State of Nevada
Department of Indigent Defense Services
Board Meeting and Workshop Minutes
Thursday, August 3, 2023
1:00 PM
Meeting Location:

OFFICE	LOCATION	ROOM
Virtual Only (Zoom)		

1. Call to Order/Roll Call

Vice Chair Laura Fitzsimmons called the meeting of the Board on Indigent Defense Services to order shortly after 1:00 pm, on Thursday, August 3, 2023.

Cynthia Atanazio advised the meeting was being recorded and conducted roll call. A **quorum was established**.

Board Members Present: Vice Chair Laura Fitzsimmons, Chris Giunchigliani, Kate Thomas, Commissioner Cassie Hall, Allison Joffee, Joni Eastley, Harriett Cummings, and Jarrod Hickman.

Members not present: Chair Dave Mendiola, Drew Christensen, Lorina Dellinger, Jeff Wells, and Justice William Maupin.

Others Present: Executive Director Marcie Ryba, Deputy Director Thomas Qualls, Deputy Director Peter Handy, Chris Arabia, Sophia Long, Mayor Lori Bagwell, City Manager Nancy Paulson, Professor Eve Hanan, Todd Reese, Josh Foli, Austin Osborne, and Cynthia Atanazio.

2. Public Comment

Vice Chair Laura Fitzsimmons opened the line for public comment. There was no public comment.

4. Budget and Legislative Update (For discussion and possible action)

While waiting for more members to attend the meeting, agenda item four was taken out of order. **Director Marcie Ryba** provided an update to the Board on Final Fiscal Year Indigent Defense Services Reporting from the rural counties. The Department intended to request the remaining Section 80 funds from Interim Finance on August 9. After August 15th, the Department intends to reimburse all counties.

Joni Eastley and Chris Giunchigliani commented that it was great news, and that **Director Ryba** did a phenomenal job.

Vice-Chair Fitzsimmons then moved back to item three on the agenda.

3. Approval of the Minutes (For possible action)

Motion: Approval of the Meeting Minutes for June 16, 2023
By: Joni Eastley
Second: Allison Joffee
Vote: Passed Unanimously

5. Oversight Update (For discussion and possible action)

Deputy Director Qualls advised the Board about the fiscal year 23 fourth quarter data and workload reporting which is used for the larger workload study. The update on the Carson City Corrective Action Plan is the Carson City Public Defender's office is up and running. It has been functioning for about a month, and everything appears to be going smoothly. **Deputy Director Qualls** commended the Carson City leadership and Carson City Public Defender's Office for making that happen in a timely and efficient manner.

Vice Chair Fitzsimmons asked if there were any questions or comments. When there was none, she asked to move to item six.

6. Corrective Action Plan Submission and Approval – Storey County (For discussion and possible action)

Deputy Director Qualls stated that the Corrective Action Plan for Storey County is basically an extension of the Carson City Corrective Action Plan. The impetus for this was the critical understaffing of the State Public Defender's Office at the time, mostly due to salary and budgeting issues. Storey County has worked well with DIDS and leadership in Carson City to come up with an interlocal agreement where the new Carson City Public Defender's office will serve as the primary frontline public defender's office for Storey County.

Vice Chair Fitzsimmons commented on the good work by everyone, and wanted to know if there was any discussion. She then asked for a motion to approve.

Motion: Approve Storey County Corrective Action Plan
By: Chris Giunchigliani
Second: Jarrod Hickman
Vote: Passed Unanimously

Joni Eastly asked the Vice-Chair if she could ask questions about this to **Deputy Ryba**? What was Storey County's reaction to this corrective action plan?

Deputy Director Qualls replied that Storey County approached DIDS, just as Carson City did, so they are 100% on board. He advised **Austin Osborne**, the Storey County Manager, and Anne Langer, the Storey County DA are present today. They could better answer any questions.

Austin Osborne, Storey County Manager, stated he could answer any questions. He thanked DIDS for working with Storey County and they are in full support of the Corrective Action Plan.

Vice Chair Fitzsimmons confirmed item six was already approved and suggested moving on to agenda item seven, the *Davis* update.

Deputy Director Qualls stated the Board needed to approve Storey County's Amended Indigent Defense Plan, changing from the Nevada State Public Defender to the Carson City Public Defender's Office, filling the primary public defender role.

Motion: Approve Storey County Amended Indigent Defense Plan
By: Joni Eastley
Second: Allison Joffee
Vote: Passed Unanimously

Vice Chair Fitzsimmons shared that **Chair Mendiola** was missed, and moved to agenda item seven, the *Davis* litigation update.

7. Davis Update (For discussion and possible action)

Deputy Director Qualls advised **Professor Hanan**, the *Davis* monitor, was present and could answer any specific questions. In her report, she detailed successes in the 2023 Legislative session. The report addressed some of the repeated concerns: insufficient staff for oversight, insufficient budget for training, insufficient resources for attorney recruitment. All are being addressed under AB518, which allocated contingency funds to the Department to help fund the Department's ongoing *Davis* compliance efforts.

Vice Chair Fitzsimmons asked if anyone had any questions and thanked **Professor Hanan** for the report.

Director Ryba advised that the monitor's report had been submitted to the court, and based upon what is being recommended, actions are being taken by working with the finance office and ASD to see if DIDS can get that funding. A future meeting will be scheduled if necessary.

8. Discussion of Executive Order 2023-008 (For discussion and possible action)

Deputy Director Handy stated this Order has basically been reversed and added to. There was a workshop to decide what regulations were eligible for repeal or revision to streamline. The Order aims at streamlining, clarifying, reducing, etc. and shall be concise and easily understandable. This is a good governmental goal generally, when writing regulations or laws.

Vice Chair Fitzsimmons shared she believed it would be presumptuous to take any action on an Executive Order, so the regular agenda was closed and the Workshop, item nine and duly noted on July 17, 2023, was opened.

9. Workshop: (For discussion and possible action).

Vice Chair Fitzsimmons reviewed the purpose of this workshop regarding the potential adoption, repeal, or amendment of regulations that pertain to the Nevada Administrative Code, Section 180, and how comments on each area of the four proposed changes were expected to proceed. She

emphasized that the Workshop will set forth infrastructure and language for the proposed regulations, not actually adopt specific workload numbers for counties or apply to the rural counties. This puts the process/infrastructure in place so at a subsequent hearing, specific workload standards can be addressed, and issues can be considered at a later date.

a. The repeal of the regulatory maximum contribution formula, as it has been repealed by statute (AB 518).

Director Ryba advised the maximum contribution formula is not discontinued, but it is being removed from regulation because it has been placed in Statute by Assembly Bill 518. This regulatory language is duplicative and no longer necessary, so the repeal of Sections 16 through 19 has been requested.

Vice Chair Fitzsimmons asked if there was any discussion on this.

Chris Giunchigliani asked if each item should be voted on or voted on at the end after recommendations.

Joni Eastley suggested one at a time. **Ms. Giunchigliani** agreed it would be easier and made a motion. **DAG Long** suggested changing the word motion to adopt, which was done.

Vice Chair Fitzsimmons asked for any discussion; there was none.

Motion: **Adopt Recommendations for Sections 16-19**
By: **Chris Giunchigliani**
Second: **Joni Eastley**
Vote: **Passed Unanimously**

b. Setting caseload/workload standards for Nevada's rural counties -which would require the counties to have a minimum number of public defenders based on caseloads. Early estimates seem to show that an increase of about 60% more attorneys would be needed across the 15 counties, on average.

Deputy Director Handy stated this would modify Section 42. Subsection two was stricken to retain somebody to perform that workload standard. The Department has already retained the National Center for State Courts (NCSC) and they are in the process of completing that study. The new paragraph two is in accordance with the *Davis* stipulated consent decree and has been left open because those numbers from the NSCS are currently unknown. DIDS wants to begin working with LCB to get the regulatory language started and get an idea and draft together as to what the regulatory scheme will look like, prior to working with the Board and the public again. The goal is to attempt to determine what the numbers should be, based on the results of that study.

Vice Chair Fitzsimmons stated that is a smart approach, but asked if there was an ETA on the completion of the study.

Deputy Director Handy advised that discussions with NCSC indicates sometime in October, but they are not certain. It is ultimately up to NCSC when the results come back. The contract has been extended through the fiscal year, so it needs to be done before then.

Vice Chair Fitzsimmons commented that most likely LCB is busy so starting now will hopefully prevent a big delay after the study is completed and transmitted to the Board. Work can then start with stakeholders, considering what workload numbers will be in the rural counties. She asked if we know what the approval of Workshop item B would look like?

Director Ryba explained that there may be comments from Carson City on the regulation. She clarified that those numbers being put forth are not being adopted. There will be a future meeting to try and regulate that structure.

Vice Chair Fitzsimmons reiterated that today's conversations are limited; not a lot is happening today, but comments are welcome. Please introduce yourself and provide your comments.

Nancy Paulson, Carson City Manager, expressed concern that this will not only increase the public defender's office by almost five employees, but the district attorney's office employees would have to increase by five also. That would be a large cost to the city. If we do incur these costs, would they be reimbursed by the State?

Todd Reese, Deputy District Attorney, stated on NRS 180.320 (2) (d) (4), it says that the Board could establish guidelines to be used to determine the maximum caseloads. Subsection two proposes to add a mandate to the county to meet those guidelines. There seems to be a dichotomy between what is in the statute and what is proposed as the regulation. He is not going to purport to advise the Board on that, he was just hoping they would review it, possibly with the DAG, and make sure that is within the scope of the authority of the Board.

Vice Chair Fitzsimmons stated that is a very good point, and these concerns need to be addressed. She questioned if this was the time for it, or to wait until we get the study to have a meeting with Carson City where this is discussed and resolved.

Director Ryba advised that the caseload study is specifically required under the *Davis* stipulated consent judgment to perform a Delphi study. There must be compliance with the Delphi study workload standards within 12 months after the completion of the study. The counties will need to comply with the caseload and the only way I know that we could do so is through regulation. Even if it arguably does not fall under our authority that is specifically set forth, if the stipulated consent judgment requires that we adopt these guidelines, we would be able to require the counties to comply. When this is sent off to LCB, they are going to look at our proposed language, and see whether it is appropriately written, and if we authority to do so.

Vice Chair Fitzsimmons stated to take these comments with respect. If we send this off to LCB, if that is our action today, we need to resolve these legitimate concerns. We do not know what the caseload study is going to recommend. Other rural counties are likely going to have specific concerns. She agreed that the standards are mandated under *Davis,* but the Board needs to figure out how it applies to each county. She asked if there were other stakeholders who would like to speak about this before it goes to a vote.

Josh Foli, Comptroller for Lyon County, expressed that there are several concerns that Lyon County has with this, and he has recently discussed them with **Director Ryba.** He appreciates all the efforts she puts in for the State of Nevada, and Lyon County. She has been fantastic to work with, and he discussed some of the issues with her. The county does not have an option on whether they meet the stipulation or not; they must meet the stipulation. The question is the language and the study. **Josh Foli** outlined additional concerns for the Board to consider. He knows there are good people at DIDS that are working with the county and trying to figure out how to do it; everyone wants the best indigent defense that they can afford.

Vice Chair Fitzsimmons thanked **Josh Foli** for his time and comments. She spoke on the underlying and completely understandable concern that the rural counties have based on history. All this work by DIDS, the Counties, and the Board, only works if the state of Nevada honors its commitment to fully fund indigent defense in the rural counties, so that the counties do not pay more than their maximum contribution. The State is moving forward, and commitments are being met. It is important to articulate that the concerns that are expressed are practical concerns. How to find indigent defenders is a whole other problem that is not being addressed with this agenda item. She asked what the process was for requesting and sending proposed regulations to LCB for review. She does not want to wait until the Board gets the study in November or December to start asking LCB. She asked whether, when it comes back from LCB, there will be another opportunity to discuss it.

Director Ryba replied yes. When it comes back, there will be a public hearing, and everyone will see how their language comes back. Part of the issue is the Department is uncertain how to write this language; a document with proposed language was attached. Instead of requiring each county to do so, the language could say something like each county plan shall provide for the minimum number of attorneys to comply. The county plans can set forth how they are complying with the caseload standards, rather than specifically requiring a county to employ or retain; not every county employs public defenders, some contract with them. The Department believes it should be left to the counties to set forth in their plans how they want to comply.

Vice Chair Fitzsimmons questioned if that would require any amendment of proposed language now, or would it be dealt with after it gets back from LCB? She thinks this is important.

Director Ryba advised this language is sent to LCB, and they modify it. The Board can discuss what language is to be sent to LCB and suggest that to address Carson City concerns, that the county plans shall set forth how the county will comply. Or, if the Board prefers that language, rather than requiring the county to do that, and then not specifically saying they have to employ or retain, just setting forth how they are going comply with this workload.

Vice Chair Fitzsimmons stated she was more comfortable with that and wanted to hear the questions from the mayor.

Mayor Lori Bagwell stated she was reading the proposal in section 42, number one. She wanted to confirm her interpretation was correct, to make sure she was reading it the way others are reading it. The concern is if an attorney receives even just one case over the set workload, if this legally says that the attorney must turn it down? While she can see what is trying to be accomplished, and

really appreciates the opening remarks, she feels there is no reality to that. **Mayor Bagwell** wants to make sure we are not creating areas without indigent defense because of the established caseload requirement causing attorneys to not legally take on more clients. In her years of experience, things are read literally, and can come back to haunt us.

Vice Chair Fitzsimmons asked if DIDS would like to respond to the mayor's good point.

Deputy Director Handy stated that section one of section 42 is already in the regulations, so we would not be adding that. He clarified that when it says "they shall not accept a workload that…" everything that follows is modifying it, so it must be a workload that is excessive in size and then it interferes with that attorney's competence, diligence, or representation of their clients. They already have an obligation, under the rules of professional conduct, not to accept cases that interfere with their duty to represent their clients effectively. This regulation just puts that in there.

Vice Chair Fitzsimmons wanted to know if there were any other comments at this time, with the understanding this is only the beginning of the conversation. Are there any motions if there is no more discussion?

Director Ryba replied that language for 42, section two, has been provided. We would like to repeal the current section two, and modify it after the comments, if it is agreeable, to say something like, each county plan shall set forth how they will comply with the workload standard by identifying the attorneys who will cover the workload.

Vice Chair Fitzsimmons asked what about if it was modified to, "each county plan shall provide (something, details, etc.) to meet the minimum caseload standards."

Director Ryba replied yes. Every county does it their own way. Some counties have part-time conflict attorneys; some have full-time conflict attorneys. The regulations need to remain flexible. It works different ways in different counties which has been discovered when the Department Directors go out and meet with people in the counties. The Department knows these counties want to comply.

Chris Giunchigliani suggested the county plans will provide staffing sufficient to implement the plan; the staffing could be contract or it could be whatever.

Deputy Director Qualls added it needs to say something about compliance with the workload standard, which is *Davis* language. He recommended something along the lines of each county plan shall set forth how it will comply with the mandatory workload standards.

Vice Chair Fitzsimmons stated that wording is perfect and asked for a motion.

Motion: Adopt Suggested Language that each county plan shall set forth how it will comply with the mandatory workload standards
By: Chris Giunchigliani
Second: Allison Joffee
Vote: Passed Unanimously

Vice Chair Fitzsimmons reiterated that it is very clear that the counties are each separately and uniquely impacted and will be throughout this process. She is very grateful that the staff has been very responsive in meeting concerns, and being open to different ways that the county plans can incorporate the workload standards. She then moved onto the next workshop item.

c. Setting an hourly rate in lieu of the $100 rate in NRS 7.125 for the 15 rural counties, and for representation in post-conviction petitions for habeas corpus across the state (AB 454); and,

Deputy Director Qualls reminded all that the last time the hourly rate was changed by the Legislature was 2003, when it was set at $100 per hour. A study done in 2022, prior to some additional inflation, said that $100 in 2003 is equivalent to about $163. One of our missions in the Legislature this year was to bring this in-house, and have the Board set the rate. The federal CJA panel did a nationwide study and came up with a rate to adjust their federal hourly rate, and then tied it to cost of living expenses, so that it automatically increases on the first of a calendar year. Other state agencies pay the Attorney General's office $163 dollars an hour, which is another reason this rate is appropriate. The Department would also like to add language that "this rate may be modified as deemed reasonable and necessary by the Executive Director of DIDS for good cause, including the complexity of the case and the scarcity of qualified attorneys."

Allison Joffee stated the AG rate of $163 does not include PERS, insurance, FICA, social security, and PTO. We are not equalizing. She feels the $300 is much more enticing to competent lawyers who would come in and work and does not think $163 is that much; it is not reflective of what the AGs actually get.

Vice Chair Fitzsimmons asked if this is what is paid to the AG by the agencies that they represent, such as the Boards? And they get all their perks too? Do the AGs receive all that?

Deputy Director Qualls replied that is correct.

Chris Giunchigliani agreed that $163 is way too low; it is barely what they pay a substitute teacher for a whole day. She does not think it would be something that would help attract and would rather look at the $300 because it would give the opportunity to attract better, more qualified people into covering those cases.

Deputy Director Qualls explained that the $300 rate in Washoe County is only for category A cases: murder, sexual assaults, high level cases. The rest of them are set at $200 an hour for regular felonies, and $150 for misdemeanors. The Department had discussed the possibility of a three-tier rate, a death penalty rate, a category A rate, and one rate for everything else. It does not make sense to pay a juvenile, a misdemeanor, and a low-level felony differently; those should be grouped into one.

Vice Chair Fitzsimmons stated she agreed. She used to work at the old rate, back in the old days. During most of her practice, the state rate was the same as the CJA rate. She understands inflation was accounted for, but $100 went a lot further back then, than $168 goes now. The question is how to handle this; she is not comfortable as it is written. Adopting the proposed three-tier is important, and a really good suggestion. Also, adding that this is a floor, except in exceptional

circumstances the Executive Director can approve a higher hourly rate. Does **Director Ryba** need to send this in the same packet to the LCB? If so, we should come up with language that we are all comfortable with. What does the Board think?

Chris Giunchigliani stated the $163 average is based on AGs, but those are staff attorneys; they get PERS, health benefits, and other pieces. They are probably closer to $250 or $280. Is there a way to differentiate between staff rates and those that are contracted?

Director Ryba responded the $163 per hour is what they charge agencies for their hourly fee. **DAG Long** does not pocket $163 for showing up; she is salaried, likely making in the range of $50 to $60 an hour. The Attorney Generals are not making $163 an hour. They look at all their costs, as a whole, including the benefits, the buildings, everything. They have determined the rate they need to charge agencies to cover overhead, and all those associated costs, is $163 an hour.

Allison Joffee wanted to ask **Todd Reese** what are the DAs getting paid now? They formed an association, and they are getting paid more.

Todd Reese stated he was unfortunately the wrong person to ask. The association that was formed was for criminal attorneys. He is a civil attorney, and by statute, not permitted to unionize. He directed the question to **Nancy Paulson**, who might have that data, and requested a moment for her to find it.

Vice Chair Fitzsimmons asked **Director Ryba** if everything must go in one bundle to LCB?

Director Ryba stated the Department is hoping it can get this done together for the following reasons: Number one: the post-conviction rate cannot be modified by the county. A lot of attorneys do post-conviction and the most they can make is $100 an hour. Number two: the State/Prison cases, where appointed counsel is needed. The State is only paying $100 an hour unless there is a reason to go to a bidding process, because no attorneys will take the cases. If the changes can be made now, DIDS would greatly appreciate it, as well as every attorney on this call. The goal is to get this done as quickly as possible, so that the attorneys can be paid a fair wage, and get more people interested in indigent defense.

Vice Chair Fitzsimmons asked if the language proposed by **Deputy Director Qualls** should be adopted. If there is blowback from the Legislature or Governor's office, it can be demonstrated why the rate was approved by the Executive Director for that case. No one would have taken the case at this rate; nobody could be found, etc. Would that language adding to the complexity of the case satisfy your concerns? **Vice Chair Fitzsimmons** asked if somebody could read it?

Deputy Director Qualls read the sentence again for official purposes on the record. "This rate may be modified as deemed reasonable and necessary by the Executive Director of the Department of Indigent Defense Services for good cause including the complexity of the case and scarcity of qualified attorneys."

Chris Giunchigliani requested clarification. The standard language allows the Executive Director to exceed the $163 based on X, Y, and Z, to make a finding. What is done after the finding has been made? What is done so there is not finger pointing that comes back?

Deputy Director Qualls replied that it is case by case, and county by county. Currently, whenever there is a case unable to be placed, the Department communicates with the point person in the county to ask for approval. This would bring that decision in-house, so the Executive Director would be able to make that determination and keep the system stabilized, avoiding a bidding war. The Department is not certain of the best way to word that, because it is different than saying follow the CJA rate.

Vice Chair Fitzsimmons stated that she thinks **Deputy Director Qualls** covered it by saying complexity. She recommended that rather than the term modified, say this rate may be increased.

Deputy Director Qualls agreed; he liked that.

Chris Giunchigliani concurred that it should be indicated that the $163 is a base; it cannot go lower than that amount. That should be clear too.

Deputy Director Qualls stated that rate incerases started in Lyon County and has spread a bit. The counties are always approving rates outside of this statute or this regulation. The counties are always free to contract with individual attorneys under NRS Chapter 260, to provide higher rates.

Chris Giunchigliani wanted to know did they get reimbursed.

Deputy Director Qualls answered yes. He stated there is a reasonableness review at some point, but that is not the issue right now.

Nancy Paulson, Carson City Manager, provided the hourly rates for a Deputy District Attorney as between $40 and $55 an hour, a Supervising Deputy District Attorney is between $55 and $77, prior to overhead costs. Once benefits are considered, costs could be up to $200,000.

Director Ryba noted that for the first time in Carson City, the Public Defenders have pay parity with the District Attorneys.

Harriet Cummings expressed her concerns that, taking into account the additional language Deputy Director Qualls proposed adding, tying in with the CJA rates, so written it would lock into those numbers. Presumably the CJA rate would be modified over time. Is there any way this could be written to say the rate is commensurate with the CJA rate? As the CJA rate increases, the Nevada rate would also increase.

Deputy Director Qualls stated that was the intent of the language, but it could be modified. It does state the prevailing CJA rate at the time of service. The CJA rate does change at the beginning of the calendar year on January 1st.

Harriett Cummings and **Vice Chair Fitzsimmons** said they did not see that.

Director Ryba directed everyone to page two of the separate attachment for this item C. When the original items were sent 15 days ago, XXX was used.

Director Ryba stated that Nancy Paulson mentioned a rule that requires District Attorney Office to be staffed with attorneys at the same level as the defense attorney levels. She asked if someone could give her a citation to this rule, regulation, or statute? **Director Ryba** questioned if this was a collective bargaining agreement, or specific to Carson, or something otherwise?

Vice Chair Fitzsimmons said she is glad someone asked that. She had meant to say something when originally mentioned.

Nancy Paulson said all the language through the DIDS regulation speaks of parity between the District Attorney's Office and the Public Defender's Office. When Carson City was establishing the Public Defender's Office, **Director Ryba** was making sure the same employees were in parity with the District Attorney's Office. She is not sure there is a specific regulation but assumes if five attorneys are added to the Public Defender's Office, the DA's Office will be asking for five also.

Vice Chair Fitzsimmons stated she understood parity as pay parity.

Director Ryba confirmed the DIDS regulation calls for salary parity, and that is what is being referred to bring in the Public Defenders at the same pay as the District Attorneys. There is a regulation specifically about salaried public defenders must be paid the same amount as the opposing counsel.

Vice Chair Fitzsimmons asked if there was anything that said for every PD you need a DA, or vice versa? It is just to the extent that the staff of each needs pay parity. Is that correct?

Director Ryba confirmed the Vice Chair's statement.

Chris Giunchigliani added it is limited to the salary in Clark County too.

Allison Joffee asked if it is pay parity by county? Or overall?

Deputy Director Qualls answered yes (by county).

Allison Joffee questioned if a full-time public defender in Carson City makes $200,000?

Vice Chair Fitzsimmons answered, if they are a supervisor.

Director Ryba stated specifically Section 39 of the regulation says an attorney who receives a salary for providing indigent defense services is entitled to receive a reasonable salary, benefits, and resources that are in parity, subject to negotiated collective bargaining agreements if applicable, with the corresponding prosecutor's office that appears averse to the office of public defender in criminal proceedings.

Vice Chair Fitzsimmons asked if there was sufficient language with the addition discussed by Deputy Director Qualls for the rates to be increased by the Executive Director? Can we move forward on this agenda item? Do we feel comfortable, or should we…?

Chris Giunchigliani asked for it to be restated, so it is clear what is being adopted after all the wordsmithing that has been done.

Deputy Director Qualls directed everyone to the supplemental draft of the Department recommendations and advised not to look directly at number three. The language could be found at the very bottom. It talks about the prevailing CJA panel attorney hourly compensation rate.

Director Ryba asked for that to be read.

Deputy Director Qualls said the full proposal is: "the hourly rates of compensation for court appearances and other time reasonably spent on indigent defense services or representation for: (A) in a county whose population is less than 100,000, an attorney other than a public defender who has selected pursuant to NRS 7.115 to provide indigent defense services; or (B) in all counties an attorney who is appointed pursuant to NRS 34.750 to represent a petitioner who files a post-conviction petition for habeas corpus is entitled to receive an hourly compensation rate at the prevailing CJA panel attorney hourly compensation rate at the time of service." Then he added, "This rate may be increased as deemed reasonable and necessary by the Executive Director of the Department of Indigent Defense Services for good cause including the complexity of the case and the scarcity of qualified attorneys."

Vice Chair Fitzsimmons asked for a motion.

Motion: **Adopt Language Recommended by the Department as Read**
By: **Jarrod Hickman**
Second: **Chris Giunchigliani**
Vote: **Passed Unanimously**

d. Amending the BIDS regulations to make the language clearer and more concise to be consistent with the Board's intent.

Allison Joffee asked where everyone should be looking in the provided documentation for this Workshop item.

Director Ryba directed everyone to the document with "BIDS Workshop" at the top in blue, page 7 of a total of 14 pages. The reason the Department has set forth these regulations is as they have been working with the counties to create their plans, they have noticed some issues coming up. The Department is hoping to clarify some of these issues so it is known the intention of the Board so they can comply with it. In Section 22, it is required that the notice of a job opportunity is posted, and there is a reasonable opportunity to apply and respond if interested. Currently, there is a question whether counties need to post if they are hiring for organized office public defender or chief public defender, or if they can just hire based on internal determinations. The Department is requesting to add that into Section 22, section one. In number two, it is proposed to change "should" to "must." Subsection four, the Department has run into issues where individuals not fully qualified are given contracts to handle every case type. The Department believes the county plan should provide for that process. If a county chooses to retain an attorney who is not fully qualified, but expected to do complex cases, the plan should set forth how they get a second chair and what that process it. **Director Ryba** stated she could answer questions, and asked **Vice Chair Fitzsimmons** if each should be discussed one at a time.

Vice Chair Fitzsimmons stated that she wholeheartedly approves. These are all issues we have dealt with. These changes are consistent with long term intent. She does not want to cut off any discussion. Does anyone want to speak? If not, she is ready to move to adopt.

Mayor Bagwell asked if this would usurp Carson City's hiring practices? The city determines hires. She asked whether Director Ryba was saying she cannot do an emergency hire? On a three day? Carson City already has their own rules in place for hiring practices. The mayor requested clarification to make sure there is an opportunity, a wide net, to get great employees. The objective, for the mayor and Carson City, for all jobs, is a case-by-case answer. If short attorneys, a shorter opening may be authorized, instead of 30 days, it would be 14 days.

Vice Chair Fitzsimmons stated that is important and thanked the mayor for bringing that up. She wanted to speak generally about the proposed regulation but wanted to address what Carson City had just gone through; it was a very unusual circumstance. Being involved with conversations with Carson City when the problem was being addressed prior to the action plan being approved, it appeared Carson City already knew who they wanted to hire. While we understand the concern of being usurped, when they had just approached that person, they wished to hire. Maybe the position was not posted, so others could not apply. **Vice Chair Fitzsimmons** stated these changes are not talking about individual lawyers, but the key lawyers, either a public defender or a chief public defender. A county that hires those positions should be noticed. That is how she interprets it. The process must be designed to provide notice of the opportunity to apply, and a reasonable opportunity for interested parties to respond (section one). **Vice Chair Fitzsimmons** believes this is the section the mayor is concerned with. Carson City did what was needed.

Director Ryba reiterated Carson City was wonderful. That is part of the reason this was brought up: does this Board want those public defender and chief public defender positions to be noticed so there is a reasonable opportunity to apply? When DIDS spoke with **Todd Reese**, it was not necessarily clear, so it is being brought to the attention of the Board. They posted notice; they provided DIDS with a copy. The notice was sent out on a listserv, and it was kept up where people could respond if they wanted to. DIDS feels that was met, but there is the question of does a notice need to be posted, or can they just hire who they want to hire?

Vice Chair Fitzsimmons asked Mayor Bagwell if what she said, and what Director Ryba said, addressed the concerns? We are adopting what you did, not usurping anything.

Mayor Bagwell used the example of the chief public defender. Maybe she wants to promote someone into that position without noticing. Carson City typically hires deputies in offices to be the new directors. These are not noticed because they already have work experience; they already know they are candidates. Then they would go out to notice, maybe, for the Chief Public Defender. She wanted to make sure they are not being precluded from their standard rule of internally hiring a great candidate.

Vice Chair Fitzsimmons sought clarification. Yes, the city may already have the perfect candidate, but the opening still should be posted. She then confirmed with **Director Ryba** if this was correct.

Chris Giunchigliani questioned that would it make better sense with transparency no matter what. Even if they have identified someone with the skill set, someone could be working that they did not know or come into the flow and at least it gives you as a manager or even a mayor an opportunity to be able to check and balance yourself.

Vice Chair Fitzsimmons commented that is what Washoe County did recently when they had an opening. They posted it, they had applicants and I believe they ended up hiring the chief deputy. That is the city's call.

Mayor Bagwell stated that currently in Carson City they hire their deputies into director slots without public notice, because otherwise they are unclassified, and they would have gotten rid of them if they were not up to the level of a deputy.

Vice Chair Fitzsimmons agreed that pretty much everybody knows that. This is a regulation the Board is looking at for rural counties which may not have the abundance of even having a chief deputy. Everybody has a different situation in the rural counties to which this regulation would apply as long as a notice is posted. The city can say they do not want to waste time because they are going to appoint the existing chief, but just as **Chris Giunchgliani** said, just for transparency. And it's possible they could get the most brilliant lawyer in the world applying.

Joni Eastley stated that she thinks that is disingenuous. Why set a case of unrealistic expectations on either side where the ideal candidate who has been identified in-house assumes that they are going to get the position and the same for somebody who is applying from the outside. They think the position is open because it is being advertised. She does not see why if Carson City identifies the in-house person why they cannot go ahead and appoint them because the whole point is that we want to provide qualified individuals to serve the indigent population.

Allison Joffee stated that she thinks it is inappropriate to just say okay we are posting and we really do not want to and we're going to choose our person anyway. The other divisions in the state and public agencies post because they do not know who they are going to get, who may be great, and why are is it being promised to one person when they do not know what is out there. She thinks it is inappropriate.

Vice Chair Fitzsimmons commented that she never disagrees with Joni Eastley and sees everything everybody says. She asked if there was a fix to this so things can keep moving forward.

Chris Giunchgliani requested that the language be repeated again one more time. She still thinks that for transparency, it does not harm the city's ability as managers to be able to hire who they think is best. That is the key part, but to avoid the issue or perception of cronyism they could present the position in an advertisement, and they never know who might apply, they do not know if they do not at least publicly notice.

Vice Chair Fitzsimmons stated that to that end the follow-up she agrees they can tailor the job description in the notice to make it clear.

Joni Eastley questioned whether if there is an in-house promotion, would it not make the position of the person getting promoted open up, and that position could then be advertised?

Vice Chair Fitzsimmons stated that in her experience people apply when it is being vacated, they think nobody else wants it or because they are worried that someone that they do not like is going to get the job. What is the harm in posting it for transparency, so it does not look like cronyism, and tailoring the job description so that it is very clear that unless you have had experiences of supervising public defender in a rural office for six years you are not going to get the job.

Allison Joffee stated that she disagrees with that. What about a lawyer in Lyon County who is working for Lyon County who lives in Carson wants to come into Carson and so they are never going to get the job because they are not going to get an interview. I do not like that this is a Carson City only issue. People statewide should have a shot at it.

Director Ryba informed the Vice Chair that several people had their hands up for comments.

Vice Chair Fitzsimmons inquired as to the possibility of taking a 10-minute break and resume at 10 minutes to three?

Break taken at about 2:40pm (1:35:30 until 1:45:37)

Vice Chair Fitzsimmons stated that there is a slight concern of losing quorum. She doesn't know if she can call back the Board members and the participants in the workshop a couple of minutes early. She does not want to leave anyone out.

Director Ryba stated that it looks like Cassie Hall left the meeting, but there is still a quorum because Kate Thomas has joined the meeting.

Chris Giunchgliani requested if someone could reread the language.

Vice Chair Fitzsimmons replied that she would be happy to unless someone else wants to.

Director Ryba replied that she would read it and the issue that is being discussed is section 22 subsection one "a plan for the provision of indigent defense services must provide the process a county will use to hire attorneys who" and this is what the Department would like to add: "serve as the public defenders and chief public defenders of a county public defender office, or independent contractors to provide indigent defense services and panels of appointed attorneys. The process must be designed to provide notice of the opportunity to apply and a reasonable opportunity for interested parties to respond".

Chris Giunchgliani stated that the language sums up exactly what we would want to have happen and she appreciates Carson having us think through this process. This does not change their ability to hire, it just properly gives notice, especially in an area that is pretty selective as far as qualifications and experiences, and as **Allison Joffee** said, what if they got somebody that resides in Washoe that has even more skill sets, and they still have the opportunity to hire who they choose but properly noticing that there is an open position. She thinks it is just far better for transparent government.

Vice Chair Fitzsimmons stated that she agreed, and there are other people that want to speak and since this is a workshop, the Board wants to hear from everyone. **Josh Foli** has a raised hand.

Josh Foli commented that he does not have a dog in the fight, but he can say, having the department of HR report to him for a number of years, Lyon County has a number of ways to fill vacancies. He can see where this language comes from, and he understands the philosophy of let's get the most qualified person in there, and he agrees with that 100 percent. What he has seen in practice many times, is they have encouraged people to open up the position to the world, then they do, and they hire the internal applicant that everyone knew was going to be the shining star, and what they have in fact done is wasted valuable time of a lot of people externally and internally going through the interview process. So just a little bit of experience for the Board to consider.

Vice Chair Fitzsimmons stated that she could speak to that, and these are really good points. There is a unique perspective here from this Board because in all the work that has been done for two decades to get to this point the state has assumed liability if something gets screwed up, not the counties. I believe the state should at least ask for transparency and have all applicants considered if the plan is what we are talking about.

Chris Giunchgliani stated she is looking at the State of Nevada's hiring and the Vice Chair is right, it is a fallback as the county's responsibility. They have their selection process and could post this and have their qualifier on the job posting saying they are looking for someone internal or whatever. They put the onus away or the argument away that somebody was not being treated fairly and that saves them time, money, and morale internally. They can craft it without violating what each county's hiring process is, but this is state money that is going to fund it.

Vice Chair Fitzsimmons wanted to know if we can move on to vote this up or down this agenda item as something that we move to adopt in its entirety unless she am wrong.

Joni Eastley requested to hear from Director Ryba on this.

Director Ryba replied that the purpose of this is to get clarification from the Board as to what the intent is. Currently it is required that plans for the provision of indigent defense services must provide how independent contractors are hired by the county so that there is notice provided. DIDS does not have an objection to what has been testified to here, that it could be internally first and then go county-wide or whatever they want to set forth. DIDS wants to understand how each county selects their public defenders and independent contractors or how they get hired. DIDS is also asking for the additional language in number four that if counties do hire those independent contractors that are not fully qualified and expect them to do all types of cases, the plan has to tell us how they are going to provide coverage if that person is not qualified for certain cases.

Allison Joffee stated that lawyers are different and have a code of conduct that they have to answer to. If people who are not experienced and not appropriate for litigation are hired as public defenders, their cases could be overturned because of their lack of ability. If the county thinks okay, we have got experienced people and we can bring them along, we have a plan for that, then that needs to be looked at, because these are not regular employees.

Vice Chair Fitzsimmons commented that she is unclear whether the Board is now discussing the entire section 22, because it appears this discussion is about section four. With no other comments, she moved on to subsection two, three, and the most important one which I think **Director Ryba** and **Allison Joffee** addressed, which is subsection four.

Director Ryba replied yes, and the proposal is to modify section two to say that, "the process must exclude prosecuting and law enforcement officials," so the word should is switched to must and that is the only modification. This is to make it more clear and then again in section four that county plans let us know how they are going to make sure that the attorneys that they are hiring for contracts are able to provide coverage in all types of complex cases.

Chris Giunchgliani stated that she would move to adopt section 22, subsection one, to get that part dealt with.

Motion: Adopt Section 22, Subsection 1
By: Chris Giunchgliani
Second: Allison Joffee
Vote: Passed Unanimously

Chris Giunchgliani stated, for subsection four, the Department is seeking clarification for the contracted ones and is trying to be a little bit more restrictive. The rest of the language seems to imply a notification to the department of, here is who we have selected, and our plan says we looked at these qualifications but what if the qualifications undermine what the job duty was really going to be doing, and what happens if they hired someone that was not properly qualified.

Director Ryba replied that the Department has had counties contract with individuals that have been only qualified to handle up to low B but the counties expect them to take category A cases which they have not been approved for. The Department would like to know what the county plan is going to put place to ensure that if they chose to contract with someone that is not fully qualified, that someone who is qualified will be present to either take the case from that attorney or to sit second chair with that attorney.

Vice Chair Fitzsimmons wanted to know if there was any further discussion regarding two, three, and four together, having already voted to adopt subsection one. Is there anybody else that wants to discuss two, three, and four or any piece of it.

Director Ryba replied that it appeared no one had their hand up and it looks like Kate Thomas has left the meeting, but she is coming back soon.

Vice Chair Fitzsimmons asked if we should wait.

Director Ryba replied yes, and asked if the Vice Chair would like her to go onto the next section.

Vice Chair Fitzsimmons replied yes, please.

Director Ryba stated that in Section 23, the Department is asking that subsection two be modified to clarify the municipal court judge, as the Department has learned that NRS 171.188 requires

counties to use their public defender for justice of the peace cases as well as municipal courts. It is just adding that clarification. In number three the Department is hoping to add a requirement that each plan must provide for a first and second tier of indigent defense representation. In subsection B, the Department would like to clarify that if a first-tier attorney is an office of the public defender and the public defender is qualified, the plan must describe who the second tier is and how people in that tier are assigned cases. In subsection four, the Department just wants to clarify that attorneys are required to be present for a pre-trial release hearing and or initial 48-hour hearings. That language was not present before and a plan must provide that a timely initial appearance or arraignment must not be delayed pending that indigency determination. The plan must set forth the process for assigning or determining how that attorney will be present. In counties that have multiple attorneys we do not know who is supposed to be present for those 48-hour hearings, so we just want them to be able to tell us how they are doing things, so it is clear.

Joni Eastley stated that she had one question. A plan must provide a timely initial appearance, etc., etc., is there statutory language that determines what a timely initial appearance is? Is it 24 hours, is it 48 hours?

Director Ryba stated that for the record Kate Thomas has returned. The legislature has changed it to the initial appearance or that initial pre-trial detention hearing must happen within 48 hours of arrest, so the appearance before the judge is generally within 48 hours. She does not know if there is any other discussion or if she should go on to the next recommendation.

Vice Chair Fitzsimmons stated that it is fine if we go on unless anyone has questions on what Director Ryba just described in section 23. No comments, moving on.

Deputy Director Qualls stated that section 27 has only one change and that is to conform with the *Davis* language and with the monitor's repeated recommendations that we include the ABA defense function standards along with the other standards of performance. Are there any questions?

Deputy Director Qualls advised that he would be covering the next section as well. Section 30 just scoops in indigent defense providers that are within organized offices into the DIDS overall bucket as the Department would like to know who is in these offices, and what their qualifications are. DIDS wants these people in the system so that the Department can provide them individually with all of the training notices and all the communication with the Department. Some offices are like a bottleneck, and DIDS is not able to reach all of the attorneys independently, so there is a need to make sure that everybody has access to all of the information, training and otherwise, that is offered.

Vice Chair Fitzsimmons wanted to know if there were any questions. Next is section 31.

Deputy Director Handy covered in section 31, we are modifying or proposing modifying subsection one, subsection B to lay out what that sufficient training experience is for misdemeanor qualification. Proof of completion of six hours of CLE, continuing legal education, related to indigent defense services, or attending a DIDS annual conference within the prior year. Either of those will constitute sufficient training experience for the purpose of being qualified to provide misdemeanor indigent defense services. Subsection two talks about setting forth the process in the

plan, instead of having a motion for appointment of additional attorney. DIDS wants to allow those counties to develop how they are going to get that second attorney on board.

Vice Chair Fitzsimmons wanted to know if there are any questions regarding section 31.

Deputy Director Handy stated that the regulations modify section 32 for a person seeking to be qualified for the category low B or below. Originally, it had been trial counsel alone, with other trial counsel, two or more jury trials that are tried to completion. DIDS inserted the word "criminal" before bench or jury, to ensure that they have the actual criminal practice, and not just civil practice. This is to ensure these are trials that are consistent with the criminal practice of law.

Vice Chair Fitzsimmons stated that sounded like a good idea. She then asked for any questions or concerns.

Deputy Director Qualls jumped in, stating he failed to discuss part of section 30. There is a second page going from page nine to page 10. Number six adds municipalities to the already existing scheme, since municipalities have been added to the plans. Number seven was partially addressed in another section earlier, if a contract attorney does not have qualifications necessary to handle the full range of cases required for the contract, the attorney may not be assigned cases outside their qualification level unless a qualified first chair attorney is also appointed at County expense, for every such case. The process for achieving this must be set forth expressly in the County's plan.

Vice Chair Fitzsimmons questioned if a county expense is ultimately reimbursed by the State.

Deputy Director Qualls replied, yes, it all goes to indigent defense expenses. The cap applies to that.

Deputy Director Handy stated in section 36, the Department is adding a clearer definition of the amount of training experience required to handle juvenile cases. Currently, as it exists, you have to be licensed in the state of Nevada and have the knowledge and skills necessary to represent a child in these proceedings. Those are very vague requirements. The Department is asking to include that the person must be skilled in juvenile defense. It would be required that there is proof of completion of two hours of CLE related to juvenile defense services within the prior year that constitutes sufficient training experience. And also asking that they be familiar with and knowledgeable about adolescent development, and the special status of youth in the legal system. This is a fairly specialized area of practice; some attorneys very much specialize in this area. The Department is concerned; they do not just want anyone with a bar card to show up to handle these cases. They want specific requirements, so it is clear those children are receiving adequate counsel.

Vice Chair Fitzsimmons asked for any questions or concerns on section 36.

Todd Reese, with Carson City, asked for clarification. Reading it, he stated it seems a person who has the knowledge and skills necessary to represent a child diligently and effectively would be skilled in juvenile defense. He is struggling to understand the difference between the two requirements.

Deputy Director Handy answered there are other attorneys that handle child representation cases: guardians ad litem, family law attorneys, etc. This is just particularly adding that juvenile defense aspect in subsection C. While a lot of those skills and knowledge are transportable or transposable between the two areas of law, part three really puts out the juvenile defense criminal aspect included there.

Vice Chair Fitzsimmons added it also requires that CLE, so they are up to date, which is really important because this is an area of law that quietly changes. The CLE would certainly help practitioners and defenders know what was going on; sometimes even the juvenile masters do not.

Todd Reese gave thanks. He stated he may still have questions, but after reading more, if he still has questions, he will contact **Deputy Director Handy**.

Vice Chair Fitzsimmons asked **Todd Reese** if he understood the Board would be moving to adopt these today. **Todd Reese** stated he understood. Moving to section 37.

Deputy Director Handy said in Section 37, the Department is modifying subsection two. Any of the qualified attorneys on the DIDS list need to submit their transcript proving they have completed those five units of CLE to the DIDS office annually. The draft regs also modify section C because normally it would follow the minimum standards, but this requires that, within 72 hours, DIDS would be notified if an attorney takes employment as a prosecutor or judge and/or if the attorney has been sanctioned by any court or state bar. Second, if they are sanctioned by any court or state bar, there is currently no requirement that they notify the Department. The Department wants to know if there is a finding of contempt or suspension of license; something that will really affect the actual practice in the courtroom.

Vice Chair Fitzsimmons asked for any comments or concerns.

Deputy Director Handy moved onto subsection three. There was an exception to the submission of the proof of compliance to CLE to our office. Basically, it said the Department would chase you down and make sure you attend all our CLE. This is a very long list of people to track. It saves a lot of staff time if those are submitted by the attorneys. They should be certifying they are an attorney annually.

Vice Chair Fitzsimmons clarified that this would just be one more paper in addition to what we all send to the State Bar CLE committee. She asked if there were any questions or concerns and moved onto section 40.

Director Ryba said with section 40 we are trying to encompass the *Davis* Stipulated Consent Judgement. It requires the Department to review all contracts for indigent defense services and approve them. The problem is that there is no requirement in the regs for the counties to send us their contracts and wait for approval; and so the Department is not able to comply with the stipulated consent judgement. Most of the counties the Department works with are great. They send their contracts, and they have learned to send contracts when they are going to be entering into them. Subsection 11 specifically puts in the regulation that all contracts for indigent defense services must be approved by the Department prior to execution, including subcontracts. The Department wants to ensure that all the required language, by regulation, be in a contract, and also

asking for the ability to know when attorneys that provide indigent defense services for counties are entering into some sort of subcontractor agreement. The Department needs to ensure that the requirements of those subcontractors also comply with the minimum qualifications; they are covered in their contracts as well, so the terms are known.

Vice Chair Fitzsimmons asked for any questions or concerns.

Todd Reese referred to section 11. He stated he understood there was a consent judgment in *Davis,* unfortunately this applies to all counties and Carson City was not subject to the consent judgment of *Davis*. He was not able to find any enabling language in the NRS to allow for this kind of reach into a county's contracting process. He certainly does not want to give legal advice, but he was going to suggest that the Department contact their DAG about that.

Vice Chair Fitzsimmons wanted to know if **DAG Long** was still on the line and could respond.

DAG Long advised that she had not looked into that in NRS 180 regarding that and cannot advise.

Vice Chair Fitzsimmons stated she did not want to put Long on the spot, but there is a deputy district attorney for Carson City basically objecting to the executive director's ability to look at contracts for indigent defense services and approve them prior to execution. Carson City is not a *Davis* County, but it is understood understand that *Davis* sets a baseline and that this Board, and the state has stepped up in a commitment to assure that every indigent accused in this state gets competent representation.

Chris Giunchgliani commented that she wanted to piggyback on that. Even if they are not a *Davis* County, if their contracts lead to a problem, they could become a *Davis* County, and what the Board is trying to do is prevent that in the first place.

Todd Reese stated that he is not necessarily objecting to working with DIDS on the contracts. The concern is the delay that could arise from waiting for approval in the event of an emergency situation. That is where the city is coming from, and he is not suggesting at all that the city does not want to provide the best kind of service as possible.

Vice Chair Fitzsimmons stated that she appreciated that , and there are two points she would like to make: The state is paying for it and the state is also stepping up to assume liability in the event Carson City's terms of a contract or there is a party to the contract that is later determined to be ineffective and detrimental to the rights of the accused. This is a different context than if the city is concerned that there could be a delay. She assumes there is a form contract and that the only thing they change in that contract is the name of the contract conflict counsel.

Todd Reese commented that he believes she is specifically correct.

Vice Chair Fitzsimmons requested Director Ryba correct her if she was wrong. The contract is there, and it has been approved as to form by the department and she does not see it causing an additional delay.

Deputy Director Qualls stated that he wanted to add one comment regarding this regulation 40. Regulation 40 requires these certain things to be in any contract between the county and the indigent defense provider. This has already been approved and is law in Nevada. The Department worked with all of the counties, including Carson City, in drafting their contracts to make sure all provisions were in there. Number 11 is a formality because it was just not previously stated expressly that they needed to provide these contracts to the Department.

Director Ryba stated in looking at the stipulated consent judgment on page 12, line 16, it says that defendants through the Board shall require all future county contracts for the provision of indigent defense services to be approved by the executive director or a designee prior to execution. The Department took the language out of that stipulated consent judgement and just clarified it and placed it into the regulation. The proposed regulation is clarifying the process and she believes that this would fall again under that NRS 180.320 subsection four that gives the Department that ability. The Board "shall adopt any additional regulations as it deems necessary and convenient to carry out the duties of the Board" and that is as contained in NRS 180.320.

Vice Chair Fitzsimmons wanted to know if we have a motion is it appropriate time. Any further discussion.

Motion: Adopt Section 22, Subsections 2, 3, & 4; Sections 23, 27, 30, 31, 32, 36, 37, & 40, all in their entirety
By: Allison Joffee
Second: Chris Giunchigliani
Vote: Passed Unanimously

Joni Eastley said she was voting Aye but expressed her disagreement with Section 22 and taking the authority away from the county to promote from within without advertising.

Vice Chair Fitzsimmons stated the Workshop and comments on the Workshop were closed, and advised the meeting would now move back to the regular agenda.

10. Draft Regulations: (For discussion and possible action).

Vice Chair Fitzsimmons asked for clarification from **DAG Long** on whether this had been covered in the Workshop or if it is its own separate item.

DAG Long advised it appeared to be a separate item. In the Workshop, it was moved to adopt and now needed to direct DIDS to draft the language.

Vice Chair Fitzsimmons thanked **DAG Long** and asked for a motion.

Motion: Direct DIDS to Draft Proposals in Line with the Adopted Workshop Regulations
By: Joni Eastley
Second: Chris Giunchigliani
Vote: Passed Unanimously

11. Scheduling of Future Meetings. (For discussion and possible action)

a. Confirmation of Next Meetings:
1. November 2, 2023, at 1 pm - Board Meeting.
2. February 1, 2024, at 1 pm - Board Meeting.
3. May 2, 2024, at 1 pm - Board Meeting.
4. August 1, 2024, at 1 pm - Board Meeting.

12. Public Comment. (This public comment period is for any matter that is within the jurisdiction of the public body. No action may be taken upon a matter raised under the public comment period unless the matter itself has been specifically included on the agenda as an action item. The Chair or Vice-Chair of the Board will impose a time limit of three (3) minutes.)

13. Adjournment.

With no additional Public Comment, **Vice Chair Fitzsimmons** asked for a motion to adjourn.

Motion: To Adjourn Meeting
By: Chris Giunchigliani
Second: Allison Joffee
Vote: Passed Unanimously

Vice Chair Fitzsimmons expressed thanks again to the intrepid staff and told everyone to take care. The meeting was adjourned at about 3:33 pm.