inaction by staff supporting the DDSN service recipient.

- Falls, choking incidents, and any accidents involving serious injury will continue to be reported as "Critical Incidents." This will allow for better reporting of true "critical incidents" and better assist DDSN in supporting provider agencies with training and technical assistance with prevention efforts.

a) Stage of analysis: DDSN has already changed how these critical incidents are reported to the DSN Commission and other stakeholders. The change the data collection utilizing Therap will occur in summer 2017.

b) Objectives and Associated Performance measures impacted and predicted impact:

- Annual Rate of Critical Incidents Per 100 Served in Community Residential Settings: Shifting reporting and tracking of more routine medical incidents will allow the agency and providers to more appropriately focus on true critical incidents. This will likely afford more opportunity to engage in prevention efforts and remediation after an incident and therefore reduce the overall number of incidents.
- Annual Rate of Critical Incidents Per 100 Served in Regional Centers: Shifting reporting and tracking of more routine medical incidents will allow the agency and providers to more appropriately focus on true critical incidents. This will likely afford more time and opportunity to engage in prevention efforts and remediation after an incident and therefore reduce the overall number of incidents.
- Annual Rate of Fall Related Critical Incidents Per 100 Served in Community Residential Settings: This measure will continue to be measured through the Critical Incident Management System, but shifting the reporting and tracking of less critical, routine medical incidents will allow the agency and providers to more appropriately focus more severe incidents.
- Annual Rate of Fall Related Critical Incidents Per 100 Served in Regional Centers: This measure will continue to be measured through the Critical Incident Management System, but shifting the reporting and tracking of less critical, routine medical incidents will allow the agency and providers to more appropriately focus more severe incidents.

c) **Costs of the objectives that will be impacted and the anticipated impact:**
   - Objective 3.1.6: Annual rate of falls leading to injury per 100 consumers served in community residential and Regional Centers will be less than 1.12. This data will continue to be measured through the Critical Incident Management System, but shifting the reporting and tracking of less critical, routine medical incidents will allow the agency and providers to more appropriately focus more severe incidents.
   - Objective 3.1.7: Annual rate of critical incident report per 100 consumers should not exceed 19 in residential settings and 39 in Regional Centers. Shifting reporting and tracking of more routine medical incidents will allow the agency and providers to more appropriately focus on true critical incidents. This will likely afford more opportunity to engage in prevention efforts and remediation after an incident and therefore reduce the overall number of incidents.
   - Objective 3.1.8: Modify the critical incident reporting program to focus collection on relevant incidents and eliminate benign incidents; establish criteria for proactive inquiry; and establish criteria for proactive inquiry; and establish performance benchmarks within 90 days after initiating modified process. Performance measure for this new initiative.

d) **On which objective(s) the agency plans to utilize additional available funds if the change saves costs, or obtain funds if the change requires additional funds, and how the objective(s) receiving or releasing the funds will be impacted:** There is no anticipated cost to the agency. This is a shift in how data is tracked and reported utilizing functions in the new electronic record system DDSN is implementing statewide.

e) **Anticipated implementation date:** Late summer 2017

3. Internal Change: *Direct Service Operations – DDSN to develop and directly operate six small community based group homes for eighteen individuals with significant behavioral challenges.*

- Historically DDSN has utilized the community network of local Disabilities and Special Needs Boards and Qualified residential providers to develop and operate community services. This service network currently provides a wide array of community residential services to approximately 4,725 individuals.
- This action is being taken due to the growing number of individuals on the DDSN Critical Needs List and the increase in the average time that an individual placed on the Critical Needs List has to wait to access residential services. The individuals placed on the Critical Needs List typically require out-of-home residential services to address their needs. The growth in the Critical Needs List and increased wait time to access residential services

is attributable to a growth in the number of individuals with significant behavioral needs and a limited interest by the existing community service network to serve individuals with significant behavioral needs.

- DDSN approached residential service providers specializing in supporting individuals with significant behavioral needs operating in other states but was unsuccessful in getting additional providers to come to South Carolina. While DDSN could opt to serve some of these individuals with significant behavioral needs in the DDSN operated regional centers, this would be contrary to the federal and state requirement to serve people with disabilities in the least restrictive community setting possible. To ensure availability of appropriate residential settings for individuals with significant behavioral needs DDSN will open and directly operate a small quantity of homes in the community.

a) **Stage of analysis:** Change is in the beginning stages and is projected to be completed late summer 2018.

b) **Objectives and Associated Performance measures impacted and predicted impact:** This initiative will create more community based residential options for individuals with significant behavioral needs.

- Ratio of Persons Served in HCB Waivers Versus ICF/IID will be at least 9.6 to 1 – By serving individuals with significant behavioral challenges in community waiver funded homes instead of regional centers, the ratio of persons served in HCB Waivers versus ICFs/IID will be strengthened.
- Number of Persons Served Per 100,000 General Population in 16 + Bed Facilities will be lower than the National Average – By serving individuals with significant behavioral challenges in community waiver funded homes instead of regional centers, the number of persons served in 16 + bed facilities will be prevented from increasing.
- Average Length of Wait for Individuals Place on Critical Needs List will be less than 60 Days - As additional community residential services for persons with significant behavioral challenges are developed, this will allow those individuals with significant behavioral challenges to be served from the Critical Needs List more quickly.
- Develop 6 DDSN directly operated community homes – this initiative is this performance objective.

c) **Costs of the objectives that will be impacted and the anticipated impact:**

- Strategy 2.2: Community Residential Services (residential habilitation services while still in the community)– Directly operating community residential services for persons with significant behavioral needs will avoid the higher costs associated the more restrictive ICF/IID facilities. DDSN will operate these homes at the same rate paid to community providers for this population, therefore the incurred cost is the same to the agency. This avoids placement of individuals into more restrictive and therefore more costly settings; generating savings which may be utilized by the agency and community provider network to serve more individuals.

d) **On which objective(s) the agency plans to utilize additional available funds if the change saves costs, or obtain funds if the change requires additional funds, and how the objective(s) receiving or releasing the funds will be impacted:** DDSN will operate these homes at the same rate paid to community providers for this population, therefore the incurred cost is the same to the agency for Community residential services expansion for this population. This does avoid placement of individuals into more restrictive and therefore more costly settings. In doing so, this generates cost reductions which may be redirected by the agency and community provider network to serve more individuals.

e) **Anticipated implementation date:** August 2018

4. Internal Change: *Plan Review and Service Authorization - Move the approval of the Case Management Annual Support Plan and Medicaid Waiver Service Requests away from Case Management providers and to the DDSN Central Office.*

- Currently, each waiver participant's case manager is responsible for assessing, planning and authorizing waiver services for the participant. For most waiver services, the authority to approve the plan of care, including the amount of service a participant may receive, lies with the case manager. The State (DDSN and DHHS) conducts reviews of plans but do not approve plans prior to implementation.
- Bestowing this authority on the case manager, is not consistent with 42 CFR§441.301(b)(1)(i) and creates potential inconsistency and a conflict of interest in that case managers and/or Medicaid Targeted Case Management (MTCM) providers may, to address the same need, determine that differing amounts of waiver services are required to address the need. While some variances are to be expected, having this authority could be used by an MTCM provider to attract or maintain clientele. The current waiver documents also include the service of Waiver Case Management which, when implemented by DHHS, would put the Case Managers in a position to be authorizing the delivery of the service which they are being paid to provide.
- DDSN is in the process of developing policies and procedures for a system in which the Annual Plan and any changes throughout the year must be approved by DDSN Staff. This system change will benefit Case Management providers through increased system efficiencies and less opportunity for errors that result in recoupment of Medicaid funds. It will also benefit the individuals served through creating an approval environment that is consistent in its approval methodology and free of any potential operational conflict including the authorization of Waiver Case Management.

a) **Stage of analysis:** Change is in the final stages and will be implemented late summer 2017.

b) **Objectives and Associated Performance measures impacted and predicted impact:** This change will create a more consistent approval process for individuals served across the state while also minimizing the errors in the Support Plan that cause recoupment of funds. This also removes some of the inherent conflict of interest present in the case of a Case Manager approving their own level of service and authorizing themselves to provide that service as required by CMS.

   - Percent of Total Served Supported in Home and Compare to National Benchmark - As services are approved more consistently, the Measure of Average Annual Per Person HCB Waiver Cost may change as a more consistent approval process is utilized. The agency ensures that people are served at the most appropriate level and service dollars are used to support individuals appropriately in their homes avoiding more expensive residential placement whenever possible.
   - Number of Persons Served Per 100,000 General Population and Compare to National Benchmark - As services are approved more consistently, the Measure of Average Annual Per Person HCB Waiver Cost may change as a more consistent approval process is utilized and therefore more individuals may be served with the same amount of funds.
   - Average Annual Per Person HCB Waiver Costs and Compare to National Benchmark - As services are approved more consistently, the Measure of Average Annual Per Person HCB Waiver Cost may change as a more consistent approval process is utilized and therefore more individuals may be served with the same amount of funds.
   - Number of Individuals on DDSN Managed HCB Waiver Waiting Lists - As services are approved more consistently, the Measure of Average Annual Per Person HCB Waiver Cost may change as a more consistent approval process is utilized and therefore more individuals may be served with the same amount of funds.
   - Begin Centralization of Annual Service Authorizations by DDSN – this initiative is this performance objective.

c) **Costs of the objectives that will be impacted and the anticipated impact:**

- Strategy 2.1: In-Home Family Support Services (least restrictive community setting)– Approving waiver services at the central level will insure that services are utilized as intended, help prevent abuse and allow for more equitable distribution of funds/services.
- Strategy 4.1: Monitor organizational effectiveness through benchmarks – This will help ensure the in-home supports are appropriate and therefore help increase maximum utilization.

d) **On which objective(s) the agency plans to utilize additional available funds if the change saves costs, or obtain funds if the change requires additional funds, and how the objective(s) receiving or releasing the funds will be impacted:** Savings generated from this initiative will be utilized by the DDSN community provider network to maintain financial solvency and assure consumers are receiving the appropriate services commiserate with identified needs.

e) **Anticipated implementation date:** August 2017

5. Internal Change: DDSN Outcome-based Provider Evaluation

- DDSN is committed to understanding and responding to strategies that help improve organizational performance. Activities in this area are based on the work of the Council on Quality and Leadership (CQL). The strategies are based upon the organization, assessment and synthesis of reliable and valid data from multiple sources and have at their core common values and principles. The logic of the organizing principles is to help us understand, implement and produce results for our primary customers and their families
- The application of the Basic Assurances® involves two broad evaluation strategies – evaluation of both the system and the organizational practice. The modified system will comprise three components: (1) Periodic Review-Each residential and day service provider will be reviewed on a three year rotation, beginning with residential providers scoring below 85% on the Contract Compliance Review; (2) Development of Quality Enhancement Plan- After the Basic Assurances ® Review, the Contractor will review the provider's Quality Enhancement Plan, designed to move the provider towards person-centered services; and (3) Intermittent Review-after each provider has their initial review, the Contractor will monitor the provider's Quality Enhancement Plan that develops for the Basic Assurance findings.

a) **Stage of analysis:** DDSN has completed the changes necessary to issue the 5 year RFP for the contract with a Quality Improvement Organization (QIO) and will be submitting to the State Procurement Office of the State Fiscal Accountability Authority in early May 2017. The State Procurement Office should post the RFP for bidding in the summer of 2017.

b) **Objectives and Associated Performance measures impacted and predicted impact:**
   - Average overall contract compliance review score - While the actual percentage of the scores may not change, the review process will be increasingly focused on meaningful outcome measures of provider performance and less so on administrative compliance.
   - Annual number of community service providers with less than 70 % contract compliance review key indicator in one review area (total six possible review areas) – the increased focus on outcome and process measurements are expected to increase the overall level of compliance across multiple areas measured.

c) **Costs of the objectives that will be impacted and the anticipated impact:** DDSN anticipates the overall cost of the contract with the QIO to increase due to the increased requirement of using Basic Assurances® as part of the quality review process.

- Strategy 2.2: Community residential Services (residential habilitation service while still in the community) – this initiative is expected to increase focus on process and consumer outcomes and therefore increase the overall provision of services statewide.
- Strategy 3.1: Quality assurance monitoring of providers' compliance with contract operational performance; consumer health, safety and welfare, and facility licensing standards - this initiative is expected to increase focus on process and consumer outcomes and therefore increase the overall provision of services statewide.
- Strategy 4.1: Monitor organizational effectiveness through benchmarks - this initiative is expected to increase focus on process and consumer outcomes and therefore increase the overall provision of services statewide.

d) **On which objective(s) the agency plans to utilize additional available funds if the change saves costs, or obtain funds if the change requires additional funds, and how the objective(s) receiving or releasing the funds will be impacted:** DDSN anticipates the overall cost of the contract with the QIO to increase due to the increased requirement of using Basic Assurances® as part of the quality review process. This increase in cost will be absorbed in the basic operating costs of the agency.

e) **Anticipated implementation date:** Fall of 2017

Agency Recommendations for Regulatory Changes (PER Addendum, October 8, 2017)

1. License requirement for facilities and programs

Impacted Section	S.C. Code of Regulations 88-105 through 88-920 et seq.
Rationale	The former Department of Mental Retardation is now the Department of Disabilities and Special Needs.
Recommendation	Should be amended to change the name of the agency from the South Carolina Department of Mental Retardation to the Department of Disabilities and Special Needs throughout the regulations.
Other Impacted Entities	None

2. Scope

Impacted Section	S.C. Code of Regulation 88-105A
Rationale	Should be amended to denote programs receiving funds through DDSN and to rename the Department.
Recommendation	A. No program receiving funds through DDSN shall be operated in part or in full for the care, maintenance, education, training or treatment of ~~more than two~~ persons with intellectual disability unless a license is first obtained from the South Carolina ~~Department of Mental Retardation~~ Department of Disabilities and Special Needs. "In part" shall mean a program operating for at least ten (10) hours a week.
Other Impacted Entities	None

3. Recreational Camp

Impacted Section	S.C. Code of Regulations 88-110 D(1)
Rationale	Should be repealed as DDSN no longer licenses recreational camps or Sheltered Workshops.
Recommendation	D. The license will specify the name of the licensee, the maximum number of participants to be present at the facility at one time and the type of program it is determined to be. The program type is designated as follows: ~~(1) Recreation Camp;~~ ~~(a) Residential;~~ ~~(b) Day.~~ ~~(5) Sheltered Workshop;~~
Other Impacted Entities	None

4. Applications for License

Impacted Section	S.C. Code of Regulations 88-120 A and B
Rationale	Should be amended to have applications going to the Department of Disabilities and Special Needs.
Recommendation	A. Applications for license shall be made to the Department. ~~appropriate regional office of the South Carolina Department of Mental Retardation, Community Program Division:~~ ~~(1) Coastal Region~~ ~~Suite 907—Summerall Center~~ ~~19 Hagood Street~~ ~~Charleston, South Carolina 29403~~ ~~(2) Midlands Center~~ ~~8301 Farrow Road.~~ ~~Columbia, South Carolina 29203~~ ~~(3) Pee Dee Center~~ ~~Post Office Box 3209~~ ~~Florence, South Carolina 29502~~ ~~(4) Whitten Center~~ ~~Post Office Drawer 239~~ ~~Clinton, South Carolina 29325~~ B. Applicants will be provided the appropriate forms for licensing upon request from ~~one of the above locations~~ the Department.
Other Impacted Entities	None

5. Waivers

Impacted Section	S.C. Code of Regulations 88-130 A and B
Rationale	Should be amended to change Commissioner to Department throughout.
Recommendation	A. The ~~Commissioner~~ Department may waive compliance with one or more of the requirements of these regulations if, in ~~his~~ the Department's judgment, the waiver would not endanger the safety of the participants, staff, or the public,

	and would not reduce significantly the quality or quantity of the services to be provided. B. To request a waiver, the applicant or licensee must make a written application to the ~~Commissioner~~ Department which includes the justification for the request for a waiver and must first be reviewed by the appropriate ~~regional superintendent~~ Department staff with approval by the state director.
Other Impacted Entities	None

6. Definitions

Impacted Section	S.C. Code of Regulations 88-210
Rationale	Should be amended to reflect current definitions.
Recommendation	88-210 Definitions. For the purpose of these regulations the following definitions apply: A. Agency—An organization either public or private which is operated by a board of directors or other governing body and which offers programs to persons with intellectual disability. B. Applicant—Any agency who has applied for a license from the Department. C. Client—A person ~~with intellectual disability~~ who has been deemed eligible for services by the Department and who is participating in a program in the State or is on the waiting list for services from the Department. The Department is required to provide community and residential service programs ~~similar to those provided~~ to persons with intellectual disability to ~~substantially handicapped epileptic, cerebral palsied,~~ autistic, and other developmentally disabled individuals ~~whose treatment and training needs approximate those of the persons with intellectual disability.~~ Eligibility for services shall be determined by the Department. It is intended that the Department not duplicate other State agency programs or develop service modalities which normally would be considered to be the legal and programmatic mandate of another State agency. D. ~~Commissioner~~ Director—The chief administrator of the Department of ~~Mental Retardation~~ Disabilities and Special Needs or his designee. E. Department—The South Carolina Department of Mental Retardation. (SCDMR) F. Developmental Period—The period of time between conception and the twenty-second birthday. G. Governing Board—The individuals or group that have legal responsibility for the agency or organization which operates the day program. H. License—A document issued by the Department to an agency operating a program indicating that the licensee is in compliance with the provisions set forth in these regulations and other standards as specified in these regulations. I. Licensee—The agency who holds the primary responsibility for providing services and compliance with these regulations. J. Licensor—The Department of ~~Mental Retardation~~ Disabilities and Special Needs. K. ~~Mental Retardation—Refers to significantly sub-average general intellectual functioning resulting in or associated with concurrent impairments in adaptive~~

	~~behavior and manifested during the developmental period.~~ Intellectual disability" means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period. L. Participant—Any person with intellectual/related disability, autism or head and spinal cord injury who is participating in a program licensed by the Department. M. ~~Regional Office—The SCDMR office which performs the license survey and issues the license.~~ N. Permit—a written permit, issued by the health authority permitting the food service, camp, swimming pool or natural bathing area to operate under S. C. Department of Health and Environmental Control regulations.
Other Impacted Entities	None

7. Recreational Camps for Persons with Intellectual Disability.

Impacted Section	S.C. Code of Regulations 88-310 through 88-395
Rationale	Repeal the regulations as DDSN does not license Recreational Camps for Persons with Intellectual Disabilities.
Recommendation	~~88-310 Definitions.~~ ~~A. Activity Specialist—An individual who has skills in and is responsible for conducting camper-participation activities such as arts and crafts, swimming, sports, camping, etc.~~ ~~B. Aquatic Guard—A waterfront staff member who is responsible to the aquatic supervisor for the supervision of campers during any aquatic activities.~~ ~~C. Aquatic Supervisor—Is in charge at a waterfront for supervising the entire swimming program including, but not limited to, free swim, swim lessons, swimming ability tests, boating, waterfront play and who is also responsible for the supervision of the aquatic guards.~~ ~~D. Camper—A person with intellectual disability who is attending either a licensed Recreation Residential Camp or a Recreation Day Camp.~~ ~~E. Campsite—The land, including the natural and man-made features, where the camp program is being offered.~~ ~~F. Comprehensive Plan—The plan of operation that sets forth all aspects of the camp program including the major program emphasis and the range of participants to be served.~~ ~~G. Counselor—An individual who directly supervises the campers and who is responsible to the camp director.~~ ~~H. Counselor in Training—An individual who participates in a specific camper-leadership-development program, but has no direct supervision or responsibility for campers.~~ ~~I. Recreation Day Camp—A program of recreation activities for the camper with intellectual disability with an emphasis on outdoor and camping activities that utilize trained leadership and the natural or man-made outdoor surroundings to contribute to the camper's mental, physical, and social growth and which provides services for less than twenty-four hours a day.~~

J. Recreation Residential Camp—A program of recreation activities for the camper with intellectual disability with an emphasis on outdoor and camping activities that utilize trained leadership and the natural or man-made outdoor surroundings to contribute to the camper's mental, physical and social growth and which provides four or more consecutive twenty-four hour periods of camp programming at one or more campsites.

Code Commissioner's Note

Pursuant to 2011 Act No. 47, Section 14(B), the Code Commissioner substituted "intellectual disability" for "mental retardation" and "person with intellectual disability" or "persons with intellectual disability" for "mentally retarded." At the Code Commissioner's discretion, the substitution was not made for the formal reference to the South Carolina Department of Mental Retardation in this regulation.

88-315 Campsite.

The Campsite will meet the appropriate requirements of the Rules and Regulations Governing Camps as published by the South Carolina Department of Health and Environmental Control.

88-320 Supervision.

Each camp program shall be under the supervision of a qualified camp director. The director shall designate other staff persons to be in charge during temporary absences. The director is in charge of the camp the entire period campers are present.

88-325 Personnel.

A. A residential camp director shall meet the following requirements:

(1) Be at least 21 years of age;

(2) Possess an earned baccalaureate degree in recreation, business administration, special education or a related field;

(3) Have at least two year's experience in camp programs.

B. A Day camp director shall meet the following criteria:

(1) Be at least 21 years of age;

(2) Possess an earned baccalaureate degree in recreation, business administration, special education or a related field;

(3) Have at least one year experience in camp programs.

C. Counselors shall:

(1) Have at least a tenth grade education;

(2) Be at least sixteen years of age.

D. Activity Specialists shall:

(1) Have at least an eighth grade education;

(2) Be at least sixteen years of age;

(3) Have training or experience in the program speciality which they will be teaching.

E. Counselors-in-training shall:

(1) Have at least an eighth-grade education;

(2) Be 14 years of age.

F. Aquatic supervisor will:

(1) Be at least 17 years of age;
(2) Have a current water safety instructor certificate from the American Red Cross.
G. Aquatic guard will be currently certified by the American Red Cross as an Advanced Lifesaver or in Lifeguard Training.
H. All camp staff will participate in a pre-camp training session. The training session content and participation will be documented.

88-330 Size of Staff.
A. There shall be one staff member, excluding dietary, transportation, counselors-in-training, and janitorial staff, for each five campers in a residential program.
B. There shall be one staff member, excluding dietary, transportation, counselors-in-training and janitorial staff for each ten campers in a day camp program depending on functioning level and needs of campers.
C. Upon consideration of the ages, the severity of handicapping conditions, and the services needed by the campers, the Department may approve or require a different staff/camper ratio, but in no case shall there be less than one staff member for each ten campers. Counselors-in-training may not be considered in calculating the staff/camper ratio.
D. The approved staff/camper ratio shall be maintained during all periods when campers are present.

88-335 Personnel Records.
A. The camp shall maintain records on each camp employee which contains at a minimum the following:
(1) Full name;
(2) Address;
(3) Age;
(4) Training;
(5) Education;
(6) Work Experience;
(7) Other qualifications;
(8) The names and telephone numbers of persons to be notified in the event of emergency;
(9) Documented evidence of freedom from tuberculosis at the time of employment (dated within one month from date of first day of camp);
(10) A signed statement indicating the they have never been charged or convicted of a crime of abuse or neglect.

88-340 General Health.
A. Health information shall be maintained on every camper which shall include:
(1) A health-status questionnaire on a form approved by the Department, completed and signed by the camper's parent or guardian within ninety (90) days prior to camp.
(2) A report of a physical examination performed by a licensed physician within twelve months preceding entry into camp, or a statement, signed by the camper's parent/guardian, that having been advised that examination by a physician is

~~required, the parent/guardian requests that this requirement be waived and state reason in writing.~~

~~B. Every camp shall have a written policy which provides for daily health surveillance of campers and staff. If a camper or staff member is suspected of having a communicable disease, he shall be isolated and medical treatment obtained.~~

~~C. Health records shall be readily available to all camp personnel and shall include:~~

~~(1) Camper's name, address, telephone number of parent/guardian or person to contact in case of emergency;~~

~~(2) Authorization for emergency medical care signed by the parent/guardian of each camper;~~

~~(3) Written authorization to administer any medication signed by the parent/guardian;~~

~~(4) A list of known allergies or drug reactions.~~

~~D. Injury and Illness Reports~~

~~(1) If an injury or illness is judged by the camp director to be serious, the camp health director shall be notified immediately and the camper's parent/guardian will then be notified. A record of each contact or each attempt to contact the parent/guardian shall be maintained. The camp director will be responsible for obtaining the necessary medical services and informing the appropriate regional office within 5 hours of injury or illness.~~

~~(2) A medical log shall be maintained which contains a list of dates, names of patients, ailments, and treatments prescribed.~~

~~(3) A report for each serious injury, illness, abuse, neglect or fatality which occurs at camp shall be recorded in a critical incident log which shall be submitted for review by the regional office staff of the Department and other authorized personnel.~~

~~E. Health Staff~~

~~(1) A residential camp shall have on duty at all times campers are present, a camp health director who is one of the following:~~

~~(a) Currently certified by the American Red Cross in Advanced First Aid and Emergency Care;~~

~~(b) A licensed physician;~~

~~(c) A registered nurse;~~

~~(d) A licensed practical nurse;~~

~~(e) A licensed Emergency Medical Technician.~~

~~(2) A day camp shall have on duty at all times campers are present, a camp health director who is one of the following:~~

~~(a) Currently certified by American Red Cross in Basic or Standard First Aid;~~

~~(b) A licensed physician;~~

~~(c) A registered nurse;~~

~~(d) A licensed practical nurse;~~

~~(e) A licensed Emergency Medical Technician.~~

~~F. Medication~~

~~(1) Medication prescribed for campers or staff members shall be kept in the original containers bearing the pharmacy label which shows drug name, the prescription number, date filled, physician's name, direction for use, and patient's name.~~

~~(2) Medication shall be stored in a locked container.~~

~~(3) The health director shall:~~
~~(a) Record all in-coming medication;~~
~~(b) Inventory all medication daily;~~
~~(c) Be responsible for proper maintenance and storage of all medication.~~
~~(4) When any medication is administered to a camper, the date, dosage, time and name of staff member administering the medication shall be recorded in the medical log.~~
~~(5) When no longer needed, medications shall be returned to parents/guardian or other authorized persons and a record of the disposition of unused medication shall be maintained which includes the camper's name, the drug name, the prescription number, the amount disposed of, the name of the staff disposing of the medication and the manner and date of disposition.~~

~~88-345 General Safety.~~
~~A. Equipment and facilities used in a camp program shall be of good quality and designed to minimize the likelihood of injury.~~
~~B. Potentially hazardous equipment such as archery equipment, shall be placed in locked storage when not in use. The camp director shall designate a person to be responsible for safe keeping of potentially hazardous equipment.~~
~~C. Power equipment shall not be stored, operated or left unattended without proper safeguards. All power tools will be stored in a locked place which is not accessible to campers. Campers will not use power equipment unless supervised by a qualified person.~~
~~D. Equipment used for arts and crafts shall be in good repair and properly installed.~~
~~E. Playground equipment shall be securely anchored, safe and in good repair.~~
~~F. All watercraft shall be equipped with US Coast Guard approved personal flotation devices of types I, II, or III which are prescribed for the specific type of craft and number and age of occupants. Each camper aboard a watercraft shall wear an approved life jacket.~~
~~G. All swimming and diving areas shall be provided with a bell or whistle, two assist poles and a ring buoy that are in good usable condition.~~
~~H. All piers, floats and platforms shall be in good repair.~~
~~I. All potentially hazardous camp activities such as archery, aquatics, and riding shall be supervised by a qualified activity specialist. Camps which provide such activities shall submit with the license application a description of the safety practices which are designed to minimize the likelihood of injury.~~

~~88-350 Emergency Procedures.~~
~~A. Emergency procedures for serious accidents, illness, lost camper, missing swimmer, and for evacuation in case of fire or natural disaster will be prominently posted at the campsite.~~
~~B. Appropriate telephone numbers for emergency services will be legible and prominently posted at the camp site.~~
~~C. Each staff member of the camp shall be informed in advance of his duties in case of emergency. Documentation of staff training and evidence of staff awareness of his duties shall be on file at the camp site.~~

D. Fire and emergency drills shall be conducted the first day of camp and documented at least once each camp period or once every week.

E. Coordination with county Disaster Preparedness Office is required and must be documented.

88-355 General Sanitation Requirements.

The camp shall meet the requirements of the S. C. Department of Health and Environmental Control's Regulation 61-39. A current S. C. Department of Health and Environmental Control inspection report and plan for correction of deficiencies shall be maintained in the camp's records. Campgrounds, pools and natural bathing areas which are permitted by the S. C. Department of Health and Environmental Control will be deemed to have met this requirement.

88-360 Housing in Residential Camps.

All housing facilities in a residential camp shall meet the appropriate requirements of SCDHEC.

88-365 Nutrition and Food Service.

A. In camps where central food service facilities are provided, the facilities shall be constructed and operated in accordance with S. C. Department of Health and Environmental Control Regulation 61-25. A current permit and inspection report shall be maintained in the camp.

B. Each camp shall establish written procedures for its nutrition and food service program. These policies shall include meal patterns, meal hours, types of food served, staff responsibilities during the meal time and the administration of the food service program.

C. When a camper needs a special diet, it shall only be administered according to the orders of a licensed physician. Records of special diets and menus will be kept at the camp. Separate arrangements shall be made by camper's parent/guardian for any special diets beyond the capability of the camp.

D. Menus shall be planned at least a week in advance and shall be dated as to the week of use. The current week's menus shall be posted in the food preparation area. Substitutes shall be noted on the menus in writing. After use, the menus shall be kept on file for the period of the camping session.

E. Mealtimes shall be scheduled to meet the camper's needs and spaced so there are no more than fourteen hours between evening meal and breakfast. At least three nutritionally balanced meals shall be served in a residential camp each full day of operation.

F. Meals shall be prepared as close to serving time as possible and served in portions appropriate to the nutritional needs of the camper.

88-370 Transportation.

A. Responsibility for campers being transported

(1) When a camp provides transportation for a camper, it shall also provide staff supervision other than the driver on the vehicle between the pickup site and the delivery site.

(2) Travel time of campers to and from day camps shall not exceed two hours per one-way trip.

~~(3) Ten hours travel time shall be the maximum permitted in any twenty four (24) hour period for campers when traveling to and from field trips.~~

~~B. Responsibilities in Transit~~

~~(1) Only that number of campers for whom there is seating space shall be transported in a vehicle. The maximum capacity of the vehicle shall clearly be indicated and posted in the vehicle.~~

~~(2) In all vehicles used, seats, benches and or wheelchairs must be securely fastened to the floor. Open-body or stake-bed vehicles are not permitted for transportation of passengers.~~

~~(3) All vehicles (except school buses) should have seatbelts which are used by all passengers and drivers when vehicle is in motion.~~

~~C. Responsibility for Drivers and Vehicles~~

~~(1) Vehicle operators shall:~~

~~(a) Be licensed drivers;~~

~~(b) Have a proven good driving record.~~

~~(2) All road vehicles shall be equipped with a first aid kit, fire extinguisher, flares and/or reflectors.~~

~~(3) All road vehicles shall be maintained in safe operating condition as evidenced by a vehicle maintenance schedule. All vehicles will have a current safety inspection sticker.~~

~~(4) Campers shall not be allowed to repair or assist in the repair of any vehicle if there is danger of injury to the camper either by the process of repair or from the environment in which the repair is to be conducted.~~

~~88-375 Program.~~

~~A. A comprehensive plan of operation shall be developed. It shall include a statement of major program emphases designed for camper development. A written outline of the methods by which the programs for camper development are to be conducted shall be included in the comprehensive plan.~~

~~B. The program shall have a broad spectrum of activities and experiences appropriate to the campers' levels of abilities and needs. All components of the camp's environment shall offer opportunities by which campers shall learn and broaden their bases of experience.~~

~~C. If in the comprehensive plan the purpose of the camp is to include any carry-over of goals from the individual education plan designed by the school or the individual program plan designed by the day program, the camp must obtain program recommendations from the regular program prior to camp start-up.~~

~~D. The rationale for separating the campers into groups must be outlined in the plan and approval obtained from the Department.~~

~~88-380 Waterfront Activity.~~

~~A. Waterfront Staff~~

~~(1) When swimming or when watercraft activities are in progress, the aquatic activity supervisor shall be in attendance to supervise the program.~~

~~(2) The aquatic staff shall not be engaged in recreational swimming or boating while on waterfront duty.~~

~~(3) One aquatic supervisor or one aquatic guard shall be on duty for every ten, or fraction thereof, campers in the water. Other staff members shall be present and on duty to maintain the staff/camper ratio required in R. 88-330 A, B, C and D.~~

~~(4) When waterfront activities are occurring at more than one location simultaneously there will be at least one aquatic guard present for every ten campers at each location.~~

~~(5) The aquatic supervisor shall ensure that the ratio is adjusted to meet such factors as water conditions, number and types of swimmers, and functional level of the swimmers.~~

~~B. Swimming Areas~~

~~(1) The swimming area shall be maintained in a clean and safe condition. Any known hazard such as rocks, holes or hidden dangers shall be properly safeguarded and posted.~~

~~(2) The permanent swimming area of a camp shall have a delineation of areas for non-swimmers, intermediates, and advanced swimmers, in accordance with the standards of the American Red Cross or Boy Scouts of America.~~

~~(3) Lifesaving equipment shall be provided at all swimming areas and placed so it is immediately available in case of an emergency.~~

~~(4) Swimming at sites other than the permanent camp waterfront is prohibited except by prior written approval from the Department.~~

~~C. Swimming Procedures~~

~~(1) Swimming ability tests either recognized by American Red Cross or Boy Scouts of America will be administered to each camper at the beginning of the camping session. Campers will then be confined to an area equal to their identified swimming ability or to areas requiring lesser skills.~~

~~(2) A method approved in writing by the Department for the supervision and checking of swimmers shall be written by the camp director and enforced by the aquatic staff. The method used shall require each swimmer to be checked at least every ten minutes. A written "lost swimmer" plan shall be established and all staff members shall know in advance exactly what their duties are in case of an emergency at the waterfront.~~

~~(3) Swimming is prohibited during the hours of darkness in the ocean, lakes, or rivers. Nighttime swimming in lighted swimming pools shall be prohibited unless the activity is included as part of the comprehensive plan.~~

~~(4) There shall be provided a regularly scheduled ten-minute relief break each hour for waterfront staff and a rotation of assigned areas will occur every hour. Guards shall not leave their assigned areas until properly relieved.~~

~~D. Seizure Client Procedures~~

~~(1) The camp shall have written permission from parents/guardians for clients with seizures to engage in any waterfront or aquatic activities.~~

~~(2) All seizure clients will be clearly visually identifiable while engaging in any aquatic activity.~~

~~(3) Staff shall be knowledgeable of client reactions to seizure, and written procedures for care shall be visibly posted within the waterfront area.~~

~~88-385 General Care of Campers.~~

~~A. Policies and practices for managing the behavior of a camper shall be clearly stated and furnished in writing to all employees of the camp.~~

	~~B. A camper shall not be subjected to any of the following as a means of punishment:~~ ~~(1) Corporal punishment;~~ ~~(2) Food deprivation;~~ ~~(3) Abusive physical exercise.~~ ~~C. If the camp permits the involuntary removal of a camper from social contact with others, there shall be a written policy which has been approved by DMR which describes the conditions under which and the manner in which it shall be done. Each such incident shall be documented.~~ ~~D. Policies and procedures for removal of a camper from the camp will be clearly outlined in writing and contain provisions for:~~ ~~(1) Naming camp staff authorized to make decision to remove;~~ ~~(2) Consultation and approval from regional office prior to dismissal or removal;~~ ~~(3) Conditions which would cause the action to occur which will include:~~ ~~(a) Danger to self or others;~~ ~~(b) Medical causes;~~ ~~(c) Severe behavior disruptions;~~ ~~(d) Family intervention.~~ ~~88-390 Confidentiality.~~ ~~All information in a camper's record shall be considered privileged and confidential. Staff shall not disclose or knowingly permit the disclosure of any information concerning the client or family directly or indirectly to any unauthorized person.~~ ~~88-395 Reserve Clause.~~ ~~The Department reserves the right to require a camp to correct or eliminate any specific condition not covered in these regulations if the correction or elimination of such condition is deemed necessary for the preservation of life and the prevention of injury or illness at the camp.~~
Other Impacted Entities	None

8. Personnel

Impacted Section	S.C. Code of Regulations 88-410(2)
Rationale	Amend to reflect current staff qualifications, ratios and supervision.
Recommendation	2) Direct Care Staff - The direct care staff will meet the following qualifications: (a) Be at least eighteen years old. (b) Have a valid high school diploma or its <u>certified equivalent.</u> B. Participant/Staff Ratios (1) ~~There will be at least the following minimum participant/staff ratio for each program: (a) Child Development Center - 5:1; (b) Adult Activity Center - 7:1; (c) Work~~

	~~Activity Center 7:1; (d) Sheltered Workshop 10:1.~~ Ratios for each program should be determined based on each participant's supervision needs as outlined in DDSN Directives with a minimum participant/staff ratio of 7:1. (2) Upon consideration of the ~~ages, the severity of handicapping conditions, and the services needed by the participants,~~ the support needs ~~and the~~ of the participant, the Department may approve a different participant/staff ratio. D. Supervision of Clients ~~(1) A designated responsible staff member must be present and in charge at all times a participant is present. The staff member left in charge must know how to contact the Director at all times.~~ (1)~~ At no time shall any participant be without supervision unless a specified activity which allows for an adult participant's independent functioning is planned and documented.~~ Each participant will be supervised as needed based on DDSN Directives to allow for maximum independence.
Other Impacted Entities	None

9. Evaluations

Impacted Section	S.C. Code of Regulation 88-430
Rationale	Amend to reflect current practice.
Recommendation	~~sychological evaluations will be required according to the following schedule:~~ ~~(1) Children shall be evaluated by using a restrictive test of intelligence administered by a licensed or certified psychologist once upon entry into a day program and once more between ages three and five or prior to matriculation to Headstart or public school unless entry into the program occurs after the age of two years.~~ ~~(2) Adults shall be tested using a restrictive test of intelligence administered by a licensed or certified psychologist on program entry, re-entry or at age twenty-two (22) whichever occurs first, unless there is a valid psychological evaluation completed within three years of admission on record.~~ ~~B. Social History A social history which includes basic information on participant's personal history, family situation and specific problem areas will be completed on admission to the day program and updated annually thereafter. Information from the parents/guardian will be included in the history. The update shall indicate any change in the family situation or living environment that may affect participant's progress and need for continued enrollment.~~ ~~C. Assessment of Skills Each participant in both adult and child programs will be assessed using an approved assessment tool(s) within thirty (30)~~

	~~calendar days of enrollment and annually thereafter. The assessment of needs will contain evaluations in the following areas:~~ ~~(1) Children:~~ ~~(a) Sensory motor skills; 1. Gross motor; 2. Fine motor;~~ ~~(b) Communication and language; (c) Social interaction/play;~~ ~~(d) Self-help skills; (e) Cognitive skills; (f) Behavior needs. (2) Adults:~~ ~~(a) Self-care (e.g., hygiene, appearance, nutrition, eating habits, dressing, toileting, physical fitness, sex education etc.)~~ ~~(b) Community Living Skills (e.g., budgeting, shopping, cooking, laundry, telephone usage, transportation, appropriate use of leisure etc.)~~ ~~(c) Communication (e.g., speech, language, sign language, or other communication skills etc.)~~ ~~(d) Socialization (e.g., appropriate behaviors for successful interaction with others, recreation and leisure)~~ ~~(e) Vocational (e.g., physical capabilities, psychomotor skills, work habits, job seeking skills, knowledge of work practices, work related skills etc.)~~ ~~(f) Education (e.g., academic and cognitive skills etc.) (g) Behavioral needs (behavioral management plans)~~ ~~(h) Motor Development (e.g. gross motor, fine motor and perceptual motor needs)~~ The participant must be evaluated and determined eligible for DDSN services pursuant to Department Directives. The participant must be determined to require or likely benefit from day services.
Other Impacted Entities	None

10. Programs

Impacted Section	S.C. Code of Regulations 88-430
Rationale	Amend to reflect current practice and consistent with new federal regulations.
Recommendation	A. Plan-Each participant will have a written plan developed and approved by the Individual Support ~~program~~ team within thirty days of admission ~~for adults and for children~~ and annually thereafter. ~~The plan will be based on the professional evaluations, regional recommendations, the assessment of skills, parent/guardian and/or community residence staff conferences, staff and client recommendations and discussed in a team meeting. The date and signature of all team members will be documented on the plan.~~ The plan will be based on an assessment of the participant's abilities, interests, preferences and needs. The date and signature of those in attendance will be documented. (1) The plan will contain written, individualized, ~~long-range and short-range~~ goals ~~which are time limited and measurable~~ ~~1)~~ The plan will contain written objectives which may include a training

~~schedule~~ and /or ongoing supports and the method of evaluation of progress.

(3) ~~The plan will contain documented evidence of parent/guardian involvement in the meeting.~~

The plan will document the participant's, Individual Support team, and the legal guardian's (if applicable) involvement in the meeting.

(4) Summary notations of progress made toward goals are made monthly by staff involved in the training and/or ongoing supports. The notes will be signed and dated.

(5) When a goal is reached a new goal will be set.

(6) When the participant is observed to be making no progress in reaching a goal after three months of working on the same goal, the methodology and objective will be reviewed and evaluated ~~by the team~~ with the participant and a new goal will be set, the methodology or objective changed or the recommendation may be made to continue the goal. If no progress has been made after ~~one year the goal or methodology will be changed.~~ six (6) months, the methodology or objective is to be re-evaluated or recommendation to the Individual Support Team for a new goal to be written.

(7) The plan will be reviewed and updated by the ~~program~~ Individual Support team at least annually with input from the participant and their legal guardian (if applicable).

(9) The plan will address the participant's movement ~~toward a less restrictive program and include goals and objectives which will help him progress to a higher level program~~ toward their personal goals in the least restrictive environment.

B. Services

(1) The services offered at the program will be ~~directed toward the identified needs of the participant.~~ based on the participant's abilities, interests, preferences and needs.

~~He~~ He/She will be involved in activities which will help ~~him~~ him/her progress toward goals identified in the plan. Activities should be age appropriate and allow for choices by the participant.

(2) ~~The services for children will include the following: (a) Gross motor development;~~

~~(b) Fine motor development;~~

~~(c) Communication and language; (d) Socialization;~~

~~(e) Self-help skills;~~

~~(f) Cognitive development;~~

~~(g)Behavior management;~~

(3) The services for adults will include but not be limited to the following:

(a)) Activities of daily living, AAC, WAC;

(b) Independent living skills, AAC, WAC;

(c)) Socialization, AAC, WAC;

(d) Recreation/Leisure Skills, AAC, WAC;

(e)) Habilitation/Vocational/Work Related, AAC, WAC, ~~and SW;~~

(f) Behavior management, AAC, WAC~~, SW;~~

	(g) Physical development, AAC, WAC; (h) Communication/Language, AAC, WAC; (4) The program may offer the services at the home of the participant, in the community, in the center, or any other appropriate site which can be arranged by the program and which is deemed appropriate by the Individual Support team. C. ~~Hours of the Program~~ ~~(1) Each program will have a current activity schedule posted~~ ~~(2) The schedule will reflect the hours the facility is open and the hours the program offers supervised services.~~ ~~(3) The schedule must reflect the scheduled activities of the day.~~
Other Impacted Entities	None

11. Records

Impacted Section	S.C. Code of Regulations 88-440
Rationale	Amend to reflect current practice
Recommendation	B. Participant-A record shall be maintained for each participant which contains, as a minimum, the items listed below. All documents and entries shall be legible, dated, and signed by the person making the entry. If symbols are used, explanatory legends must be provided. (1) Report of a medical examination which was performed not more than twelve (12) months prior to admission; (2) Report of psychological evaluation(s) as required by R. 88-430A; (3) Report of Social History ~~which is updated annually,~~ as available; (4) Current Individual Program Plan as required by R88-435 A; (5) Monthly summary notations of progress; (6) Record of unusual behavior incidents which are recorded at the time of occurrence; (7) Record of illness and accidents; (8) Authorization for emergency medical service; (9) Record of critical incidents. C. ~~Confidentiality All information in a participant's record shall be considered privileged and confidential. Staff shall not disclose or knowingly permit the disclosure of any information concerning the client or his family directly to any unauthorized person.~~ Compliance with HIPAA
Other Impacted Entities	None

12. Application for License of an Unclassified Program.

Impacted Section	S.C. Code of Regulations 88-915
Rationale	Amend to reflect current practice
Recommendation	B. Name and address of the ~~Administrator~~ Executive Director

Other Impacted Entities	None

13. Determination by the Department.

Impacted Section	S.C. Code of Regulations 88-920
Rationale	Amend to reflect current language
Recommendation	(1) Provides a beneficial service to its ~~developmentally disabled clients~~ participants. ~~(4)~~ Does not exploit the ~~developmentally disabled,~~ participants, their families or the public.
Other Impacted Entities	None

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SOUTH CAROLINA Department OF Disabilities AND Special Needs

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August 28, 2018

Chairwoman Phyllis J. Henderson
Healthcare and Regulatory Subcommittee, House Legislative Oversight Committee
522B Blatt Bldg.
Columbia, South Carolina 29201

Re: Department of Disabilities and Special Needs' (DDSN) Recommendations;
House Legislative Oversight Committee Performance Evaluation of DDSN

Dear Chairwoman Henderson,

DDSN is effective in accomplishing its mission of serving persons with intellectual disabilities, autism, head & spinal cord injuries, and conditions related to each of these disabilities. DDSN's service delivery system supports 40,339 eligible consumers with 24,622 consumers currently receiving services. However, DDSN is under stress to keep up with service needs, adequacy of provider reimbursement rates, and improve infrastructure efficiencies to support its efforts.

The below recommendations are structured into eight major issues and corresponding recommendations; a ninth issue/recommendation area encompasses 22 individual improvement initiatives; and a tenth area reports on the results of DDSN's five "internal initiatives" set forth in its May 2017 initial interrogatory to the House Legislative Oversight Committee. The ordering of the recommendations below does not infer a priority order inasmuch as all recommendations need to be addressed.

The below recommendations may appear voluminous, but the agency is recovering from a period of management tentativeness from many years of friction with a variety of stakeholders. Friction can be viewed as negative, but it can also stimulate needed positive change. Getting all the issues "on the table" in detail for complete transparency tends to unite; focuses energy on problem solving; and breaks the cycle of ruminating on past friction points and moving forward. Clear targets creates the transparency for high expectations and accountability to support and motivate the agency towards progress/results. DDSN has opportunities to improve effectiveness primarily through management improving its systems and processes to better support those operating within the service delivery system.

A concern in preparing these DDSN recommendations is the risk of hamstringing incoming State Director Poole's latitude in assessing DDSN's challenges differently, as well as approach to address. In state government, if an agency agrees to do something, it is somehow perceived to be etched in stone forever and must be carried out regardless of the actual changing operational conditions on the ground. I disagree, and I suggest the House Legislative Oversight Committee would as well. Agencies need a plan, but plans are expected to be periodically revisited and nimbly changed as conditions dictate, to include a new leaders' differing views on issues and solution approaches. Agencies just need to be accountable to justify the "why" for the change and move out in the adjusted direction.

As an aside, one of DDSN's issues has been developing high altitude static strategic plans, but management has been reluctant or lethargic to convert substantial portions of these strategic plans into actionable tactical plans from which to be held accountable. There is no reluctance to commit in this memo. A commitment to a specific, transparent, and measurable plan is needed at this time to regain some of the lost confidence and trust from stakeholders.

ISSUE #1: DDSN's most significant organizational issue is a deficient capitated payment system supporting community service providers known as the "band system." This payment system causes a multitude of problems to include:

- Lack of transparency in non-actuarially based band payments causes systemic distrust and dissatisfaction by providers, advocates, and consumers.
- Lack of residential service standards for staffing (direct care; nurses; 1st line supervisors) prevents establishing appropriate funding levels. Additionally, a lack of a formal/auditable process to establish transparent and accountable staffing levels (mandatory or provider developed) creates a risk of understaffing—proper staffing is the primary factor impacting the health, safety, and welfare of consumers.
- Time consuming and lengthy cost settlement process undermines having recent and reliable data for consideration to adjust the system and justify possible rate increases.
- Does not maximize opportunity for more state funds to obtain Medicaid match.
- Does not incorporate a consumer needs assessment tool to adjust funding to match a consumer's acuity; this is increasingly reducing access for higher needs consumers.
- Undermines DDSN's quality assurance mission by consuming too much time and relationship goodwill with providers on payment issues.
- The band benefits (i.e., vacancy rates, Medicaid ineligible risk, Medicaid billing, capital needs) can be duplicated, if so desired, in a simpler fee-for-service model except for the prospective payment.

RECOMMENDATION #1: DDSN will address its current payment system weaknesses through an evidence based process incorporating stakeholder input and industry best practices. In June 2018, Mercer Healthcare Consultants (Mercer) initiated a review of the DDSN payment system, which includes stakeholder input and incorporating national best practices. Mercer will produce a report due in the Fall 2018 recommending future payment system options to meet the needs of the DDSN service delivery system. Equally important, nearly all stakeholders have arrived at the conclusion the DDSN payment system has to be substantially changed, which is critical to support such a system-wide endeavor. Further, Mercer will update all SC DHHS service rates with DDSN via a second formal report in early 2019.

ISSUE #2: DDSN's most significant operational issue is recruiting/retaining direct care workers at regional centers and in residential community settings. Regional centers bobble between barely manageable to a near crisis as illustrated by currently experiencing a 44% turnover rate. Residential providers' problem has more variability across the state, but turnover still ranges from 20% to 40+%. Adequate staffing levels generally require over-reliance on overtime. This stress on the direct care staff has escalated since 2015. Historically, direct care staffing is challenged during economic upswings and tends to resolve when the economy slows. However, given the hiring pool demographics and the need for direct care workers throughout the healthcare field as baby boomers age, DDSN cannot rely on an economic downturn as a solution. Short-term plans and long-term plans are needed to ensure direct care staffing meets quality staffing level thresholds with sufficient capacity to lower overtime causing burnout and turnover. We have to continue to work the issue as a crisis.

RECOMMENDATION #2a: DDSN will continue to pursue direct care wage improvements through the legislative appropriation process sufficient to create a full and stable workforce to meet the needs of consumers.

RECOMMENDATION #2b: DDSN will pursue a career track for direct care, to include a tiered wage system to promote professional advancement and retention.

RECOMMENDATION #2c: DDSN will pursue the use of technology and corresponding policies to support consumers and mitigate the gap in hiring/retaining direct care workers for the foreseeable future.

RECOMMENDATION #2d: DDSN will solidify formalized targeted staffing levels in Regional Centers and the future community residential payment system rates should incorporate staffing level requirements based on consumer acuity.

RECOMMENDATION #2e: In conjunction with the development of a new/modified payment system, DDSN will re-examine its portfolio of services and policies with an emphasis on making adjustments consistent with the future likelihood of challenges in hiring/retaining direct care workers.

RECOMMENDATION #2f: DDSN will continue to support, mature, and potentially expand a grass roots direct care professional training program provided through a local technical college.

RECOMMENDATION #2g: DDSN will examine its policies and practices to proactively identify community setting opportunities to serve Regional Center consumers.

RECOMMENDATION #2h: DDSN will start contingency planning beyond obtaining additional wage increases for direct care workers to safely staff Regional Centers to meet the needs of consumers if the direct care hiring/retention crisis is not reversed.

ISSUE #3: DDSN management needs to mature its capabilities to be more proactive with emphasis on a system/process improvement approach to problem solving. General business acumen training needs include factoring financial implications into operation and policy decisions; greater use of information to manage; and enhanced involvement in developing internal operating budgets and contributions to the agency's annual legislative budget requests. In short, DDSN tends to have a reactive posture rather than leaning forward towards continuous improvement.

RECOMMENDATION #3a: DDSN will establish a formal management training program to develop its management in a structured manner in both management/business acumen skills and a continuous improvement management philosophy. Much of DDSN's real and perceived reactive crisis management style can be traced to a lack of management investment in planning and system/process improvement to prevent problems from occurring.

RECOMMENDATION #3b: DDSN will redirect audit resources from community contract audits to conduct internal operational audits to provide assurance of effective operations through adequate objectives, process mapping, management information systems, and controls/performance measures.

ISSUE #4: There have been legislative hearings, proposed legislation, and public debate as to the proper organizational structure to support DDSN's mission, to include as a cabinet agency, a component of SC DHHS, or remain as a Commission.

RECOMMENDATION #4: DDSN recommends continuing its mission in its current structure as an independent Commission. A Commission form of governance permits heightened involvement by the families, stakeholders, and consumers through seven volunteer citizen leaders to ensure DDSN executes its mission with excellence to meet the complex needs of a highly vulnerable population. A single mission agency also creates the needed focus to support our highly vulnerable population.

The Commission recognizes stress in the DDSN delivery system over the past several years has caused some to question the proper organizational structure to support its mission. The Commission believes the stress was natural and needed as a precursor to stimulate deep change in DDSN due to complacency as well as resistance to change and transparency. The Commission's interventions has led to a new State Director being selected along with healthy executive staff turnover, a noticeably calmer operating environment with stakeholders, and management's proactive posture to engage issues backed up in the system as evident by the recommendations in this memo. The Commission believes its form of governance with greater stakeholder and citizen access and responsiveness can more reliably stimulate positive change than a more bureaucratic form of governance.

ISSUE #5: DDSN does not have a systematic approach to performance management across the agency; some work units lack relevant performance measures or inadequate information to support operational/performance management. DDSN has lost a level of trust and confidence from a variety of stakeholders in the manner it executes its mission, both financially and operationally, as illustrated with legislative oversight questioning the agency's information accuracy.

RECOMMENDATION #5: DDSN will operate in a more evidenced based manner through the continued use and maturing of its Enterprise Performance Management process and ensure public performance reporting to demonstrate transparency and accountability with accurate and reliable information to its many stakeholders.

ISSUE #6: DDSN does not have a formalized project management process, which has contributed to a pattern of both real and perceived under-performance in implementing major initiatives.

RECOMMENDATION #6: DDSN will establish a formal project management process for longer term agency-wide initiatives to ensure proper operational planning, proactive communication plans, and timely execution.

ISSUE #7: DDSN has experienced an inching up of Abuse, Neglect, & Exploitation (ANE) indicators over the past four years, particularly with providers serving high needs consumers. The uptick of these ANE indicators is not a function of inadequate ANE policies or management deficiencies to keep "predator" employees out of the system. Rather, it is a function of "real world" economic factors eroding direct care professionals' (DSP) capacity & capabilities, while the consumer population's increasing behavioral needs require DSPs with higher skill levels. DDSN's lack of required acuity based direct care staffing standards also contributed to this situation. This is not a crisis, however this capability "gap" is building pressure/stress is the delivery system driving the uptick. This is a national challenge not unique to South Carolina.

RECOMMENDATION #7a: DDSN will continue to deploy and refine its Residential Observation Audit technique to make unannounced residential setting visits to 25% of all settings (approximately 350/annually) and provide monthly reporting to the Commission. Of the first 147 residential settings audited, over 200 consumer and 170 staff (370 total) were interviewed; not one interview reported an ANE climate risk or a report of a previously unreported ANE allegation—most importantly, the consumers felt safe.

RECOMMENDATION #7b: DDSN will continue a robust participation in the National Core Indicators Program (NCI). The NCI has produced annual reports for 20 years and is considered the highest quality measurement tool in the Intellectual Disability service arena. The NCI survey obtains DDSN consumer input through interviews conducted by independent interviewers on wide variety of service areas. In Fiscal Years 15-17, South Carolina providers distinguished themselves in the area of consumer safety by being consistently rated at or near the top on four key safety questions compared to 32 other states.

RECOMMENDATION #7c: DDSN will continue to pursue wage enhancements for direct care workers and establish residential staffing standards based on acuity in its anticipated new payment system to address the current direct care capability gap.

RECOMMENDATION #7d: DDSN will develop a formal process to collect "lessons learned" from ANE arrests.

RECOMMENDATION #7e: DDSN will develop statewide policy and awareness training to address direct care workers' reaction to non-compliant/volatile consumer behaviors which precedes nearly 2/3rd of all ANE incidents leading to an arrest.

RECOMMENDATION #7f: DDSN will examine the direct care worker duties and compliance requirements, which have aggregated overtime. These increased duties may be undermining direct care workers habilitative responsibilities, which, in turn, lessons the direct care workers' ability to positively impact consumers' behaviors and prevent situations escalating into ANE incidents.

RECOMMENDATION #7g: DDSN will develop recurring safety bulletins based on lessons learned from ANE incidents, particularly vignettes (without attribution) from actual incidents to stimulate learning and continual awareness.

RECOMMENDATION #7h: DDSN will continue to mature its ANE Program data collection through similar enhancements as refining Critical Incident classifications clarifying issues of concern and the provider rating system.

ISSUE #8: DDSN has determined 22 existing South Carolina statutes impacting the agency would benefit from revisions or elimination to assist the agency in accomplishing its mission.

RECOMMENDATION #8: DDSN requests these 22 SC statutes modifications or eliminations as set forth in Attachment A be adopted by the House Legislative Oversight Committee for legislative action.

ISSUE #9: DDSN established a defensive posture for many years based on a variety of factors, which has led to a tentativeness to proactively address issues. Improvement initiatives to address backlogged operational issues include:

RECOMMENDATION #9a: DDSN will develop a residential setting building capacity and funding strategy for high needs consumers, as well as timely execution of appropriations to restore legislative confidence. Strategy will include establishing triage beds to address critical cases; enhanced tracking/measuring system capacity, needs, and placement times; and develop a legislative appropriation strategy to better communicate this critical need to justify a consistent future funding stream to keep pace with residential setting needs.

RECOMMENDATION #9b: DDSN will conduct a risk based review of licensing, contract review, residential observations, ANE Program (ANE; CI; Deaths), and other provider contract controls to identify opportunities to lesson or eliminate existing controls and corresponding administrative burden. A critical analysis will yield substantial risk mitigation and administrative cost/burden savings by combining higher quality controls to support the elimination of redundant controls or controls with a low cost/benefit.

RECOMMENDATION #9c: DDSN will implement a Waiver enrollment improvement plan to speed enrollment processing times, reduce the waiting list, and restore confidence to legislative appropriators of DDSN's ability to effectively execute budget enhancements.

RECOMMENDATION #9d: DDSN will compare Regional Center requirements and current budgets to assess adequate funding, equity between centers, and basis for legislative budget request for maintenance of effort resources.

RECOMMENDATION #9e: DDSN will develop an "at-risk" inspection protocol by subject matter experts for suspected "failed" residential settings based on Alliant residential observations triggering an "at-risk" inspection. The DDSN Quality Management process understands providers' service levels may fluctuate due to a variety of short-term factors which DDSN can address through traditional audit findings, provider corrective action plans, and technical assistance. However, DDSN does not have a process to address major "failed" residential settings in a manner that both addresses operational deficiencies and addresses provider management's failure to deter similar situations in the future. Additional emphasis needs to be placed on a strategy to improve residential providers systemically on the low end of performance scores.

RECOMMENDATION #9f: DDSN will establish at least a $2 million annual cost settlement escrow account, which has not been done in the past six years creating a contingent liability likely in excess of $20 million.

RECOMMENDATION #9g: DDSN will re-engineer its Comprehensive Permanent Improvement Plan (CPIP) capital account funded with ICF consumer fees to minimize excessive capitalization of routine maintenance needs in CPIP preventative maintenance accounts. This prevents unhealthy stockpiling of unused resources; streamlines project prioritization/execution; and improves capacity to execute through delegation of smaller maintenance projects to Regional Centers.

RECOMMENDATION #9h: As an interim step to whatever future payment system is approved by the Commission, DDSN will conduct a feasibility study to relieve DSN Boards' as fiscal agents for in-home waiver bands (Band B – ID/RD; Band I – CS) with this function being absorbed by the Central Office Accounting Division. If feasible, this will achieve three outcomes: 1) relieve DSN Boards of this increasingly complex administrative function; 2) simplify QPL billing; and 3) convert $17 million in residual state funds in B & I Bands not generating a Medicaid reimbursable match to be available to provide initial funding of Mercer community rate increases due in early 2019. This $17 million in state dollars to fund new rates would create a Medicaid match to generate $40 million additional service dollars in the community residential delivery system.

RECOMMENDATION #9i: DDSN will develop a specific program to lower the current average census of 25 consumers at Correct Care (state funded locked facility) through building additional dedicated community residual high needs capacity (Medicaid match). A reasonable goal would be to remove 15 current Correct Care consumers at a total net service savings of $1.8 million per year, as well as improve the quality of services for these 15 consumers.

RECOMMENDATION #9j: DDSN will review all non-service expenses, assess value, and prioritize; appears historical approach has been to renew prior FY's commitment without assessing value and compare to other needs, particularly given limited funds in this area.

RECOMMENDATION #9k: DDSN will pursue pre-file legislation prior to the next legislative session to address ambiguity in the Adult Health Care Consent Act.

RECOMMENDATION #9l: DDSN will decentralize budget execution from currently residing almost exclusively with the Associate State Director for Administration to other Associate State Directors. Decentralized decision making will make better tradeoffs and more timely decisions when operating within clear resource constraints. This will be particularly beneficial for Central Office and Regional Centers to improve clarity in fixing roles, responsibilities, and accountability to both establish initial FY budget allocations and execution throughout the FY.

RECOMMENDATION #9m: DDSN will develop a mechanism to improve communications with community providers focusing on standardized format, authority level to send, targeted distribution email lists, and a one webpage repository.

RECOMMENDATION #9n: DDSN will identify all residential consumers Medicaid ineligible for over 12 months to identify issue(s), which will lead to developing policy to minimize this situation and future occurrences; currently 91 non-Medicaid residential consumers create the opportunity cost loss of $4.5 million in Medicaid match reimbursements annually.

RECOMMENDATION #9o: DDSN will review Respite Program delivery; respite is key to serving families, yet access and service availability is still an issue.

RECOMMENDATION #9p: DDSN will conduct a staffing and capabilities assessment of its financial operations, which have incrementally eroded since the 2010 recession creating a significant organizational risk, particularly with the unique knowledge base required to operate or modify the capitated band system.

RECOMMENDATION #9q: DDSN will review the individual employment program for opportunities to address current areas of ineffectiveness through training, policies, active monitoring, and authorization controls.

RECOMMENDATION #9r: DDSN will ensure Autism Program's eligibility process benchmarks are solidified and training/consulting resources targeted towards DDSN's core mission. Increase cost effectiveness of Autism residential settings operated by DDSN through filling vacancies or contract with a provider to serve these consumers; if DDSN retains operations, consider moving this function from the Policy Division to the Operations Division.

RECOMMENDATION #9s: DDSN will revitalize the environmental modification process to reduce backlog from high of 200 in early 2018. Additional system refinements needed to coordinate or simplify operational execution between two divisions.

RECOMMENDATION #9t: DDSN will build infrastructure to support new Commission initiative to review new policy and recurring three-year policy updates on a quarterly basis in an efficient. Policies will be stratified by priorities to ease processing by stakeholders.

RECOMMENDATION #9u: DDSN will shift all employees to a universal performance review cycle (July 1 to June 30) to improve accountability, training, quality, and integrate into an annual equitable assessment to consider personnel merit increases.

RECOMMENDATION #9v: DDSN will examine Early Intervention Program to ensure consumers eligible for Medicaid become enrolled to maximize Medicaid reimbursement; in the recent past, Medicaid enrollment has dropped from 80% to currently at 65%.

In DDSN's May 2017 submission to the House Legislative Oversight Committee, it set forth five "internal initiatives" to improve. These five initiatives are set forth below with an update on progress/results located on Attachment B:

- Evaluation of Abuse, Neglect, and Exploitation reporting and follow up system.
- Changes to the tracking and reporting of critical incidents.
- Direct service operations.
- Plan review and service authorization.
- DDSN outcome-based provider evaluation.

The recommendations contained in this letter have been approved by the DDSN Commission.

Thank you in advance for your consideration of DDSN's recommendations. I am available 24/7 to discuss further and provide any clarifications needed.

Sincerely,

Patrick J. Maley

Patrick J. Maley
Interim State Director

CONTACT INFORMATION

Committee Contact Information

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ENDNOTES

[1] Visual Summary Figure 1 is compiled from information in the Department of Disabilities and Special Needs study materials available online under "Citizens' Interest," under "House Legislative Oversight Committee Postings and Reports," and then under "Department of Disabilities and Special Needs https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyPHPFiles/DisabilitiesandSpecialNeeds.php (accessed September 25, 2018).

[2] S.C. Code of Laws § 2-2-20(C).

[3] 2011 Act No. 47. Acts from 1980 to the present are available on the General Assembly's website under "Archives" and then under "Act Lists" https://www.scstatehouse.gov/sess119_2011-2012/bills/687.htm (accessed September 25, 2018). Hereinafter, "2011 Act No. 47."

[4] 2016 Act No. 225. Acts from 1980 to the present are available on the General Assembly's website under "Archives" and then under "Act Lists" Acts from 1980 to the present are available on the General Assembly's website under "Archives" and then under "Act Lists" https://www.scstatehouse.gov/sess119_2011-2012/bills/687.htm (accessed September 25, 2018).

[5] Federal court cases have held that a zoning ordinance requiring notice to neighbors of a group home's existence constitutes a discriminatory classification in violation of the federal Fair Housing Act when it is not imposed on any other properly zoned residential unit. See Potomac Group Home Corp. v. Montgomery County, 823 F. Supp. 1285, 1296-97 (D. Md. 1993); see also Larkin v. Michigan Dep't of Social Services, 89 F.3d 285, 292 (6th Cir. 1996). Hereinafter, "Federal Court Cases."

[6] S.C. House of Representatives, House Legislative Oversight Committee, "Agency Program Evaluation Report (May 1, 2017)," under "Committee Postings and Reports," under "House Legislative Oversight Committee," and under "Department of Disabilities and Special Needs" https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DisabilitiesandSpecialNeeds/DDSN%20PER%205_2_17%20PDF.pdf (September 25, 2018). Hereinafter, "Agency PER."

[7] 1918 Act No. 398.

[8] 1954 Act No. 685.

[9] 1957 Act No. 234.
[10] 1963 Act No. 314.
[11] 1967 Act No. 228.
[12] 1970 Act No. 1070.
[13] 1974 Act No. 1127.
[14] 1993 Act No. 181. Acts from 1980 to the present are available on the General Assembly's website under "Archives" and then under "Act Lists" Acts from 1980 to the present are available on the General Assembly's website under "Archives" and then under "Act Lists" https://www.scstatehouse.gov/sess110_1993-1994/bills/3546.htm (accessed September 25, 2018).
[15] 2007 Act No. 65. Acts from 1980 to the present are available on the General Assembly's website under "Archives" and then under "Act Lists" Acts from 1980 to the present are available on the General Assembly's website under "Archives" and then under "Act Lists" https://www.scstatehouse.gov/sess117_2007-2008/bills/20.htm (accessed September 25, 2018).
[16] 2011 Act No. 47.
[17] Agency PER, p. 39.
[18] South Carolina Department of Disabilities and Special Needs, "Our Mission," under "About DDSN," https://www.ddsn.sc.gov/about/Pages/OurMission.aspx (accessed September 25, 2018).
[19] Ibid.
[20] S.C. Code of Laws, § 44-20-210.
[21] Agency PER.
[22] Ibid.
[23] S.C. House of Representatives, House Legislative Oversight Committee, "2017-2018," under "Committee Postings and Reports," under "Legislative Oversight," under "Department of Disabilities and Special Needs," and under "Structure/Employees," https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DisabilitiesandSpecialNeeds/2017-2018%20Organizational%20Chart.pdf. (accessed October 6, 2018).
When it is received, the updated organizational chart will be posted on the Legislative Oversight Committee's page dedicated to DDSN.
[24] Agency PER.
[25] The DDSN Commission is not accountable to the Governor outside of the Governor's appointment of Commission-members.
[26] S.C. House of Representatives, House Legislative Oversight Committee, "State HR Dashboard - DDSN (September 6, 2017)," under "Committee Postings and Reports," under "Legislative Oversight," under "Department of Disabilities and Special Needs," and under "Structure/Employees," https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DisabilitiesandSpecialNeeds/State%20HR%20Dashboard%20-%20DDSN%20(September%206,%202017).pdf (accessed September 25, 2018).
[27] Ibid.
[28] S.C. Code of Laws, § 2-2-10(1).
[29] S.C. House of Representatives, House Legislative Oversight Committee, "January 10, 2017 Meeting Minutes," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Department of Disabilities and Special Need" and under "Meetings," https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/FullCommitteeMinutes/January102017.pdf (accessed September 25, 2018). A video of the meeting is available on the General Assembly's Website under "Archives," and then under "Video Archives."
[30] S.C. House of representatives, House Legislative Oversight Committee, "Subcommittees -2018," under "Committee Information," under "House Legislative Oversight Committee," https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/Subcommittee_2018_71518.pdf (accessed September 25, 2018).
[31] Department of Disabilities and Special Needs, "2016 Annual Restructuring Report," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Department of Disabilities and Special Need" and under "Oversight Reports and Studies,"

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[31] Department of Disabilities and Special Needs, "2016-17 Agency Accountability Report," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Department of Disabilities and Special Need" and under "Oversight Reports and Studies,"
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[32] 2016-17 Agency Accountability Report.
[33] Ibid.
[34] 2016 - Agency ARR.
[35] A brochure about the House Legislative Oversight's Committee process is available online. Also, there are ongoing opportunities to request notification when meetings are scheduled and to provide feedback about state agencies under study that can be found online.
http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/Brochure%205.18.17.pdf (accessed September 25, 2018).
[36] S.C. House of Representatives, House Legislative Oversight Committee,
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[37] S.C. House of Representatives, House Legislative Oversight Committee, "Press Release announcing Public Survey (February 9, 2017)," under "Department of Disabilities and Special Needs," under "Public Survey & Public Input via LOC Webpage,"
https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DisabilitiesandSpecialNeeds/Media%20Release%20-%20Public%20Survey%20Open%20(February%209,%202017)%20(pdf).pdf (accessed September 25, 2018). Hereinafter, "Press Release Announcing Public Survey (February 9, 2017)."
[38] S.C. House of Representatives, House Legislative Oversight Committee, "Results of Survey of the Department of Disabilities and Special Needs; State Election Commission; Human Affairs Commission; and John de la Howe School (February 9, 2017 - March 13, 2017)," under "Citizens' Interest," under "Patriots Point Development Authority," and under "Department of Disabilities and Special Needs
"https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SurveysforAllAgencies/Results%20from%202017%20Survey%20of%20DDSN;%20Election%20Commission;%20Human%20Affairs%20Commission;%20and%20John%20de%20la%20Howe%20School%20(2_9%20-3_13).PDF (accessed September 25, 2018). Hereinafter "Results of 2017 Survey."
[39] Ibid.
[40] Committee Standard Practice 10.4.
[41] Results of 2017 Survey.
[42] S.C. House of Representatives, House Legislative Oversight Committee, "Submit Public Input," S.C. House of representatives, House Legislative Oversight Committee, "Read a brochure about the Committee," under "Citizens' Interest," under "Agency Oversight by House Legislative Oversight Committee," and under "Public Participation"
http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php (accessed September 25, 2018).
[43] Results of 2017 Survey.
[44] Ibid.
[45] Committee Standard Practice 10.4.2 allows for the redaction of profanity.
[46] Also, the chair of either the Committee or Healthcare and Regulatory Subcommittee has the discretion to allow testimony during meetings.
[47] Press Release Announcing Public Survey (February 9, 2017).

[48] S.C. House of Representatives, House Legislative Oversight Committee, "March 2, 2017 Meeting Minutes," under "Committee Postings and Reports," under "House Legislative Oversight Committee," and under "Full Committee Minutes,"
http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/FullCommitteeMinutes/March%202,%202017%20%20Minutes%20(Public%20Input%20for%20Archives%20and%20History,%20DDSN,%20John%20de%20la%20Howe).pdf (accessed September 25, 2018). A video of the meeting is available at http://www.scstatehouse.gov/video/videofeed.php. Hereinafter, "March 2, 2017 meeting."
[49] S.C. House of Representatives, House Legislative Oversight Committee, "January 10, 2017 Meeting Minutes," under "Committee Postings and Reports," under "House Legislative Oversight Committee," and under "Full Committee Minutes,"
https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/FullCommitteeMinutes/January102017.pdf (accessed September 25, 2018). A video of the meeting is available at http://www.scstatehouse.gov/video/videofeed.php.
[50] March 2, 2017 meeting. Agencies in attendance: Department of Archives and History; Department of Disabilities and Special Needs; and John de la Howe School.
[51] Ibid.
[52] S.C. House of Representatives, House Legislative Oversight Committee, Healthcare and Regulatory Subcommittee "September 18, 2017 Meeting Minutes," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Department of Disabilities and Special Needs," and under "Meetings,"
https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DisabilitiesandSpecialNeeds/September%2018,%202017%20Meeting%20Minutes-%20DDSN.pdf (accessed September 26, 2018). A video of the meeting is available at http://www.scstatehouse.gov/video/videofeed.php.
[53] S.C. House of Representatives, House Legislative Oversight Committee, Healthcare and Regulatory Subcommittee "October 10, 2017 Meeting Minutes," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Department of Disabilities and Special Needs," and under "Meetings,"
https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DisabilitiesandSpecialNeeds/Meeting%20Minutes%2010_10.pdf (accessed September 26, 2018). A video of the meeting is available at http://www.scstatehouse.gov/video/videofeed.php.
[54] S.C. House of Representatives, House Legislative Oversight Committee, Healthcare and Regulatory Subcommittee "October 24, 2017 Meeting Minutes," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Department of Disabilities and Special Needs," and under "Meetings,"
https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyPHPFiles/DisabilitiesandSpecialNeeds.php (accessed September 26, 2018). A video of the meeting is available at http://www.scstatehouse.gov/video/videofeed.php. Hereinafter, "October 24, 2017 meeting."
[55] S.C. House of Representatives, House Legislative Oversight Committee, Healthcare and Regulatory Subcommittee "November 6, 2017 Meeting Minutes," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Department of Disabilities and Special Needs," and under "Meetings,"
https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyPHPFiles/DisabilitiesandSpecialNeeds.php (accessed September 26, 2018). A video of the meeting is available at http://www.scstatehouse.gov/video/videofeed.php.
[56] Ibid.
[57] Thoyd Warren is appointed President and CEO of Babcock Center in June of 2018.
[58] Mary Poole is appointed DDSN State Director on July 19, 2018.
[59] S.C. House of Representatives, House Legislative Oversight Committee, Healthcare and Regulatory Subcommittee "November 30, 2017 Meeting Minutes," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Department of Disabilities and Special Needs," and under "Meetings,"
https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyPHPFiles/DisabilitiesandSpecialNeeds.php (accessed September 26, 2018). A video of the meeting is available at http://www.scstatehouse.gov/video/videofeed.php.
[60] S.C. House of Representatives, House Legislative Oversight Committee, Healthcare and Regulatory Subcommittee "February 1, 2018 Meeting Minutes," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Department of Disabilities and Special Needs," and under "Meetings,"

https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/HealthcareSub/2.1.18%20Meeting%20Minutes%20[DDSN].pdf (accessed September 26, 2018). A video of the meeting is available at http://www.scstatehouse.gov/video/videofeed.php.

[61] S.C. House of Representatives, House Legislative Oversight Committee, Healthcare and Regulatory Subcommittee "July 30, 2018 Meeting Minutes," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Department of Disabilities and Special Needs," and under "Meetings," https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/HealthcareSub/Meeting%20Minutes%207_30_18.pdf (accessed September 27, 2018). A video of the meeting is available at http://www.scstatehouse.gov/video/videofeed.php.

[62] August 30, 2018 meeting minutes; minutes will be posted after approval at the next subcommittee meeting. A video of the meeting is available on the General Assembly's website, under "Archives," then "Video Archives," http://www.scstatehouse.gov/video/archives.php (September 25, 2018). Hereinafter, "August 30, 2018 meeting."

[63] Committee Standard Practice 14.1.

[64] Committee Standard Practice 14.2.

[65]Department of Disabilities and Special Needs, "Agency Presentation and Supplemental Information to the September 18, 2017, Healthcare and Regulatory Subcommittee Meeting," https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DisabilitiesandSpecialNeeds/DDSN%20Presentation%20and%20Supplemental%20Information.pdf (accessed September 25, 2018). Hereinafter, "Agency Presentation - September 18, 2017."

[66]Department of Disabilities and Special Needs, "Agency Presentation to the November 6, 2017, Healthcare and Regulatory Subcommittee Meeting," [66]Department of Disabilities and Special Needs, "Agency Presentation and Supplemental Information to the September 18, 2018, Healthcare and Regulatory Subcommittee Meeting," https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DisabilitiesandSpecialNeeds/DDSN%20Presentation%20and%20Supplemental%20Information.pdf (accessed September 25, 2018) (accessed September 25, 2018).

[67] Agency Presentation - September 18, 2017.

[68] S.C. House of Representatives, Ways and Means Committee, "FY 2018-19 Budget Briefing, https://www.scstatehouse.gov/CommitteeInfo/Ways&MeansBudgetDocuments/FY2018-19/FY%202018-19%20Budget%20Briefing%20 (Conference%20Version).pdf (accessed September 25, 2018).

[69] October 24, 2017 meeting.

[70] Ibid.

[71] S.C. House of Representatives, House Legislative Oversight Committee, Healthcare and Regulatory Subcommittee "October 23, 2018 Meeting Minutes," under "Committee Postings and Reports," under "House Legislative Oversight Committee," and under "Meetings,"
Add link when posted. A video of the meeting is available at http://www.scstatehouse.gov/video/videofeed.php.

[72] Ibid.

[73] Committee staff reviewed two decades of the index to the State Register.

[74] A list of state Medicaid agencies is obtained from the National Association of Medicaid Directors, https://medicaiddirectors.org/about/medicaid-directors/. A list of intellectual/developmental disabilities agencies is obtained from the National Association of State Directors of Developmental Disabilities Services, https://www.nasddds.org/state-agencies/. An agency is determined to be "standalone" if it primarily serves people with intellectual and related disabilities. California, Connecticut, the District of Columbia, Florida, Massachusetts, New York, Ohio, South Carolina, and Tennessee have agencies solely dedicated to serving people with intellectual disabilities. While considered a standalone agency, California's Department of Developmental Services is within the Health and Human Services agency. Of the eight states and the District of Columbia with standalone agencies, South Carolina is the only state where the intellectual disabilities' agency executive is not directly accountable to the governor, mayor, or an umbrella cabinet secretary.

[75] California's DS Task Force provides recommendations on service needs and delivery of cost-effective, integrated, quality services. Connecticut's Council on Developmental Services advises and consults on issues affecting the department. The Massachusetts Statewide Advisory Council advises the Commissioner on policy, program, development, and priorities. Tennessee has a number of advisory councils that allow for public collaboration on issues affecting the department and the people it serves.

[76] October 24, 2017 meeting.

[77] S.C. House of Representatives, House Legislative Oversight Committee, Healthcare and Regulatory Subcommittee "October 10, 2017 Agency Presentation," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Department of Disabilities and Special Needs," and under "Meetings," https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DisabilitiesandSpecialNeeds/Agency%20Presentation%20and%20Supplemental%20Material%2010_10.PDF (accessed September 26, 2018). A video of the meeting is available at http://www.scstatehouse.gov/video/videofeed.php. The rankings of standalone agencies range from 6 to 35.

[78] Department of Disabilities and Special Needs, "Agency Presentation and Supplemental Information to the October 10, 2017, Healthcare and Regulatory Subcommittee Meeting," https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DisabilitiesandSpecialNeeds/Agency%20Presentation%20and%20Supplemental%20Material%2010_10.PDF (accessed September 26, 2018).

[79] State Fiscal Accountability Authority, Procurement Services http://webprod.cio.sc.gov/SCSolicitationWeb/contractSearch.do?solicitnumber=5400011763 (accessed September 25, 2018).

[80] S.C. Code of Laws, § 44-28-10.

[81] S.C. Code of Laws, § 44-28-310.

[82] S.C. Code of Laws, § 11-5-400.

[83] 2011 Act No. 47.

[84] 2016 Act No. 225 Acts from 1980 to the present are available on the General Assembly's website under "Archives" and then under "Act Lists." Acts from 1980 to the present are available on the General Assembly's website under "Archives" and then under "Act Lists" https://www.scstatehouse.gov/sess121_2015-2016/bills/3952.htm (accessed September 25, 2018).

[85] Definition of Intellectual Disability, American Association on Intellection and Developmental Disabilities http://aaidd.org/intellectual-disability/definition (accessed September 26, 2018).

[86] American Psychiatric Association, Diagnostic and Statistical Manual of Mental Disorders, 5th Edition, p.33. (2013).

[87] Federal Court Cases.

[88] Department of Disabilities and Special Needs, "August 30, 2018 - Meeting Packet," (https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DisabilitiesandSpecialNeeds/Meeting%20Packet%208_30.PDF) (accessed September 26, 2018).