

Texas Governor's Committee on People with Disabilities



**2022-2023 Policy Recommendations
Report to the 87th Texas Legislature**

January 2021

[This page intentionally left blank]

Table of Contents

Texas Governor’s Committee on People with Disabilities Members and Staff.....	6
About the Texas Governor’s Committee on People with Disabilities	8
Executive Summary	9
Summary of Policy Recommendations	11
Access	11
Communications	12
Education.....	13
Emergency Management.....	14
Employment	14
Health	15
Housing	17
Recreation.....	17
Transportation	17
Veterans	19
Policy Recommendations by Issue Areas.....	20
Access	20
Service Animal Issues and Proposed Solutions	20
Lead On! Transit Amenity at the Capitol Complex	21
Universal Changing Places.....	22
Adult Changing Table at the Texas Capitol.....	23
Communications	24
Support Service Providers/Co-Navigators	24
Implement Oversight for State EIR Accessibility Compliance	25
Resource Specialists for Deaf and Hard of Hearing Texans.....	26
Education.....	27
Testing Options for Teachers of the Deaf: Working with Students who use Sign Language.....	28
Monitoring of Teachers of the Deaf TASC/TASC-ASL Credential	29
Sign Language Credential Transparency.....	29
ASL Courses for Dual Credit.....	30
Educational Representative for Adult Students with Disabilities	30

Behavior Intervention Plans and Students with Disabilities	31
Captioning of Multimedia Content and Accessibility Remediation of Other Digital Learning Materials for Students in K-12	31
Student Led ARD Meetings	32
Emergency Management.....	32
Disability Coordinator FTE at TDEM.....	33
Helping Texans with Disabilities Prepare for Disasters.....	34
Responding to Behavioral Health Needs in Disasters	34
Employment	35
Supported Employment Follow Along Services for Individuals with Intellectual and Developmental Disabilities	35
Policy Solutions for Building a Stronger, More Inclusive State Workforce	37
Health	38
Establish Requirements for Certified Medical Interpreters	39
Increasing Funding for the Deaf Blind with Multiple Disabilities Medicaid Waiver Interest List.....	40
Attracting and Retaining Personal Care Attendants Covered by State Medicaid Waiver Programs.....	41
Eligibility Processes for the Medically Dependent Children Program.....	41
Funding for Early Childhood Intervention (ECI) Services.....	44
Addressing the Mental Health Needs of People with IDD.....	45
Mental Health Crisis Care for People with IDD	46
Sexual Abuse Prevention Training	47
State Supported Living Center Long-Range Plan.....	48
Amending Article 16.22.....	49
Medicaid Audiologist Reimbursement for Hearing Aid Fitting, Dispensing, and Evaluation	50
Inclusive Child Care.....	51
Twelve Month Continuous Medicaid Eligibility for Children.....	52
Evidence-Based Treatment for Post-Traumatic Stress Disorder (PTSD).....	53
Housing	53
Affordable and Accessible Housing Best Practices	54
Accessibility in Multi-Family Homes	55
Recreation.....	55

Inclusive Playgrounds	56
Transportation	57
Accessible Parking	57
Accessible Parking Placards	59
Transportation Network Companies and Wheelchair Accessible Vehicles	59
Veterans	60
Monitoring, Sharing, Publishing Veterans-Related Information	61

Texas Governor's Committee on People with Disabilities Members and Staff

Committee Members

Aaron W. Bangor, Ph.D., *Chair*, Austin

Dylan M. Rafaty, *Vice Chair*, Plano

Kori A. Allen, Plano

Ellen M. Bauman, Joshua

Evelyn Cano, Pharr

Elyse L. Lieberman, Ph.D., Victoria

Eric N. Lindsay, San Antonio

Richard Martinez, San Antonio

Joseph Muñiz, Harlingen

Kristie L. Orr, Ph.D., College Station

Emma Faye Rudkin, Boerne

Kristopher A.W. "Kris" Workman, Sutherland Springs

Staff Members

Ron Lucey, Executive Director

Randi Turner, Accessibility and Disability Rights Coordinator

Monica Villarreal, Research Specialist

Lindsey Zischkale, Community Outreach and Information
Coordinator

Nancy Van Loan, Executive Assistant

P.O. Box 12428
Austin, Texas 78711
512-463-5739
512-434-0102 (VP)
gcpd@gov.texas.gov
www.gov.texas.gov/disabilities

GCPD's mission is to further opportunities for persons with disabilities to enjoy full and equal access to lives of independence, productivity and self-determination.

About the Texas Governor's Committee on People with Disabilities

The Texas Governor's Committee on Employment of the Handicap was created by Governor Allan Shivers in September 1950. The committee was enshrined in statute in 1991 and officially named the Texas Governor's Committee on People with Disabilities (GCPD). GCPD works toward a state where people with disabilities have the opportunity to enjoy full and equal access to lives of independence, productivity and self-determination. The Governor appoints [12 members](#) to serve on the committee, seven of whom must be people with disabilities. The committee includes representatives from six state agencies who serve as ex-officio or advisory members.

GCPD makes recommendations to the Governor and the Texas Legislature on disability issues; promotes compliance with disability-related laws; supports a network of local committees doing similar work; and recognizes employers for hiring and retaining employees with disabilities, as well as, media professionals and students for positively depicting Texans with disabilities. GCPD members and staff also provide technical assistance, information and referral services to citizens on issues affecting Texans with disabilities. Members of GCPD work on issues related to access, communications, education, emergency management, employment, health, housing, recreation, transportation, and veterans. GCPD's enabling statute is outlined in [Human Resources Code, Chapter 115](#).

Executive Summary

The Texas Governor's Committee on People with Disabilities (GCPD) submits this report to the Governor and the 87th Texas Legislature on recommended changes in state laws and policies relating to people with disabilities. This report offers guidance on issues and challenges facing Texans with disabilities and our recommendations to best address these challenges. The GCPD's enabling statute in Human Resources Code Sec. 115.009 requires that:

The committee serve as a central source of information and education on the abilities, rights, problems, and needs of persons with disabilities and, as necessary, issue reports; provide information to and advise the governor and the governor's staff on matters relating to the full participation of persons with disabilities in all aspects of life; and before the end of each even-numbered year, submit to the governor and to the legislature a report that includes any recommended changes in state laws relating to persons with disabilities.

In this report, GCPD organizes the recommendations and challenges into ten targeted policy issue areas related to access, communications, education, emergency management, employment, health, housing, recreation, transportation, and veterans. These policy recommendations, with the support of all committee members, focus on vital issues important to Texans with disabilities, including:

- providing affordable, appropriate and accessible housing;
- ensuring individuals with functional and access needs are included in local and state emergency management planning;
- increasing work, volunteer and education opportunities;
- ensuring access to key health and long-term care services;
- ensuring accessible, affordable, reliable and safe transportation; and
- fostering participation in civic, cultural and social activities.

GCPD strives to identify and support the greatest unmet needs of individuals with disabilities that are often overlooked due to the low incidence rates of a specific disability population. In doing so, we encourage the Texas Legislature to invest in programs that will make the greatest impact in improving the lives of Texans with disabilities. We recommend a broad coordinated approach to policy adoption and implementation, as issues and challenges are often interrelated. As an example, individuals with disabilities seeking integrated, competitive employment also need accessible transportation and access to high-quality inclusive public education and workforce development services.

One of the most important facets of GCPD's work is identifying and amplifying the voices of Texans with disabilities who may otherwise be overlooked. In doing so, we gathered policy input from public hearings at GCPD's quarterly meetings, listening sessions with disability stakeholder

groups, staff research, and input from committee-directed interagency workgroups on accessible transportation and services for individuals who are deafblind.

In a year marked by intense challenges presented by the coronavirus pandemic, it is all the more vital we continue to fully support and serve Texans with disabilities. While state resources will be more limited in the next biennium, the GCPD has identified vital investments in programs and services that can make the most significant impact on the future of Texans with disabilities. The recommendations offer an opportunity for our state to assess and plan for unmet challenges. Once again GCPD encourages our state to invest in the establishment and funding of a support service provider/co-navigator (SSP/CN) program to assist Texans who are DeafBlind who have significant challenges and lack any public program to assist them in accessing their community. The Helen Keller National Center has identified an estimated 2,500 Texans who are deafblind, a disability in which a person not only has deafness, with their hearing impaired severely enough so that most speech cannot be understood with amplification, but who also has legal blindness.

The committee identifies the need for sustained investments in our state's Early Childhood Intervention (ECI) program, to ensure our youngest Texans get the services they need to avoid delays to time-limited developmental services, reduce their need for future special education and rehabilitation services and ensure they can reach their fullest potential.

The GCPD encourages members of the Texas Legislature to support the many accessibility policy recommendations within this report that will help people with disabilities. In Governor Abbott's remarks to the state on the 30th anniversary of the Americans with Disabilities Act he "encouraged all Texans to reflect on our past achievements as well as remain focused on the work that remains before us to create a fully inclusive and accessible state for Texans with disabilities. Through continued commitment to fairness and equal opportunity, we can empower all Texans to rise above their circumstances and achieve their dreams."

Respectfully submitted,

Ron Lucey
Executive Director

Summary of Policy Recommendations

Access

1. Designate GCPD with the lead coordination responsibility among state agencies with the annual distribution of service animal education materials to public facilities and businesses.
2. Clarify the difference in state law between the terms “service animal” and “assistance animal” in the Texas Human Resources Code Sec. 121.002. Remove “approved” from the term “approved trainer” from the Texas Human Resources Code Sec. 121.003(i) as the U.S. Department of Justice (DOJ) confirmed that individuals may train their own service animal under the Americans with Disabilities Act (ADA) and no state agency is designated to approve service animal training.
3. Ensure the effective training of law enforcement on service or assistance animals and their legitimacy.
4. Increase the penalty of fraudulent representation of service or assistance animals and include penalty options such as community service and taking a court-ordered disability public awareness class.
5. Designate a state agency to create public awareness training classes (i.e., Texas Workforce Commission-Vocational Rehabilitation Services, GCPD) and support a robust public education campaign on service and assistance animals.
6. Amend Chapter 469 of the Occupations Code, Elimination of Architectural Barriers, to adopt the Texas Accessibility Standards (TAS) to effectuate changes for Universal Changing Places. The Texas Department of Licensing and Regulation (TDLR) should develop rules to implement the standards on adult changing tables drafted in 2020 by the International Code Council.
7. Amend Title 16, Chapter 68 of the Texas Administrative Code, Elimination of Architectural Barriers (EAB) to add a new rule, or the TAS to incorporate guidance for Universal Changing Places pursuant to Section 469.052 of the Texas Occupations Code. The minimum monetary threshold for construction projects should align with current statute and administrative rule. Section 469.003 of the Occupations Code provides that projects that are constructed, renovated, or modified are subject to the requirements within the chapter and all associated TDLR rules. Section 469.101 of the Occupations Code, and Title 16, Chapter 68, Section 68.50(a) of the Texas Administrative Code set the threshold for review of a construction project at \$50,000.
 - a. TDLR rule making should restrict the requirement for adult changing tables to places of public accommodations identified in the scoping section of this recommendation or based upon standards developed by the International Code Council’s 2020 anticipated standards.
8. Work with the State Preservation Board to install an adult changing table within the Texas Capitol building.

Communications

1. Establish a formalized support service provider (SSP)/co-navigator (CN) program within the Texas Health and Human Services Commission (HHSC), including training for providers. This will ensure services are provided in a standard, consistent manner.
 - a. Establish the following eligibility criteria for the program:
 - i. Individuals who meet the definition of DeafBlind as defined by HHSC.
 - ii. Individuals who meet the income guidelines of a monthly income not greater than 300 percent of the federal poverty level, matching the financial criteria required for the Deaf Blind Multiply Disabled Waiver.
 - b. Establish a pay rate for SSP/CN providers by rule. Pay should be based on SSP-level training requirements and American Sign Language fluency. GCPD recommends a starting wage of \$20 per hour based on the national average. This is comparable to the 2019-2020 State of Texas Salary Schedule for an Interpreter I position.¹
 - c. Establish a voucher program to pay for SSP/CN services administered by HHSC.
 - d. Appropriate ongoing funding for the SSP/CN program.
 - e. Establish an initial proposed annual budget of \$584,400. This cost is derived as follows:
 - i. Estimated maximum number of hours per month for services to one individual (e.g. grocery shopping, attendance at a community event): 5 hours per week or 20 hours per month equals 240 service hours per year per person.
 - ii. 5 percent of the estimated 2,000 people who are DeafBlind, and not receiving services through Medicaid, will use SSP/CN services equates to 100 individuals served.
 - iii. Calculation for annual cost of program is \$528,000.
 - iv. Administrative costs for the program (approximately 10 percent) are \$56,400.
 - v. Total annual program cost is \$584,400.
 - f. Establish the fee for service by rule to facilitate future changes.
 - g. Create an initial advisory committee to develop the program, including individuals who are DeafBlind, SSPs/CNs, the Governor's Committee on People with Disabilities, and other organizations that serve individuals who are DeafBlind.
2. To create a quantitative scorecard that aggregates and summarizes data regarding the accessibility of state agency websites, the Texas Department of Information Resources (DIR) should update the frequency of the data to be commensurate with the frequency of changes to the website. For example, on a monthly basis an automated scanning tool could be used to score the accessibility of the top 25 (or 50, etc.) most

¹ Texas State Auditor's office, 2019, "State Classification Job Description: Interpreter I." Retrieved from <http://www.hr.sao.texas.gov/Compensation/JobDescriptions/R5616.pdf>.

popular pages on the website and report a criticality-weighted defect rate. This scorecard can then be used by GCPD and DIR to track progress toward accessible resources for people with disabilities.

3. Restore HHSC Office of Deaf and Hard of Hearing Services funding to Pre-Sunset, Pre-HHSC merger, restoring the number of contracted Resource Specialists from 17 to 34 specialists.

Education

1. The Texas Education Agency (TEA) should allow teachers who want to teach children who use sign language to get their credentials by passing one of the following tests:
 - The Texas Assessment of Sign Communications (TASC)
 - The TASC American Sign Language (ASL)
 - HHSC's Texas Board for Evaluation of Interpreter certification at Basic, Advanced, Master, Level II, III, IV or V
 - Sign Communication Proficiency Inventory, Advanced level or higher
2. TEA should require itinerant teachers of the Deaf who work with students who use sign language to pass the TASC, TASC-ASL, or other test recognized credential by the agency. For teachers who are not credentialed, TEA should create a staff development plan determined by them and the State Board of Educator Certification.
3. Require a routine audit of teachers with Teacher of the Deaf certification currently working with students who use sign language to ensure teachers have passed the TASC, TASC-ASL, or other test recognized by TEA.
4. The State Board of Educator Certification (SBEC) and TEA should explore options for adding a reference to TASC and TASC-ASL in the official certification record for each educator with proficiency in sign language. These indicators should be placed on the teacher's certification card and the SBEC/TEA website.
 - a. If a community college offers American Sign Language (ASL) as a course for credit, then a public high school should ensure ASL courses are an option when offering dual credit classes to their students. TEA and the Higher Education Coordinating Board shall develop rules and strategies for implementation.
5. Amend the Texas Education Code to create a procedure for school districts to determine whether an adult student with a disability has the ability to provide informed consent for their educational program.
6. Ensure Behavior Intervention Plans (BIP) are being revised and created in compliance with federal law, eliminating the practice of informal suspensions that remove kids from school and reinforce challenging behaviors. Parents and students should know and understand their rights and due process related to special education discipline regulations by working with the TEA, Education Resource Centers and SPEDTex.
7. Require TEA to use funds from the Instructional Materials Technology Fund to caption videos for deaf and hard of hearing students, braille

materials, and remediation of other digital learning materials for students.

- a. TEA should develop business processes, a list of captioning providers, or in-house capabilities at the agency or an education service center, to address the local school district demands for the services.
8. TEA should establish an expectation for student participation and student led ARD meetings starting no later than the age of transition (14). The standards should include documentation of the level of student participation in each meeting to demonstrate increased capacity for self-advocacy. The standards may include training in advocacy skills for transition aged students enabling them to more successfully lead their ARD meetings.

Emergency Management

1. Reclassify a vacant full-time employee (FTE) position or create a new FTE position within the Texas Division of Emergency Management (TDEM) to serve as the disability coordinator to support emergency management activities for people with disabilities.
2. Ensure all state health and human service agencies and programs follow Texas Government Code Chapter 418 Section 127 by discussing emergency preparedness and evacuation planning with individuals with disabilities.
3. Develop a Rapid Response Behavioral Health Task Force composed of mental health professionals who are trained in applied behavioral analysis and mental health treatment protocols to help staff emergency shelters.

Employment

1. Ensure that when an individual with a disability is moved from a sheltered workshop environment to integrated community-based employment, the employment is appropriately funded to provide the necessary long-term support, to include job coaching, to safeguard and allow for a successful integrated community employment outcome.
2. Implement recommended best practices to strengthen disability-related accessibility and employment that can lead to increased hiring and retention of people with disabilities as follows:
 - a. State agencies should continue to recruit qualified job applicants with disabilities and consider setting aside a centralized agency job accommodation fund for employees with disabilities who need accommodations.
 - b. State agencies should partner with Texas Workforce Commission's Vocational Rehabilitation program if job retention services are needed.
 - c. State agencies should have a written reasonable accommodation policy and procedure that includes the interactive process.
 - d. All State agencies should designate a Title II ADA Coordinator and comply with notice requirements.
 - e. State agencies should ensure they have a process in place for handling general disability-related complaints and disability discrimination complaints.

- f. Develop and share common training resources on disability awareness, etiquette and effective communications in state government.

Health

1. Establish requirements for certified medical interpreters that are similar to those for certified court interpreters.
2. Increase the number of slots available to be served by the Deaf Blind Multiply Disabled Waiver to 100 per year for the next four years.
3. Support increased community attendant care wages and benefits to attract and retain personal care attendants covered by state Medicaid waiver programs while facilitating consumer-directed care.
4. Ensure that the information captured on the STAR-Kids Screening Assessment Instrument (SK-SAI) is both accurate and complete, and the beneficiary and their parents or guardians are involved in completing and reviewing the assessment instrument together with the managed care organizations before it is submitted to Texas Medicaid Healthcare Partnership.
5. HHSC should require Texas Medicaid Healthcare Partnership to issue non-form letter denials that (1) provide specific reasons for the denial, including reasons why the beneficiary does not need the level of nursing care that would be provided in a nursing facility and why the individual beneficiary no longer meets medical necessity for Medically Dependent Children Program (MDCP); and (2) include the "specific regulations that support, or the change in federal or state law, that requires the action." The Governor's Committee on People with Disabilities will monitor the modified process to assess the overall impact on the level of denials and appeals for MDCP eligibility.
6. HHSC should issue written guidance on the meaning of the medical necessity criteria and train Texas Medicaid Healthcare Partnership reviewers on these standards.
7. HHSC should instruct Texas Medicaid Healthcare Partnership to follow the guidance from parents and guardians in assessing medical necessity for benefit determination.
8. HHSC should release all information, subject to any restrictions under state and federal law, related to how the STAR-Kids Screening Assessment Instrument was tested for inter-rater reliability and validity, and data for the denial rate on benefit renewals.
9. Restore ECI funding to the FY 2012 and FY 2013 funding level of \$484 per child each month to give contractors the capacity to enroll and serve all eligible children in their communities. The funding should account for projected caseload growth amid the state's growing child population.
10. HHSC should task the Statewide Behavioral Health Coordinating Council with studying ways to increase the availability and awareness of high-quality, comprehensive care for people with mental health diagnosis and intellectual and developmental disabilities (IDD).
11. HHSC should work with the leads of each state hospital redesign to create a specialty services unit for people with intellectual and

developmental disabilities (IDD) in order to divert people from hospital emergency departments and jails.

12. HHSC should provide each Behavioral Services Unit within the SSLC system sexual abuse prevention and resident protection training and curriculum. Such curriculum has been shown to protect against sexual abuse. HHSC should be provided funding to update the video surveillance system mandated by the DOJ settlement agreement.² A more up-to-date system would help prevent incidents of abuse, neglect, and exploitation.
13. Evaluate Review the structure of the SSLC system, taking cues from the recommendations in [HHSC's draft SSLC Long-Range Plan](#).
14. Texas Administrative Code (TAC) 16.22 of the Code of Criminal Procedure should be amended to include the term "developmental disability".
15. The HHSC Medicaid Rate Revision Division should proactively engage with audiologists and other stakeholders to review the Medicaid reimbursement rates for hearing aid fitting, dispensing, maintenance and evaluations follow up appointments, etc.:
 - a. Evaluate the reimbursement process to implement timely payment and reimbursement to providers;
 - b. Compare Medicaid rates to other state agency rates for hearing aid dispensing, fitting, maintenance, evaluation, etc. including Texas Workforce Commission Vocational Rehabilitation Services rates.
16. HHSC should evaluate the adequacy of its Medicaid provider network throughout the state to ensure sufficient geographical coverage and timeliness of audiological services.
17. Adopt Child Care Licensing (CCL) minimum standards pre-service and annual professional development requirements to include supporting children with developmental delays and disabilities; and supporting early childhood mental health.
18. Strengthen relationships between ECI and childcare providers to improve referrals to critical early interventions for babies and toddlers with disabilities.
19. Ensure child caregivers are aware of ECI services and know how to refer children for an ECI screening.
20. Behavior discipline policies should include guidance on use of behavior intervention plans for children with disabilities that does not punish the child for their disability. Require revisions to the [Search Texas Child Care](#) website and the option for childcare providers to select if they take "children with special needs." Per the ADA, all childcare centers must first assess if they can accommodate the child.
21. Develop rules to update the annual training requirements per licensed childcare centers and licensed childcare homes, registered childcare homes to include as required training topics identification of potential developmental delays, referring children with special needs for services,

² https://www.justice.gov/sites/default/files/crt/legacy/2010/12/15/TexasStateSchools_settle_06-26-09.pdf

and information on ECI services and preschool programs for children with disabilities.

22. Texas should provide twelve months continuous Medicaid coverage for children with disabilities by eliminating mid-year eligibility checks and instead rely on the accurate annual eligibility reviews.
23. HHSC should explore the feasibility of including post-traumatic stress disorder (PTSD) as a priority population diagnosis, as well as better publicize the availability of evidence-based PTSD treatment.

Housing

1. Promote adoption of accessible, affordable and transit-oriented housing through sharing of information on local visitability ordinances and best practices for the development of accessible single-family homes and duplexes.
2. Promote greater understanding of fair housing laws through education and work with the Texas Workforce Commission's Civil Rights Division on addressing housing discrimination complaints.
3. Study strategies and "solutions that work" from other states or local communities that have expanded community-based housing options for people with disabilities and ensure long-term housing affordability.
4. Texas Department of Housing and Community Affairs (TDHCA) should review the accessibility of the Vacancy Clearinghouse tool and remediate all defects that create barriers for people with disabilities, such as those that violate WCAG 2.1 Level A and AA.
5. TDHCA should create a public awareness campaign to ensure people with disabilities looking for accessible housing are able to find what they need, including individuals that assist the public in locating housing (e.g., apartment locator services, real estate agents, etc.).
6. TDHCA and the General Land Office (GLO) should research and review how information about accessible multi-family rental housing managed by the GLO can be integrated into the TDHCA Vacancy Clearinghouse tool.

Recreation

1. The Governor's Committee on People with Disabilities shall promote through education and outreach existing grant funding for the installation of "inclusive" playground equipment, whether by means of new construction or through retrofit of an existing playground, so that it is ADA accessible and usable by children with disabilities.

Transportation

1. Strengthen enforcement of accessible parking laws as follows:
 - a. Strengthen language in Texas Transportation Code, Title 7. Vehicles and Traffic, Subtitle H. Parking, Towing, and Storage of Vehicles - Chapter 681, Privileged Parking, Section 681.010 - Enforcement, so that it is unequivocal in its mandate for all individuals with enforcement responsibilities to enforce accessible parking laws (i.e., change "may" to "shall" or "must").

- b. Bolster language in enforcement responsibilities as they apply to accessible parking in areas of public accommodation.
 - c. Reconsider judicial discretion to discourage frequent dismissal of accessible parking citations.
- 2. Control accessible parking placard fraud and abuse through tighter laws and administrative remedies, such as:
 - a. Coordinating the Department of Motor Vehicles, county tax assessor collectors, and the Department of State Health Services cross-checking of current disability placard holder lists against the state registry for death records and cancelling any placard for an individual identified as deceased and explore tracking of parking placards by the Department of Motor Vehicles with a unique identifier (Texas driver license or state identification number);
 - b. Requiring the surrender of handicapped parking tags and placards at the time of the estate tax deadline by the individual inheriting the vehicle; and
 - c. Enforcing accessible parking placard fraud and abuse by establishing a task force for placard abuse enforcement or designating a state agency to assign resources to enforce current laws.
- 3. Develop statewide public awareness on accessible parking and its impact on Texans with disabilities through public awareness campaigns.
- 4. Change the language in the Transportation Code from "Handicapped Parking" to "Accessible Parking" to align with the spirit of Texas Government Code, Chapter 392, Person First Respectful Language Initiative.
- 5. Amend Transportation Code § 681.011 Offenses; Presumption to permit alternative sentencing, which includes:
 - a. required education classes on disability awareness and accessible parking with a reduced fine upon completion of said education; and
 - b. community service/restitution requirements at a nonprofit organization that serves persons with disabilities or any other community restitution that may sensitize the violator to the needs and obstacles faced by persons with disabilities.
- 6. Redefine the van accessible requirements in the Texas Accessibility Standards for medical facilities to increase the number of van accessible spaces at these locations.
- 7. Consider expanded statutory authority in Human Resources Code, Title 7, Chapter 115.009 to grant additional authority to GCPD to:
 - a. provide education, training and assistance to law enforcement agencies on accessible parking enforcement; and
 - b. work with other state agencies to provide public education and awareness on accessible parking issues and compliance with accessible parking laws.
- 8. Amend Section 681.0032 of the Texas Transportation Code to include Texas Centers for Independent Living, day habilitation and senior activity centers or other organizations that provide independent living services.

9. Transportation Network Companies (TNCs) and the Texas Legislature should further study how public and private driver incentives can lower the cost of owning and operating a wheelchair accessible vehicle (WAV) to provide expanded access to passengers who use fixed-frame wheelchairs.

Veterans

1. Monitor legislation, publish information on any changes to such laws, policies or statutes on its webpage, and share relevant information with stakeholders.

Policy Recommendations by Issue Areas

Access

Broadly speaking, access refers to ensuring people with disabilities are able to enter and use the same places and services as people without disabilities. GCPD monitors issues related to physical and programmatic accessibility—including things like accessible voting, parking, and service animals. The Americans with Disabilities Act (ADA) highlights the importance of eliminating structural and architectural barriers to ensure buildings and other facilities are readily accessible to people with disabilities. To that end, buildings and other facilities in Texas are subject to compliance with [Texas Accessibility Standards \(TAS\)](#). These standards are governed by the Texas Department of Licensing and Regulation (TDLR), and mirror those required by the ADA and the 2010 ADA Standards for Accessible Design.

Policy Recommendations

Service Animal Issues and Proposed Solutions

People are used to encountering service animals in public places. However, state and federal laws and regulations on service and assistance animals are often misunderstood by businesses and the public. For example, the terms “service animal,” “assistance animal,” “emotional support animal” and “comfort animal” are used interchangeably. GCPD receives questions from both businesses and individuals concerning service animals, such as how to distinguish between a service animal, an assistance animal, and a pet. Certification and licensing for service animals is not required by law and only two questions can be asked of service animal owners: a) Is the animal a service animal required because of a disability? and b) What work or task has the animal been trained to perform? When a disability is not evident, the person may be challenged with inappropriate questions and be asked to leave an establishment.

The public is skeptical toward service animals due to the ease with which an individual can purchase dog vests and accessories identifying an animal as a service animal. Websites, including eBay and Amazon, sell certificates, badges, ID cards, vests, leashes, collars, dog tags and other accessories that can be used to indicate any dog is a “service dog,” and “emotional support dog,” or a “seizure alert dog” with no proof of an animal’s training or abilities. Online “registries” will certify a pet as a “service dog” or “therapy dog” or “emotional support animal.” When these instances of fraud occur, it is harder for someone with a genuine need who is accompanied by a trained service animal to be acknowledged as using a legitimate and lawful accommodation.

To help address a lack of public awareness about the rights of individuals with service animals and applicable laws the Texas Legislature enacted

[House Bill 489 \(83rd Regular Session\)](#). This bill established a requirement in [Human Resources Code 121.008\(b\)](#) to provide for mailings of educational materials on service animals once a year to public facilities and businesses. To ensure this mandate is fulfilled, responsibility was assigned to a cooperative effort between “state agencies responsible for the rehabilitation of persons with disabilities”³ and “[t]he comptroller, the secretary of state, and other state agencies that regularly mail forms or information to significant numbers of public facilities and businesses operating within the state.”

Recommendation 1.1: Designate the Governor’s Committee on People with Disabilities with the lead coordination responsibility among state agencies with the annual distribution of service animal education materials to public facilities and businesses operating within the state.

Recommendation 1.2: Clarify the difference in state law between the terms “service animal” and “assistance animal” in the Human Resources Code Sec. 121.002. Remove “approved” from the term “approved trainer” in the Human Resources Code Sec. 121.003(i) as the U.S. Department of Justice confirmed that individuals may train their own service animal under the Americans with Disabilities Act and no state agency is designated to approve service animal training.

Recommendation 1.3: Ensure effective training of law enforcement regarding service or assistance animals and their legitimacy.

Recommendation 1.4: Increase the penalty of fraudulent representation of service or assistance animals and include additional penalty options such as community service and taking a court-ordered disability public awareness class.

Recommendation 1.5: Designate a state agency to work in collaboration to create public awareness training/classes (i.e., Texas Workforce Commission-Vocational Rehabilitation Services, GCPD) and support a robust public education campaign regarding service and assistance animals.

Lead On! Transit Amenity at the Capitol Complex

Words cannot describe the contributions of Justin Dart to Texans with disabilities and the national disability rights movement. Dart was born on August 29, 1930 in Chicago, Illinois, went to college at the University of Houston and made Texas his permanent home in 1974, where he immersed himself in local disability activism. He served on the GCPD from 1980 to 1985 including serving as the first chairperson of the Committee. Dart’s disability rights work in Texas became a pattern for what was to follow nationally, the empowerment of people with disabilities.

³ 121 Tex. Human Resources Code 121.008(b). Accessed on November 12, 2020: <http://www.statutes.legis.state.tx.us/docs/HR/htm/HR.121.htm>

In 1981, President Reagan appointed Dart to be the vice-chair of the National Council on Disabilities, the Council drafted a policy that called for national civil rights legislation to end the centuries old discrimination of people with disabilities. For 30 years he was a leader of the international disability rights movement and a renowned human rights activist, widely recognized as "the "father of the Americans with Disabilities Act (ADA)" and "the godfather of the disability rights movement." Dart was on the podium on the White House lawn when President George H.W. Bush signed the ADA into law on July 26, 1990.

Dart is widely known for his call to action, "Lead On!" His final wishes were to not have a building or facility named in his honor. However, his story and the state's contribution to the passage of the ADA is important and must be shared with future generations of Texans. The 87th Texas Legislature should pay homage to the life and memory of Justin Dart and name the new transit amenity center at the Capitol Complex, the "Lead On! Transit Amenity," in his honor.

Recommendation 1.7: Work with the State Preservation Board, the Texas Facilities Commission, and the 87th Texas Legislature to pass a concurrent resolution that describes the life and contributions of Justin Dart leading to the passage of the ADA and resolves to name the capitol complex transit amenity the "Lead On!" Transit Amenity in his honor.

Universal Changing Places

People who are non-ambulatory or who have self-care issues; such as catheters, colostomies or incontinence issues, need a safe clean place to change or be changed. No one should have to be lain on a public restroom floor. A change in state law is needed so that new construction projects of over \$50,000 in cost include one Universal Changing Place at the following venues of public accommodations:⁴

- Places of exhibition or entertainment – movie theaters, theaters, concert halls, sports arenas and stadiums
- Shopping centers, shopping malls or stores of at least 40,000 square feet
- Places of public display or collection – museums, libraries and galleries
- Places of recreation – parks, zoos and amusement parks
- Places of education – elementary, secondary, undergraduate and postgraduate private or public schools
- Social service centers – senior centers and homeless shelters
- Public buildings or facilities – state and local government buildings, rest areas and state parks
- Stations used for public transportation – airports, depots and bus stations

⁴ Universal Changing Places, (2019). "Universal Changing Places: Our Campaign." Retrieved January, 2020 from <https://www.universalchangingplaces.com/>

- Professional offices of health care providers – hospitals and rehabilitation centers

Recommendation 1.8: Amend Chapter 469 of the Occupations Code, Elimination of Architectural Barriers, to adopt the Texas Accessibility Standards (TAS) to effectuate changes for Universal Changing Places. The Texas Department of Licensing and Regulation (TDLR) should develop rules to implement the standards on adult changing tables drafted in 2020 by the International Code Council.

Recommendation 1.9: Amend Title 16, Chapter 68 of the Texas Administrative Code, Elimination of Architectural Barriers (EAB) to add a new rule, or the Texas Accessibility Standards (TAS) to incorporate guidance for Universal Changing Places pursuant to Section 469.052 of the Texas Occupations Code for new construction only for the facilities described in this section of the report. The minimum monetary threshold for new construction projects should align with current statute and administrative rule. Section 469.003 of the Occupations Code provides that projects that are constructed, renovated, or modified are subject to the requirements within the chapter and all associated TDLR rules. Section 469.101 of the Occupations Code, and Title 16, Chapter 68, Section 68.50(a) of the Texas Administrative Code set the threshold for review of a construction project at \$50,000.

- a) TDLR rule making should restrict the requirement for adult changing tables to the construction of new places of public accommodations identified in the scoping section of this recommendation or based upon standards developed by the International Code Council's 2020 anticipated standards.

Adult Changing Table at the Texas Capitol

People who are non-ambulatory or who have self-care issues such as catheters, colostomies or incontinence issues need a safe clean place to change or be changed. No one should have to be lain on a public restroom floor. According to the State Preservation Board, the Texas Capitol building receives over one million visitors a year, including many who would benefit from the availability of an adult changing table. The Texas Capitol is referred to as belonging to all Texans and everyone should feel welcome. With additional funding, the State Preservation Board may install one adult changing table in a family restroom to meet the toileting needs of people with disabilities.

Recommendation 1.10: Work with the State Preservation Board to install an adult changing table within the Texas Capitol building.

Communications

Communications encompasses a broad range of topics, from assistive technology like screen readers to ensuring American Sign Language interpreters are present at press conferences. While there is interplay between all of the GCPD's issue areas, communications is arguably the foundation upon which all others are built. Without effective communication things like access and emergency management are impossible. Applying for a job, attending a public meeting, speaking with a doctor – all of these require communication in the medium most accessible to the person with a disability.

U.S. Department of Justice further defines [effective communication](#), noting state and local governments are required to ensure “whatever is written or spoken [is as] clear and understandable to people with disabilities as it is for people who do not have disabilities.”⁵ Effective communication techniques will vary depending on the person, their disability, and the environment. While advances in digital technology play an ever-increasing role in mediating communication (such as being able to communicate via text if an American Sign Language interpreter is not immediately available), we must make sure these new technologies themselves are accessible.

Policy Recommendations

Support Service Providers/Co-Navigators

Multiple deaf advocacy groups approached GCPD to express their concerns over DeafBlind Texans being unable to independently access their community due to near total lack of available support services. In response to these concerns, GCPD prepared a report in 2017 on the status of Support Service Providers/Co-Navigators (SSPs/CNs) in Texas. Issues on SSP/CN services for the DeafBlind community can crossover between communication and health. After an extensive review of these services in Texas and across the country, GCPD prepared eight recommendations for establishing a program that funds SSP/CN services in Texas. The full [report](#) and discussion on each recommendation can be found on GCPD's website. Policy recommendations were extracted from the SSP/CN report and are provided as follows:

Recommendation 2.1: Establish a formalized SSP/CN program within HHSC, including training for providers. This will ensure services are provided in a standard, consistent manner.

Recommendation 2.1.1: Establish the following eligibility criteria for the program:

- a. Individuals who meet the definition of DeafBlind as defined by HHSC.

⁵ U.S. Department of Justice, Civil Rights Division (September 14, 2009). *Chapter 3, General Effective Communication Requirements Under Title II of the ADA*. Accessed on November 1, 2020: <https://www.ada.gov/pcatoolkit/toolkitmain.htm>

- b. Individuals who meet the income guidelines of a monthly income not greater than 300 percent of the federal poverty level, matching the financial criteria required for the Deaf Blind Multiply Disabled Waiver.

Recommendation 2.1.2: Establish a pay rate for SSP/CN providers by rule. Pay should be based on SSP-level training requirements and ASL fluency. GCPD recommends a starting wage of \$20 per hour based on the national average. This is comparable to the 2019-2020 State of Texas Salary Schedule for an Interpreter I position.

Recommendation 2.1.3: Establish a voucher program to pay for SSP/CN services administered by HHSC.

Recommendation 2.1.4: Appropriate ongoing funding for the SSP/CN program.

Recommendation 2.1.5: Establish an initial proposed annual budget of \$584,400. This cost is derived as follows:

- a. Estimated maximum number of hours per month for services to one individual (e.g. grocery shopping, attendance at a community event): 5 hours per week or 20 hours per month equals 240 service hours per year per person.
- b. 5 percent of the estimated 2,000 people who are DeafBlind, and not receiving services through Medicaid, will use SSP/CN services equates to 100 individuals served.
- c. Calculation for annual cost of program is \$528,000.
- d. Administrative costs for the program (approximately 10 percent) are \$56,400.

Recommendation 2.1.6: Establish the fee for service by rule to facilitate future changes.

Recommendation 2.1.7: Develop an initial advisory committee to create the program, including individuals who are DeafBlind, SSPs/CNs, GCPD, and other organizations that serve individuals who are DeafBlind.

Implement Oversight for State EIR Accessibility Compliance

State agencies and institutions of higher education must, when required by the Department of Information Resources (DIR), make electronic and information resources (EIR) accessible, unless doing so would cause significant difficulty or expense to the agency. This requirement applies to an agency's internal and public facing websites, digital documents and applications. The law was intended to provide equal access to state government services and to higher education for Texans with disabilities while also creating more accessible workplaces. The U.S. Department of Justice includes the evaluation of state program websites and other EIR for accessibility when performing an ADA investigation.

Significant progress has been made to implement accessibility in state government during the past decade, but many challenges remain including:

- making legacy software applications fully accessible;
- ensuring that state agency and higher education employees who are responsible for creating or maintaining agency websites and applications have the necessary accessibility skills and training to meet current accessibility standards;
- ensuring state agencies and institutions of higher education have the necessary business procedures and contract language to purchase accessible EIR goods and services; and
- Ensuring state agencies monitor and report their compliance with applicable accessibility laws and standards.

The only method for collecting data on state agency compliance with accessibility laws is through the Information Resources Deployment Review, a self-reporting survey conducted by DIR. This survey depends on voluntary reporting and lacks sufficient detail to gather enough useful information to plan for further implementation of state accessibility standards. Additionally, the State Auditor’s Office (SAO) does not include accessibility of EIR in its State Audit Plan nor does SAO include accessibility knowledge, skills and abilities in standard state job descriptions. As a result, agencies may be at risk for accessibility complaints due to inaccessible EIR, while current employees, job seekers and customers with disabilities may not have equal access to the same information and services as individuals without disabilities.

Recommendation 2.2: To create a quantitative scorecard that aggregates and summarizes data regarding the accessibility of state agency websites, the Texas Department of Information Resources (DIR) should update the frequency of the data to be commensurate with the frequency of changes to the website. For example, on a monthly basis an automated scanning tool (like SiteImprove) could be used to score the accessibility of the top 25 (or 50, etc.) most popular pages on the web site and report a criticality-weighted defect rate. This scorecard can then be used by GCPD and DIR to track progress toward accessible resources for people with disabilities.

Resource Specialists for Deaf and Hard of Hearing Texans

Following the Sunset of the Texas Department of Assistive and Rehabilitative Services (DARS) and merger of the Office for Deaf and Hard of Hearing Services (ODHHS) into HHSC, ODHHS had its 34 Resource Specialists reduced to 17. Communities such as El Paso, Wichita Falls, Abilene, Odessa, Midland, and others, now go without the services provided by these specialists. The Resource Specialists program provide services for people who are deaf or hard of hearing, as well as to government agencies, service providers, employers, and private entities. Regional service providers offer services statewide at no cost to individuals through contracts with HHSC ODHHS. More information about the Resource Specialist program can be found at [Deaf and Hard of Hearing \(DHH\) Technology Specialists](#) and the [DHH Access Specialists](#).

The specialists ensure Texans who are deaf or hard of hearing are able to:

- receive effective communication in hospital settings by helping hospitals understand the benefits and limitations of video remote interpreting and how to obtain qualified interpreters;
- work with an attorney to ensure equal access to the justice system;
- respond and recover from disasters by establishing social media communications, uploading information in sign language so people who are deaf and hard of hearing know where to go during an emergency and how to obtain recovery information (e.g., Harris County’s Hurricane Harvey [Deaf Emergency Response Team](#));
- ensure their public safety by training law enforcement how to interact with people who are deaf or hard of hearing;
- maintain independence by providing classes on self-advocacy for individuals who are deaf or hard of hearing;
- access state agency programs and services by serving as a resource to state agencies, for example, assisting Early Childhood Intervention (ECI) with connecting parents to sign language classes, and working with TWC vocational rehabilitation (VR) counselors to assess technology needs of VR customers to ensure appropriate assistive technology services are provided;
- age in place in the community by working with senior citizens who are deaf to meet their in-home communication needs such as knowing when someone is at the door, the phone is ringing, or how they communicate with family members through assistive technology.

As the population of individuals who are deaf or hard of hearing in Texas grows, so does the demand for services. ODHHS services were cut completely in HHSC Regions 2, 9 and 10 which covers much of West Texas from Wichita Falls to El Paso, a 66 county area.

Recommendation 2.3: Restore HHSC Office of Deaf and Hard of Hearing Services funding to Pre-Sunset, Pre-HHSC merger, restoring the number of contracted Resource Specialists from 17 to 34 specialists.

Education

Texas schools provide for the free, appropriate public education of students with disabilities determined eligible for special education services. Students with disabilities receive special education services and supports under the [Individuals with Disabilities Education Act \(IDEA\)](#) and [Section 504 of the Rehabilitation Act of 1973](#) administered by the Texas Education Agency (TEA) and reflected in Texas law.

In 2004 the reauthorization of IDEA placed emphasis on transition services for students with disabilities, raising expectations for students through accountability standards in preparing for further education, employment,

and independent living.⁶ In partnering with the education system to ensure proper implementation of the transition process, students with disabilities can succeed in gaining the knowledge and skills they need to become an adult and pursue post-secondary education or vocational training, employment and independent living.

GCPD's focus on equal access to education for students with disabilities aligns with Governor Abbott's Tri-Agency Workforce Initiative for improved outcomes for students to enter post-secondary education or training and be better prepared for the Texas workforce. Ensuring such outcomes requires closer coordination and planning between K-12 local education agencies, local Texas Workforce Solutions vocational rehabilitation providers and post-secondary education institutions.

The challenge for the education system is to provide services to students with disabilities based on their needs, taking into account their preferences and interests, providing for annual plan updates, and identifying goals that are appropriate based on needs assessments. As students with disabilities prepare for post-secondary education and the workforce they must have equal access to the standard curriculum used by their non-disabled peers including access to digital learning platforms and e-learning tools.

Policy Recommendations

Testing Options for Teachers of the Deaf: Working with Students who use Sign Language

If a teacher of the deaf or hard of hearing (TODHH) is assigned to a class made up predominantly of students who use sign language, that teacher must pass a credentialing test. Unfortunately these testing options are limited to either the Texas Assessment of Sign Communication (TASC) or the Texas Assessment of Sign Communication- American Sign Language (TASC-ASL).

There are few opportunities for teachers to take the TASC/TASC ASL test during the year. Adding additional psychometrically valid credentialing options may allow teachers more options to obtain an appropriate credential to validate their sign language competency and work with students who only use sign language. A teacher could also complete certification requirements through an SBEC-approved educator preparation program, provided the program assesses proficiency in the communication method and verifies it to be at an appropriate level.

Passage of the TASC or TASC-ASL exam is required for teachers working with students in K-12 who use sign language, but some itinerant teachers

⁶ 34 US-C. Education, Section 300.1. Accessed on November 13, 2020: http://www.ecfr.gov/cgi-bin/textidx?SID=0f7bfa2f3d55b0e16b50c93a422d5b9e&mc=true&node=se34.2.300_11&rgn=div8

holding TODHH certification have not taken these exams. All teachers should be in compliance with the TEA rule on credentialing.

Recommendation 3.1: TEA should allow teachers who want to teach children who use sign language to get their credentials by passing one of the following tests:

- The Texas Assessment of Sign Communications (TASC)
- The TASC American Sign Language (ASL)
- HHSC's Texas Board for Evaluation of Interpreter certification at Basic, Advanced, Master, Level II, III, IV or V
- Sign Communication Proficiency Inventory, Advanced level or higher

Recommendation 3.2: TEA should require itinerant teachers of the Deaf who work with students who use sign language to pass the TASC, TASC-ASL, or other test recognized credential by the agency. For teachers who are not credentialed, TEA should create a staff development plan with the State Board of Educator Certification.

Monitoring of Teachers of the Deaf TASC/TASC-ASL Credential

There are teachers who hold Teacher of the Deaf certification who have not passed the TASC or TASC-ASL exam and are working with students who rely on sign language to communicate. Based on Texas Administrative Code Chapter 231, each school district determines if the TASC or TASC/ASL is required when moving a teacher to a class of deaf signing students. By conducting a routine audit of teachers with Teacher of the Deaf certification currently working with students who use sign language TEA can ensure teachers have passed the TASC, TASC-ASL, or other test recognized by the agency.

Recommendation 3.3: Require a routine audit of teachers with Teacher of the Deaf certification currently working with students who use sign language to ensure teachers have passed the TASC, TASC-ASL, or other test recognized by TEA.

Sign Language Credential Transparency

While TEA and SBEC administrators are able to see if an instructor has Teacher of the Deaf certification and taken the TASC or TASC-ASL, the public cannot. Adding a reference to TASC and TASC-ASL in the official record for each educator with this certification will help with transparency and accountability. Students and their families should be able to access information indicating the teacher's proficiency in their primary mode of communication. These indicators should be placed on the teacher's certification card and the SBEC/TEA website.

Recommendation 3.4: The State Board of Educator Certification (SBEC) and TEA should explore options for adding a reference to TASC and TASC-ASL in the official certification record for each educator with proficiency in

sign language. These indicators should be placed on the teacher's certification card and the SBEC/TEA website.

ASL Courses for Dual Credit

Texas does not have enough American Sign Language (ASL) interpreters to meet the need. Requiring high schools to offer ASL classes to interested students via a dual credit program may help address the interpreter shortage by helping the younger generation become interested in interpreting.

The Texas Higher Education Coordinating Board (THECB) defines [dual credit](#) as a system in which an eligible high school student can enroll in college courses and receive credit for the courses from both the college and high school. School districts are required to implement a program under which students may earn the equivalent of at least 12 semester credit hours of college credit in high school. A public institution of higher education assists the school district in developing and implementing the program. Foreign language courses—including [ASL](#)—are eligible for the dual credit program, meaning any state institution of higher education may offer a dual credit elective course in ASL.

Recommendation 3.5: If a community college offers American Sign Language (ASL) as a course for credit, then a public high school should ensure ASL courses are an option when offering dual credit classes to their students. TEA and the Higher Education Coordinating Board should develop rules and strategies for implementation.

Educational Representative for Adult Students with Disabilities

Texas is currently not in full compliance with IDEA regarding adult students with disabilities in public school who need the appointment of an educational representative. The state does not have a process for appointment of an educational representative for an adult student with a disability in public school who has neither a legal guardian nor the capacity to exercise the parental special education rights that are automatically transferred to them at age 18.⁷

In the 2018-2019 school year, there were 23,054 students with disabilities ages 18 to 21 attending Texas public schools. Texas does not collect data on how many of these adult students with disabilities need an educational representative.

Recommendation 3.6: Amend the Texas Education Code to create a procedure for school districts to determine whether an adult student with a disability has the ability to provide informed consent for their educational program.

⁷ U.S. Department of Education IDEA regulation requirement for process for educational representative for adult students with disabilities: 34 C.F.R. 300.520(b): https://www.ecfr.gov/cgi-bin/text-idx?SID=ffad8fa5dc94ce9c5d1b68c4916c605b&mc=true&node=pt34.2.300&rqn=div5#se34.2.300_1520

Behavior Intervention Plans and Students with Disabilities

Students with disabilities are routinely overrepresented in school discipline measures like in-school suspension, out-of-school suspension, expulsions, and placements in Disciplinary Alternative Education Programs (DAEP) and Juvenile Justice Alternative Education Programs (JJAEP). These placements are often essentially punishments for behaviors that are a manifestation of their disability. According to the Texas School Discipline Lab, students eligible for special education services receive 23 percent of out-of-school suspensions while comprising only 9 percent of the student body.⁸

Students with disabilities are also more likely to be subjected to informal types of discipline that goes undocumented, also known as “shadow discipline”. One of the most common practices reported by families is the use of early pickups—essentially undocumented suspensions, as they functionally remove children from school. Because these removals are not documented, parents often have to respond to truancy notices for excessive unexcused absences.

Recommendation 3.7: Ensure Behavior Intervention Plans (BIP) are being revised and created in compliance with federal law, eliminating the practice of informal suspensions that remove kids from school and reinforce challenging behaviors. Parents and students should know and understand their rights and due process related to special education discipline regulations by working with the TEA, the Special Education Information Center (SPEDTex) and Education Resource Centers.

Captioning of Multimedia Content and Accessibility Remediation of Other Digital Learning Materials for Students in K-12

The TEA administers an Instructional Materials Technology Fund that has historically been used to produce hard copy braille and large print educational materials for students who are blind or have low vision. Educational curriculum has moved heavily into the digital realm. It has been reported to the committee that deaf and hard of hearing students often do not have access to video-based curriculum because these videos are not captioned. It has been reported that there are often biennia where money is left unspent in this fund; it should be simple to reallocate some of these funds to making video curriculum accessible for deaf and hard of hearing students.

Recommendation 3.8: Require TEA to use funds from the Instructional Materials Technology Fund to caption videos for deaf and hard of hearing students, braille materials, and remediation of other digital learning materials for students with disabilities.

⁸ Texas School Discipline Lab (2015), “Students with Disabilities.” Retrieved on Oct. 22, 2020 from Texas School Discipline Lab: Students with Disabilities

- a. GCPD further recommends TEA develop business processes, a list of captioning providers, or in house capabilities at TEA or an education service center, to address the local school district demands for the services in a cost effective timely and efficient manner.

Student Led ARD Meetings

Increased opportunities for students with disabilities to self-advocate before high school graduation through student-led Admission, Review, and Dismissal (ARD) meetings can be of great value for students as they prepare to join the Texas workforce. Students need to be able to self-advocate for themselves in postsecondary settings and be able to access disability services and supports in employment and postsecondary education. Best practices provide students instruction and practice in skill for self-advocacy prior to graduation, including development of transition plans. A legal requirement of transition planning is to take the student's interests into account. Many school districts provide opportunities for students to attend or lead portions of their ARD meeting to develop self-advocacy skills.

Recommendation 3.9: TEA should develop an expectation for student participation and student led ARD meetings starting no later than the age of transition (14). The standards would include the documentation of the level of student participation in each ARD meeting to demonstrate increased capacity for self-advocacy toward graduation. The standards may also include more training in self-advocacy skills for transition aged students to enable them to more successfully lead their ARDs.

Emergency Management

Texasans face numerous man-made and natural disasters from severe rains and flooding from hurricanes and tornadoes, icy winter storms and deadly freezes, extreme drought and wildfires. The Governor's Committee on People with Disabilities (GCPD) works on all aspects of emergency management for people with disabilities, planning for natural, man-made and public health disasters. GCPD played an instrumental role in the Texas Disability Task Force on Emergency Management, a functional needs and support service advisory committee to the Texas Division of Emergency Management. GCPD promotes the safety of people with disabilities by adequately preparing for disability-related issues during a disaster.

"Emergency preparedness" is a term used to describe a plan or the steps taken to get ready, before, during and after an emergency. Although the ADA does not specifically speak to these types of situations, its provisions apply to the response during an emergency. President George W. Bush issued [Executive Order 13347](#) in 2004, relating to emergency preparedness for individuals with disabilities. In planning for emergencies such as hurricanes, tornadoes, fires or terrorist attacks, people with disabilities have functional and access needs to consider that require additional assistance.

The impact that a disability may have during a disaster must be considered by both the responder and the person with a disability. GCPD continues to work towards the identification and removal of physical, communication and attitudinal barriers that emerge before, during, and after an emergency.

Policy Recommendations

Disability Coordinator FTE at TDEM

Since 2012, GCPD has been a charter member of the Texas Disability Task Force on Emergency Management. The task force serves as a resource to the Texas Division of Emergency Management (TDEM) and provides input to the emergency management community assisting in enhancing state and local planning and response to promote preparedness efforts for Texans with disabilities. This advisory committee supports a proposal that TDEM establish and hire a full-time disability coordinator. At its August, 2016, meeting, GCPD unanimously voted to support the creation of a full-time disability coordinator at TDEM. In 2018, this recommendation was restated in a white paper issued by the Texas Disability Taskforce on Emergency Management. This recommendation was endorsed by each level of the Texas Emergency Management Advisory Committee.

Although the TDEM provides limited staff support to the task force to conduct its regular meetings, the task force and GCPD recognize the need for a full-time disability coordinator position to leverage the task force's expertise, lead planning, and training activities, support task force goals and fully promote emergency management disability inclusion practices throughout the state. Such activities include:

- Developing, implementing, maintaining and delivering training on disabilities, functional and access needs for emergency management officials and first responders.
- Ensuring state and local emergency plans include the needs of people with disabilities.
- Supporting the Texas Disability Task Force and promoting the establishment of access and functional needs advisory committees in local jurisdictions throughout the state.
- Promoting full participation in the State of Texas Emergency Assistance Registry (STEAR) by Texans with disabilities and ensuring data custodians are effectively using this data for local planning in every jurisdiction.
- Promoting emergency preparedness for Texans with disabilities by leveraging partnerships with state and local disability organizations.

Recommendation 4.1: Reclassify a vacant full-time employee (FTE) position or create a new FTE position within Texas Division of Emergency Management to serve as the disability coordinator to support emergency management activities for people with disabilities.

Helping Texans with Disabilities Prepare for Disasters

HHSC is the state's designated agency for providing independent living services to Texans with disabilities. In order to be safe and prepared for all potential emergency situations, the Independent Living Centers must include emergency preparedness in their curriculum. Similarly, HHSC Medicaid managed care providers can serve an important role in helping individuals with disabilities receiving community-based services develop a personal preparedness plan, develop a customized emergency kit that addresses their specific disability needs and if appropriate help facilitate registering for the State of Texas Emergency Assistance Registry on an annual basis.

Recommendation 4.2: Monitor implementation of HB 4479, HB 2325 and HB 4046 from the 86th Texas Legislature and encourage all state health and human service agencies and programs providing services to people with disabilities to discuss emergency preparedness and evacuation planning.

Responding to Behavioral Health Needs in Disasters

During the response and recovery to Hurricane Harvey, Texas hurricane survivors with autism were commonly sheltered in mass care general population shelters. These shelters were usually managed by the American Red Cross. It is the shelter policy of the state that all shelters be accessible to the whole community, including individuals with access and functional needs. The only other type of shelter available in Texas are medical shelters for individuals requiring skilled nursing care. In the aftermath of Hurricane Harvey, at the October 2017 GCPD meeting, the committee received testimony that the shelter needs of families with a family member with autism were not properly addressed in general population shelters. Shelter managers generally lack the professional training to recognize behavioral health challenges and make an intervention plan to address the care needs of these survivors. The noisy and crowded environment of mass care shelters can be expected. However, the sensory integration challenges of some individuals on the Autism spectrum or with other behavioral health disabilities require assessment by trained behavioral health professionals to make rapid assessment and shelter placement decisions that are appropriate for an individual's needs.

Recommendation 4.3: Recommend the development of a Rapid Response Behavioral Health Task Force composed of mental health professionals who are trained in applied behavioral analysis and mental health treatment protocols, including but not limited to developmental disabilities (such as the autism spectrum), mental illness, and certain neurological disorders.

Employment

People with disabilities represent a valuable labor force that is often overlooked by employers. GCPD promotes compliance with [Title I of the ADA](#), which prohibits discrimination against job applicants and employees with disabilities. GCPD supports integrating people with disabilities into the workforce by providing reasonable accommodations, assistive technology and trainings on best practices.

Meaningful work, being a contributing part of society – is essential to people’s economic self-sufficiency, as well as self-esteem and well-being. By providing full access to the workplace, employers tap a valuable source of talent.

Workforce participation is significantly lower for people with disabilities than people without disabilities. In 2019, the employment-population ratio⁹ for persons with disabilities was 19.3 percent, while the ratio for persons without disabilities was 66.3 percent.¹⁰

Reported barriers to employment for individuals with disabilities include:

- lack of education or training,
- discriminatory practices in the job application process,
- prejudices about certain disabilities that result in a refusal to hire,
- inaccurate understanding of cost of workplace accommodations resulting in a refusal to hire or failure to provide the requested accommodations; and
- lack of accessible transportation.

Policy Recommendations

Supported Employment Follow Along Services for Individuals with Intellectual and Developmental Disabilities

The Social Security Administration defines a sheltered workshop as “a private non-profit, state, or local government institution that provides employment opportunities for individuals who are developmentally, physically, or mentally impaired, to prepare for gainful work in the general economy.”¹¹ Persons with disabilities employed in sheltered workshops have generally been paid a subminimum wage allowable under Section 14(c) of the Fair Labor Standards Act.¹² However, since 1938, employment rights for

⁹ Employment to population ratio is the proportion of a country's population that is employed.

¹⁰ U.S. Bureau of Labor Statistics (February, 26, 2020), *Persons with a Disability: Labor Force Characteristics – 2019*. Retrieved on December 9, 2020 from: <https://www.bls.gov/news.release/disabl.nr0.htm>

¹¹ Social Security Administration (January 6, 2017). *Program Operations Manual System (POMS)*. Accessed from ssa.gov website on February 2, 2017: <https://secure.ssa.gov/apps10/poms.nsf/lnx/0302101270>

¹² U.S. Department of Labor, Wage and Hour Division (n.d.). *Subminimum Wage Employment for Workers with Disabilities*. Accessed from WHD website on February 2, 2017: <https://www.dol.gov/whd/workerswithdisabilities/about.htm>

people with disabilities changed with the passage of the ADA, the Supreme Court's decision in [Olmstead v. L.C.](#) the signing of [Executive Order 13658](#) in 2014 establishing the minimum wage for workers covered under federal contracts at \$10.10 per hour and signing of the [Workforce Innovation and Opportunity Act in 2014](#) increasing the emphasis on access to workforce services and competitive integrated employment for people with disabilities. These changes occurred through litigation by the U.S. Department of Justice, including the segregation of persons with disabilities employed in sheltered workshops or facility-based day programs (Olmstead Enforcement activities)¹³. These resulted in a consent decree with the [State of Rhode Island](#) and a settlement agreement with the [State of Oregon](#) in which both states ceased placement or funding for new employees to sheltered workshops.

The Employment First movement was initiated which "centered on the premise that all citizens, including individuals with significant disabilities, are capable of full participation in integrated employment and community life."¹⁴ Passage of [Senate Bill 1226](#) (83R) established the Texas Employment First Policy and Task Force and called for "a living wage through competitive employment in the general workforce [as] the priority and preferred outcome for working-age individuals with disabilities who receive public benefits."

Nearly 85 percent of adults with IDD are not employed even though a majority of people with IDD report wanting to work. Texas community-based employment assistance and supported employment services through the 1915c Medicaid waivers are extremely underutilized compared to day habilitation services. Texas conducted interviews of individuals with IDD receiving both residential and nonresidential services through Texas community-based Medicaid waivers and found individuals with IDD were not receiving the employment related assistance and support they wanted and needed to obtain competitive, integrated employment.

Efforts to eliminate the practice of paying individuals with disabilities a subminimum wage through a transition into integrated employment. However, if an individual with IDD does not have a 1915c Medicaid waiver, and they have exhausted their supported employment services through vocational rehabilitation through Texas Workforce Solutions, services currently do not exist to continue supported employment—even if the individual still requires the services to maintain competitive, integrated employment. This poses a significant barrier to long-term employment for individuals that require continued support while on the job. A majority of states already fund supported employment follow-along services for individuals with IDD.

¹³ U.S. Department of Justice, Civil Rights Division (2016). *Olmstead Enforcement*. Accessed from ada.gov website on February 3, 2017: https://www.ada.gov/olmstead/olmstead_cases_list2.htm

¹⁴ U.S. Department of Labor, Office of Disability Employment Policy (n.d.). *Employment First*. Accessed from DOL-ODEP website on February 3, 2017: <https://www.dol.gov/odep/topics/EmploymentFirst.htm>

A pilot program should prioritize data collection to gather and identify evidence-based practices, evaluate opportunities to strengthen the network of community providers and ensure sustainability of long-term supported employment throughout the state.

Exploring administrative and other options to increase funding and access to services for supported employment for persons with IDD who require long-term services to continue competitive, integrated employment will help ensure they are employed long-term, leading to self-directed lives and breaking the cycle of poverty.

Recommendation 5.1: Ensure that at the point an individual with a disability is moved from a sheltered workshop environment to integrated community-based employment, the integrated employment will be appropriately funded to provide the necessary long-term support, to include job coaching, to safeguard and allow for a successful integrated community employment outcome.

Policy Solutions for Building a Stronger, More Inclusive State Workforce

In 2016, the State Exchange on Employment and Disability convened a joint National Task Force on Workforce Development and People with Disabilities. The task force, led by the Council of State Governments and the National Conference of State Legislators, was formed to address barriers to employment and identify state-level policy solutions for building stronger, more inclusive workforces. The task force included 60 state policymakers, subject matter experts, and advisors and staff from the Department of Labor's Office of Disability Employment Policy. Three representatives from Texas were members of the national task force, including Dr. Aaron Bangor, Chair of the Texas Governor's Committee on People with Disabilities; Mary Durham, Chair of the Texas Council for Developmental Disabilities; and Jeff Kline, Program Director with Texas Department of Information Resources.

In December, 2016, the national task force issued a report titled [Work Matters: A Framework for States on Workforce Development for People with Disabilities](#) (Work Matters). This report "serves as a guide on each of the policy areas the task force explored . . . to assist states in improving the ways the public sector serves people with disabilities and provides state examples of innovative programs and policies." The four policy areas covered included: Career Readiness and Employability; Hiring, Retention and Reentry; Entrepreneurship, Tax Incentives and Procurement; and Transportation, Technology and Other Employment Supports.

The Governor's Committee on People with Disabilities (GCPD) devoted a quarterly meeting in 2017 to analyzing the recommendations of the Work Matters Report and choosing to focus on a section of the report that recommends that state agencies become model employers and support

model employers in the private sector. The Work Matters report became the catalyst for GCPD to recommend how Texas state agencies can more successfully address disability inclusiveness within each organization's workplace culture. It was determined that this could best be demonstrated by the presence and implementation of agency accessibility and disability employment policies and practices.

The GCPD finds that opportunities exist to improve ways in which Texas state agencies serve people with disabilities. Suggested improvements will benefit not only those Texans with disabilities who are currently employed in our state workforce or are potential applicants for employment, they may also address the high statewide turnover rate among state classified employees and improve disability employment rates for the state as a whole. Therefore, the GCPD offers seven recommendations that we believe are practical solutions to workforce challenges in Texas.

Recommendation 5.2: Implement recommended best practices to strengthen disability-related accessibility and employment practices that can lead to increased hiring and retention of employees with disabilities as follows:

- a. State agencies should continue to recruit qualified job applicants with disabilities and consider setting aside a centralized agency job accommodation fund for employees with disabilities who need accommodations.
- b. State agencies should partner with Texas Workforce Commission's Vocational Rehabilitation program if job retention services are needed.
- c. State agencies should have a written reasonable accommodation policy and procedure that includes the interactive process.
- d. All State agencies should designate a Title II ADA Coordinator and comply with notice requirements.
- e. State agencies should ensure they have a process in place for handling general disability-related complaints and disability discrimination complaints.
- f. Develop and share common training resources on disability awareness, etiquette and effective communications in state government.

Health

People with disabilities experience considerable disparities in access to healthcare, which is in turn reflected in disproportionately poor health outcomes. While it can be challenging to reflect these poor outcomes in literature- the Office of Disease Prevention and Health Promotion notes that people with disabilities are often overlooked in health surveys, data analyses, and health reports—existing research from organizations like United Cerebral Palsy's (UCP) *2020 Case for Inclusion* report indicates much

work remains to be done.^{15,16} According to UCP, Texans with intellectual and developmental disabilities (IDD) in particular contend with significant unmet healthcare needs. In addition to the IDD population, aging Texans also require specialized healthcare services. An estimated 5.9 million- or nearly 20 percent- of the state’s total population will be over the age of 64 by 2030.¹⁷ This so-called Silver Tsunami will require a rethinking of the ways in which senior Texans access healthcare.

When addressing the Health issue area, GCPD provides analysis and guidance on access to the healthcare system, health insurance, public benefit programs (e.g., Medicaid and Medicare), as well as the physical accessibility of medical facilities. Health also encompasses mental health, as it is well understood that physical and mental health often go hand-in-hand. Finally, we work to propose solutions that allow Texans to age-in-place—something that provides for better health outcomes for seniors, reduces cost burdens on the public benefit system, and is overall more effective.¹⁸

Policy Recommendations

Establish Requirements for Certified Medical Interpreters

Effective communication is critical to the successful delivery of health care services. The Joint Commission on Accreditation of Healthcare Organizations—the nation’s oldest and largest standards-setting and accrediting body in health care— notes the importance of working to improve communication between health care professionals and patients.¹⁹ Successful communication with patients involves a strong interpersonal relationship, recognizing language needs, and an understanding of cultural issues. Effective communication happens when there is a joint understanding of meaning where patients and health care providers exchange information, and patients can participate actively in their care, ensuring the responsibilities of both patients and providers are clear. Successful communication takes place only when providers understand their patients, and patients receive accurate, timely, complete, and unambiguous messages from providers in enabling them to participate in their care.²⁰

¹⁵ Office of Disease Prevention and Health Promotion (January 17, 2017). *Why is Disability and Health Important?* Accessed January 18, 2017: <https://www.healthypeople.gov/2020/topics-objectives/topic/disability-and-health>

¹⁶ Bragdon, Tarren (September 2020). United Cerebral Palsy. *The Case for Inclusion 2020*. Accessed November 10, 2020: <https://caseforinclusion.org/about>

¹⁷ Texas Demographic Center (June 2016). *Aging in Texas: Introduction*. Accessed January 17, 2017: http://demographics.texas.gov/Resources/publications/2016/2016_06_07_Aging.pdf

¹⁸ <https://www.nia.nih.gov/health/aging-place-growing-older-home>

¹⁹ The Joint Commission (2011) *R3 Report Issue 1: Patient-Centered Communication*. Accessed November 13, 2020: <https://www.jointcommission.org/standards/r3-report/r3-report-issue-1---patient-centered-communication/>

²⁰ The Joint Commission (2010). *Advancing Effective Communication, Cultural Competence, and Patient- and Family-Centered Care: A Roadmap for Hospitals*. Accessed on November 13, 2020: <https://www.jointcommission.org/-/media/tjc/documents/fact-sheets/patient-centered-communications-1-24-20.pdf?db=web&hash=2ACF2A285B1DAEA84089A74B448E8205>

Communication can become difficult for deaf individuals requiring sign language interpreters. Federal guidance prohibits practices from requiring patients to bring their own interpreters to a health care setting, meaning these facilities must be able to provide patients qualified interpreters. It is important interpreters in all settings be proficient, but it is most crucial in a healthcare setting as any misunderstandings may have a direct impact on medical decision making and outcomes. Any sign language interpreters assisting a person who is deaf or hard of hearing must be able to demonstrate essential knowledge, skills, and abilities so that communication is accurate, effective, and impartial. It is also important that specialized vocabulary or terminology or phrases are interpreted correctly to the patient. While [Texas Government Code Chapter 57](#) provides that court interpreters be certified in the legal field, there is currently no such requirement for interpreters in a medical setting. Establishing such a requirement would go a long way towards helping ensure better healthcare outcomes for people who are deaf or hard of hearing. The Advisory Committee on Qualifications for Health Care Translators and Interpreters provides recommendations for both the qualifications and levels of certification needed for medical interpreters in its [Advisory Committee on Qualifications for Health Care Translators and Interpreters 2016 report](#).

Recommendation 6.1: Establish requirements for certified medical interpreters that are similar to those for certified court interpreters.

Increasing Funding for the Deaf Blind with Multiple Disabilities Medicaid Waiver Interest List

The Deaf Blind with Multiple Disabilities (DBMD) Waiver serves approximately 350 individuals, with an additional 300 individuals on an interest list waiting for services.²¹ DeafBlindness is a low incident disability, defined as a combination of sight and hearing impairment that significantly impacts how an individual communicates and accesses information. It is marked by significant specialized communication, developmental, and educational needs that cannot be accommodated in special education programs for children with deafness or children with blindness.

For individuals to qualify for the DBMD Waiver program, they must have a diagnosis of DeafBlindness (or a related condition that will result in DeafBlindness) and an additional diagnosis of a related condition that presents before age 22, meet the eligibility criteria for placement in an intermediate care facility for individuals with disabilities (ICF/IDD), and have substantial functional limitations in at least three of the following areas:²²

- Learning

²¹ Texas Health and Human Services, *Interest List and Waiver Caseload Summary Archive*. Accessed May 18, 2018: <https://hhs.texas.gov/about-hhs/records-statistics/interest-list-reduction/interest-list-waiver-caseload-summary-archive>

²² 42 Tex. Admin. Code, RULE §42.201. Accessed on November 13, 2020 from [https://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=1&ch=42&rl=201](https://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=1&ch=42&rl=201)

- Mobility
- Self-care
- Language
- Self-direction (age 10 and over)
- Independent living (age 10 and over)

Recommendation 6.2: Increase the number of slots available to be served by the Deaf Blind Multiply Disabled (DBMD) Waiver, 100 per year for the next four years.

Attracting and Retaining Personal Care Attendants Covered by State Medicaid Waiver Programs

Community attendants—particularly those funded by Medicaid waiver programs—provide vital services to aging Texans and those with disabilities in home and community-based programs. These skilled community attendants build close relationships with the people they support, enhancing their independence while assisting with intimate needs such as personal hygiene, cleaning, cognitive assistance, and routine medication administration. Community attendants are foundational to the supports that allow people with disabilities to live in the community. However, as the aging and disability populations grow, Texas continues to face a critical shortage in the community attendant labor force. This critical, difficult role sees high turnover due to low wages and a lack of benefits. Increasing community attendant wages and providing benefits should help attract and retain quality personal care attendants.

Recommendation 6.3: Support increased community attendant care wages and benefits at a level necessary to attract and retain personal care attendants covered by state Medicaid waiver programs while facilitating consumer-directed care.

Eligibility Processes for the Medically Dependent Children Program

The Medically Dependent Children Program (MDCP) provides support to families caring for children and young adults who are medically dependent. MDCP is designed to help recipients remain at home rather than be served in a nursing facility.²³ The process used to determine continued medical necessity for MDCP has resulted in unusually high denial rates during the renewal process—while 2.6 percent of renewals were denied in FY14-15, 10.7 percent were denied in July 2017.

Under Texas Administrative Code, Rule 19.2401, to meet medical necessity, the child or young adult must:

1. Have a medical condition of sufficient seriousness that exceeds the routine care which may be given by an untrained person; and

²³ Texas Health and Human Services, *Medically Dependent Children Program (MDCP)*. Accessed on February 24, 2019: <https://hhs.texas.gov/doing-business-hhs/provider-portals/long-term-care-providers/medically-dependent-children-program-mdcp>

2. Require licensed nurses' supervision, assessment, planning, and intervention that are available only in an institution.

Although MDCP and nursing facility admissions have the same eligibility and medical necessity criteria, the nursing facility population is not reassessed annually and permanent medical necessity for admission is deemed after six months. The majority of children and young adults on MDCP who have chronic disabilities and health conditions are assessed annually for continued eligibility for MDCP.

Managed Care Organizations (MCOs) assessing MDCP eligibility began using a new assessment instrument, the STAR-Kids Screening Assessment Instrument (SK-SAI) that includes a Nursing Care Assessment Module (NCAM) to identify a beneficiary's need for skilled nursing services. Once completed, the SK-SAI is sent to the Texas Medicaid Healthcare Partnership (TMHP) where nurse reviewers and medical directors use portions of the SK-SAI—primarily the NCAM—to determine eligibility for MDCP. If a medical director determines the beneficiary no longer meets eligibility for MDCP, TMHP notifies the beneficiary that they have 14 business days to submit additional information supporting continued eligibility. If no additional information is submitted, or TMHP deems that the additional information does not support continued eligibility, TMHP issues a notice denying eligibility for MDCP.

Prior to the transition to the use of the new assessment instrument (SK-SAI), renewal denial rates for children and young adults on MDCP during their annual reassessments was 2.6 percent (2014-2015) and 3.13 percent (2015-2016). Following the transition of MDCP beneficiaries to STAR-Kids in 2017, that same denial rate increased to 11.6 percent for February through May 2017, fluctuating as high as 14.1 percent in June 2017. This may indicate confusion regarding the assessment tool, a need for more training on administering the tool, or other issues.

The assessment process used by MCOs results in errors and omissions on the SK-SAI. The MCO assessor typically asks questions and gathers information from the beneficiary's parent or guardian, but the assessor often completes the SK-SAI at a later time. Therefore, the parent or guardian is not directly involved in actually completing and reviewing the SK-SAI prior to its submission to TMHP, and does not typically see the completed SK-SAI until eligibility is denied and a fair hearing is requested. This process was modified by HHSC in September 2018.

Recommendation 6.4: To ensure that the information captured on the STAR-Kids Screening Assessment Instrument (SK-SAI) is both accurate and complete, the beneficiary and his or her parents or guardians should be involved in completing and reviewing the assessment instrument together with the managed care organizations before it is submitted to Texas Medicaid Healthcare Partnership (TMHP).

Denial notice forms do not explain why the beneficiary does not need the level of care provided in a nursing facility or why the beneficiary is no longer eligible for MDCP, despite being eligible in the past, and no change in the medical necessity criteria. 42 CFR 431.210(b) requires that denial notices explain the specific reason for the decision. Also, 42 CFR 431.210(c) requires denial notices include the “specific regulations that support, or the change in federal or state law, that requires the action.” TMHP’s notices failed to cite any regulations. Such non-specific denial notices encourage arbitrary denial decisions. This process was modified by HHSC on January 1, 2019.

Recommendation 6.5: HHSC should require TMHP to issue non-form letter denials that (1) provide specific reasons for the denial, including reasons why the beneficiary does not need the level of nursing care that would be provided in a nursing facility and why the individual beneficiary no longer meets medical necessity for Medically Dependent Children Program (MDCP); and (2) include the “specific regulations that support, or the change in federal or state law, that requires the action.” GCPD will monitor the modified process to assess the overall impact on the level of denials and appeals for MDCP eligibility.

Decision makers at TMHP have not been provided any ascertainable standards, such as written policy or guidance, on the medical necessity criteria. To meet medical necessity, the beneficiary must (a) have a medical condition of sufficient seriousness that exceeds the routine care which may be given by an untrained person; and (b) require licensed nurses’ supervision, assessment, planning, and intervention that are available only in an institution in addition to other requirements. Family representatives from the state’s protection and advocacy agency report that TMHP reviewers lack a common understanding of what is or is not “nursing.” Absent “ascertainable standards” from HHSC, TMHP reviewers are making arbitrary decisions based on their own individual understanding of the medical necessity criteria.

Recommendation 6.6: HHSC should issue ascertainable standards (i.e., written guidance) on the meaning of the medical necessity criteria and train Texas Medicaid Healthcare Partnership (TMHP) reviewers on these standards.

TMHP improperly considers the duties of parents and guardians, despite guidance to the contrary. Guidance was issued to TMHP in 2014 clarifying that TMHP was not to consider the duties of parents or guardians when considering whether the individual has a need for skilled nursing. Yet, when a child or young adult meets medical necessity for nursing facility admission, because they are at home, TMHP denies eligibility for MDCP claiming that parents and guardians must perform the nursing care.

Recommendation 6.7: HHSC should instruct Texas Medicaid Healthcare Partnership (TMHP) to follow the guidance on parents and guardians in assessing medical necessity.

Lack of Transparency on Testing of SK-SAI. Although HHSC claims that the SK-SAI was tested and is valid, significant doubt exists about the reliability and validity of the assessment instrument.

Recommendation 6.8: HHSC should release all information, subject to any restrictions under state and federal law (such as HIPAA) related to how the STAR-Kids Screening Assessment Instrument (SK-SAI) was tested for inter-rater reliability and validity, and all statistics for the denial rate on renewals.

Funding for Early Childhood Intervention (ECI) Services

Early Childhood Intervention (ECI) is a statewide program administered by HHSC for families with children with developmental delays, disabilities or certain medical diagnoses that may affect development. These services are only available from birth to age three. ECI services support families as they learn how to help their children grow and learn. HHSC contracts with providers statewide to provide ECI services to eligible children. Services include hearing and vision, educational services, speech, occupational and physical therapy services, nutrition services, specialized skills training, counseling, and assistive technology.

ECI funding has been steadily decreasing since 2011, resulting in 16 ECI community providers permanently closing. \$1.4 million was cut from the ECI budget in 2016 alone.²⁴ Although the remaining ECI providers have taken over services to the children in areas affected by closures, this smaller provider pool is often covering vast service areas, resulting in delays to time-sensitive services.

Research has shown that ECI services remove or decrease the needs for a child to enter costly special education services when starting school. ECI provides cost saving services to the state, however private insurance typically does not pay for these services and Medicaid has greatly reduced reimbursement rates. ECI contractors report being unable to serve all eligible children in their communities due in large part to a lack of funding—it is simply not financially feasible to cover large geographic areas with few providers and low reimbursement rates.

Recommendation 6.9: Restore ECI funding to the FY 2012 and FY 2013 funding level of \$484 per child each month to give contractors the capacity to enroll and serve all eligible children in their communities. The funding should account for projected caseload growth amid the state's growing child population.

²⁴ Texas House of Representatives, Appropriation S/C Hearing on Article II. ECI portion begins at 1:57:30. Accessed from the Texas House of Representatives website on August 18, 2018: <http://www.house.state.tx.us/video-audio/committee-broadcasts/>

Addressing the Mental Health Needs of People with IDD

According to research, people with intellectual and developmental disabilities (IDD) are diagnosed with mental health conditions at a rate two-to-three times higher than the general population.²⁵ Incidence rates among children with IDD are likely also high, with approximately 30-50 percent estimated to have a mental health condition. The reasons for this are manifold—people with IDD experience higher levels of social isolation, may experience more stress related to social challenges, and limited language abilities may make it more difficult to express feelings and needs. Additionally, people with IDD are at a much higher risk of experiencing trauma, particularly physical, emotional, and sexual abuse, as well as neglect, bullying, and unnecessary restraint. These risk factors create a unique susceptibility for developing a mental health condition.²⁶

We are just beginning to understand the intersection of mental health and intellectual disability. Research is in its infancy, and this sparse data leads to difficulties in identifying signs of mental illness in people with IDD. However, it is generally recognized that mental health conditions manifest differently in people with IDD than in the general population. Organizations such as [The NADD](#) have led efforts to create a diagnostic manual of mental disorders specifically for people with IDD, but these efforts are in their relative infancy.²⁷ There is limited training available for mental health (MH) and IDD professionals, with much of their work remaining siloed. This, in turn, leads to a significant workforce shortage of MH/IDD specialists—that is, mental health professionals specifically trained in recognizing and treating signs of mental health diagnoses in people with IDD. Unfortunately, this dearth of providers can lead to providers and caregivers attributing challenging behaviors to disability rather than as a manifestation of a mental health condition. Lack of cross-agency collaboration and training compounds the situation; without a solid effort to share information and expertise, people with IDD will continue to be forced to pick between accessing either IDD or MH services, but never both.

Local mental health authorities (LMHA) and the local authorities for IDD (LIDDA) services are typically co-located, but service coordination and provision (that is, case management and access to treatment) are siloed. Local authority clients currently must choose between accessing LMHA or LIDDA services, with I.Q. thresholds sometimes being used to preclude people with IDD from accessing mental health services.

²⁵ Navigate Life Texas. *Mental Health for Children with Intellectual and Developmental Disabilities*. Accessed December 18, 2020: <https://www.navigatelifetexas.org/en/diagnosis-healthcare/mental-health-for-children-with-intellectual-and-developmental-disabilities>

²⁶ Munir, K. M. (2016). *The co-occurrence of mental disorders in children and adolescents with intellectual disability/intellectual developmental disorder*. *Current Opinion in Psychiatry*, 29(2), 95-102. doi:10.1097/ycp.000000000000236: <https://pubmed.ncbi.nlm.nih.gov/26779862/>

²⁷ <http://thenadd.org/>

Finally, it is imperative any effort to provide mental health treatment to people with IDD recognize the significance of trauma. Texas has done a commendable job of pioneering integrating trauma-informed care training in service delivery in the child welfare and juvenile justice systems. We must now prioritize trauma-informed care training for people with IDD, particularly those living in institutions.

Recommendation 6.10: HHSC should task the Statewide Behavioral Health Coordinating Task Force with studying ways to increase the availability and awareness of high-quality, comprehensive care for people with mental health (MH) diagnosis and IDD. This should include:

- examining how to increase workforce capacity through training and other incentives;
- increasing cross-agency collaboration and developing a more wholly integrated system of care for people with IDD;
- mandating trauma-informed care training; and
- evaluating the legitimacy of using intelligence quotient (I.Q.) thresholds as exclusionary criteria for access to MH and/or IDD services.

Mental Health Crisis Care for People with IDD

People with intellectual and developmental disabilities (IDD) experiencing mental health crises are extremely limited in terms of accessing psychiatric hospitalization and treatment. Integrating dedicated IDD Specialty Services Units into the statewide State Hospital Redesign would provide a strong start to creating a robust network of appropriate treatment options for people with IDD and mental health diagnoses.

There is a dearth of culturally competent treatment facilities available for people with IDD experiencing serious mental health crises. Anecdotally, law enforcement and other crisis mental health professionals report being unable to find private psychiatric hospitals that will accept people with IDD experiencing a mental health crisis. This means individuals often wind up remaining in emergency department beds or being transferred to jail- both inappropriate settings for an individual experiencing a mental health crisis. Additionally, Austin State Hospital (ASH) and North Texas State Hospital (NTSH) appear to be the only two state hospitals out of ten that have a specialty services unit that mentions treating people with IDD.

HHSC should work to align the goals of the IDD strategic plan with the State Hospital System Redesign. Specifically, HHSC should work with the leads of each state hospital redesign to create a specialty services unit in order to divert people from hospital emergency departments and jails. By working with the state hospital system redesign team at ASH and elsewhere to create a world-class IDD crisis stabilization unit, Texas could lead the way in competent mental health treatment for people with IDD. This unit would enable people to receive appropriate services to help treat ongoing mental

health diagnoses, restore competency, and return safely to the community while avoiding incarceration.

Recommendation 6.11: HHSC should work with the leads of each state hospital redesign to create a specialty services unit for people with intellectual and developmental disabilities (IDD) in order to divert people from hospital emergency departments and jails.

Sexual Abuse Prevention Training

People with intellectual and developmental disabilities (IDD) are sexually assaulted at a rate seven times that of people without disabilities.²⁸ Compounding these numbers is the fact many assaults are repeat offenses, and many often go unreported.²⁹ A commonly-cited statistic in literature states that 30 percent of men and a staggering 80 percent of women with IDD have experienced sexual assault.³⁰ Finally, reporting has uncovered the “hidden epidemic” of sexual assault among people with IDD, as well as the steps that can be taken to address the crisis.

One key way to help protect people with IDD against sexual assault is through providing abuse prevention training. The Centers for Disease Control outlined 16 topics that should be covered in this type of education. This information is beneficial to everyone, but is beneficial to people with intellectual and developmental disabilities in particular. According to a report by the Saskatchewan Prevention Institute, this type of education is extremely protective against sexual abuse.³¹

Texas does not currently have widely available curriculum of this type for people with IDD, nor for providers who frequently work with this population. Integrating this type of education and training into the services and supports the state of Texas provides for people with IDD would be an excellent first step toward addressing this issue. The State Supported Living Center system provides a good opportunity to pilot offering sexual abuse prevention training to Texans with IDD. We recommend offering this curriculum through the Behavioral Services Unit on each campus, as these departments should already be adept at creating training programs for SSLC residents.

28 Shapiro, J. (January 9, 2018). For some with intellectual disabilities, ending abuse starts with sex ed. National Public Radio: <https://www.npr.org/2018/01/09/572929725/for-some-with-intellectual-disabilities-ending-abuse-starts-with-sex-ed>

29 Barnard-Brak, L., Schmidt, M., Chestnut, S., Wei, T., & Richman, D. (2014). Predictors of access to sex education for children with intellectual disabilities in public schools. *Journal of Intellectual and Developmental Disabilities*, 52(2), 85-97: <https://pubmed.ncbi.nlm.nih.gov/24725108/>

30 Disabled World (2012). People with disabilities and sexual assault. <https://www.disabled-world.com/disability/sexuality/assaults.php>

31 Saskatchewan Prevention Institute. (2015). Sexual health education for adolescents with intellectual disabilities: A literature review. Saskatchewan, Canada: Kaylee Ramage: <https://skprevention.ca/sexual-health/#toggle-id-9>

Recommendation 6.12: HHSC should create a pilot program within the SSLC system to provide sexual abuse prevention training to residents via curriculum provided to the Behavioral Services Units.

State Supported Living Center Long-Range Plan

The [draft SSLC Long-Range Plan](#) released by HHSC in July 2020 contains several recommendations for maximizing resources available within the current SSLC system. GCPD echoes many of these recommendations, which are included below.

The State Supported Living Center (SSLC) video surveillance system is over ten years old. According to the SSLC Long Range Plan, the life of the video servers is three years. They are experiencing frequent server failures, meaning valuable evidence in abuse, neglect, and exploitation (ANE) investigations is being lost.

Losing video evidence in ANE investigations is a critical failure. As outlined in the SSLC LRP, an updated video system would provide clearer imaging and increase HHSC's ability to identify dangerous situations.

Recommendation 6.13: HHSC should be provided funding to update the video surveillance system mandated by the [U.S. Department of Justice settlement agreement](#). A more up-to-date system would help prevent incidents of abuse, neglect, and exploitation.

Texas funds and operates 13 state supported living centers (SSLCs) for roughly 2,900 individuals. By contrast, there are an estimated 485,000 people diagnosed with an intellectual or developmental disability (IDD) statewide. The SSLC system should be reviewed to better serve and fund community services for all Texans with IDD. While an SSLC has not closed since 1996, the census has declined 31 percent in the last ten years; by rebalancing the system to focus on providing services in areas with the most critical need, Texas can review the SSLC system as part of a cutting-edge wider system of services available to people with IDD.

Recommendation 6.14: Review of the SSLC system presents a lot of opportunities- this review should be individualized for each center based on the needs of their community. In general, this plan should:

- a. Examine ways to foster more community engagement at SSLCs, including potentially rebuilding campuses with an eye towards mixed-use development (see the redesign at the RBJ Center in Austin for an example);
- b. Creatively leverage the strengths of each SSLC- if a center has a tremendous amount of mostly empty acreage, consider pursuing something like equine therapy or a big public garden (similar to [the Sunshine Community Gardens at the Texas School for the Blind and Visually Impaired](#))

The SSLC Long-Range Plan provides an excellent list of other policy recommendations, such as:

- Authorize SSLCs to reimburse employees for damages to their vehicles caused by residents, as resources allow. SSLC staff reported high rates of vehicle damage, which can create a difficult situation when they must continue to work with individuals who may have intentionally targeted their cars;
- Facilitate transfer of residents from one SSLC setting to another to access enhanced services;
- Authorize SSLCs to lease space on campus to child care providers;
- “With the availability of physical space, SSLCs could develop transitional housing units, such as independent living cottages or apartments. Transitional housing can be provided to those SSLC residents who have demonstrated their, or their LARs’, desire to live independently but may require some level of support and assistance before fully integrating into the community.”³²
- HHSC should create a staff development and retention specialist position within the SSLC system:
 - This position will “enhance staff competency, job satisfaction and workplace socialization to improve retention and succession planning; participate in hiring events and community activities as a SSLC ambassador; implement a robust onboarding process as a supplement to the standardized new employee orientation; develop professional working relationships with newly hired staff in order to foster their sense of belonging and connectedness; and evaluate the effectiveness of learning methods.”³³
- Redesign the staff training program;
- Create a more robust internship program and “Training Centers for Excellence” to help create a highly-qualified pool of employees

Amending Article 16.22

As written, Article 16.22 only applies to a person with a mental illness or intellectual disability. This leaves out many individuals who have significant disabilities. For example a person with an IQ at 70 would not fit within 16.22, meaning a magistrate would never get notified. Nor would an individual who has autism, if higher functioning. The law should be changed to include persons with developmental disabilities. As written, the law does

³²Texas Health and Human Services Commission. (2020). *Reimagining the Future: A Report on Maximizing Resources and Long-Range Planning for State Supported Living Centers*, p.14.
<https://hhs.texas.gov/sites/default/files/documents/about-hhs/communications-events/meetings-events/draft-long-range-planning-report-sslc.pdf>

³³ Ibid., p.20.

not require sheriffs or municipal jailers to notify the magistrate if a defendant is suspected to have a developmental disability.

Recommendation 6.14: Article 16.22 should be amended to read “intellectual and/or developmental disability”. The omission of developmental disability was likely a drafting error.

Medicaid Audiologist Reimbursement for Hearing Aid Fitting, Dispensing, and Evaluation

The reimbursement fee for audiologists enrolled in Medicaid includes all necessary follow-up appointments for clients for as long as they have hearing aids. Reports of difficulties with reimbursement for hearing aid reimbursement began in 2013. Audiologists also reported reduction in rates for other services, such as hearing aid fitting and evaluations. That same year the Texas Academy of Audiology (TAA) conducted a survey and found 73 percent of respondents accepting Medicaid were “unlikely or definitely not” going to remain Medicaid providers if reimbursement rates dropped below \$400.

In 2014, 37 percent of TAA survey respondents reported they had discontinued dispensing hearing aids through Medicaid and 20 percent reported having limited or considering limiting the number of Medicaid patients accepted per month. They also reported a 92 percent decrease in children and 91 percent decrease in infants served. By 2017, TAA reported an overall 80% decrease in the number of patients receiving services.

The pre-approval process for receiving hearing aids through Medicaid is quite lengthy, involving an audiologist, otolaryngologist (colloquially known as an ENT), primary care physician, and other staff resources. TAA reports many are ultimately denied even after receiving prior authorization. Limited or no access to hearing aids can have significant consequences, especially for children in crucial developmental periods. According to TAA the current reimbursement rates cover barely half of the actual cost to providers.³⁴ Note that these figures do not include the cost of having staff conduct pre-authorization.

Recommendation 6.14: The HHSC Rate Analysis Division should proactively engage with audiologists and other stakeholders to review the Medicaid rates for hearing aid fitting and related procedures to ensure the rate is sufficient:

- a. Evaluate the reimbursement process to implement timely payment and reimbursement to providers;
- b. Compare Medicaid rates to other state agency rates for hearing aid dispensing, fitting, maintenance, evaluation, etc. including Texas Workforce Commission Vocational Rehabilitation Services rates.

³⁴ Cost for three years of proper follow up and fitting for one child with hearing aids: \$3500. Medicaid reimbursement rates for same services: \$1750.

Recommendation 6.15: HHSC should evaluate the adequacy of its Medicaid provider network throughout the state to ensure sufficient geographical coverage and timeliness of audio logical services.

Inclusive Child Care

Parents of children with disabilities face significant barriers to obtaining and maintaining high quality, reliable, inclusive child care; resulting in parents dropping out of the workforce, family isolation, turning to unregulated care, and a missed opportunity to connect with other programs like Early Childhood Intervention (ECI) services. Currently child care providers only account for 2 percent of referrals to ECI, and many ECI providers across the state report challenges being able to serve children in their natural environment because they are denied opportunities to work with children who are in child care settings during the day.

Babies and toddlers are missing out on the safe, inclusive, early opportunities that they deserve, largely because child caregivers are not aware of the requirements under the Americans with Disabilities Act (ADA) or how to support children with disabilities in care. Child caregivers would benefit from training on working with children with disabilities and supporting early childhood mental health. There is a wealth of free training opportunities available in Texas.

Families often report that their children with a disability have been suspended or expelled from child care, however there is no reporting requirement for these discipline practices, making it difficult to articulate the true extent of the problem.

Finally, when utilizing the Search Texas Child Care online tool, parents are given options to filter their search by a number of items that the child care providers have elected as part of their programs. For instance, parents can filter their search to find child care that offers after school care, weekend care, by accreditation, if they serve meals, etc. One of those elections is "Children with Special Needs". This erroneously leads parents to believe that these are the only child care providers they can access.

Recommendation 6.17: Adopt Child Care Licensing (CCL) minimum standards pre-service and annual professional development requirements to include supporting children with developmental delays and disabilities; and supporting early childhood mental health.

Recommendation 6.18: Strengthen relationships between ECI and childcare providers to improve referrals to critical early interventions for babies and toddlers with disabilities.

Recommendation 6.19: Ensure child caregivers are aware of ECI services and know how to refer children for an ECI screening.

Recommendation 6.20: Require childcare providers to develop a discipline policy that is made available to all families.

Recommendation 6.21: Require revisions to the [Search Texas Child Care](#) website and the option for childcare providers to select if they take “children with special needs.” Per the ADA, all childcare centers must first assess if they can accommodate the child.

Recommendation 6.22: Update the existing annual training requirements per licensed childcare centers and licensed childcare homes, registered childcare homes to include as required training topics identification of potential developmental delays, referring children with special needs for services, and information on ECI services and preschool programs for children with disabilities.

Twelve Month Continuous Medicaid Eligibility for Children

Texas has the highest rate of uninsured children in the country, with more than 11 percent of Texas children going without coverage.³⁵ Roughly 350,000 children are uninsured but eligible for Medicaid or CHIP.³⁶ The state’s current system for reviewing children’s Medicaid eligibility serves to compound the problem; while children enrolled in CHIP are reviewed for eligibility every 12 months, children enrolled in Medicaid are subject to inaccurate, periodic income checks. HHSC’s own data indicates the vast majority of children who lose coverage due to an income check are disenrolled due to a so-called “procedural denial” rather than for actually being over income. Indeed, data from HHSC shows that 9 out of 10 children kicked off of Medicaid each month following income checks are actually losing coverage due to paperwork issues—this is an average of 4,100 Texas children per month who fall through the cracks because of an inaccurate system. 47,014 children in 2017 and 52,875 children in 2018 lost coverage due to these errors. It should be noted 52 percent of children who are kicked off of Medicaid as a result of these periodic income checks return to either Medicaid or CHIP coverage within a year, with 40 percent re-enrolled within six months. This strongly suggests many of these children were eligible for coverage all along.³⁷

Recommendation 6.24: Texas should provide twelve months continuous Medicaid coverage for children with disabilities by eliminating mid-year eligibility checks and instead rely on the accurate annual eligibility reviews.

³⁵ https://www.texmed.org/uninsured_in_texas/

³⁶ <https://txchildren.org/posts/2020/4/22/clean-up-txs-inaccurate-system-for-reviewing-kids-medicaid-eligibility-mid-year>

³⁷ Ibid.

Evidence-Based Treatment for Post-Traumatic Stress Disorder (PTSD)

Evidence-based PTSD treatments such as Cognitive Processing therapy (CPT) and prolonged exposure therapy (PE) are covered by Medicaid but that has not been well-publicized. Additionally, there are very few providers in the state trained in providing PTSD treatment. The [STRONG STAR Training Initiative](#) has provided training in PE and CPT to community providers with funding from HHSC TV+FA grants. This training program was well received and could be scaled to train across the state.

Texas is home to several populations who historically have high rates of PTSD—it ranks second in the nation for the number of human-trafficking victims; resettles more refugees than any other state; has a high population of unaccompanied child migrants; and has one of the largest populations of military service members and is the second most populated state of military veterans. These populations experience high rates of trauma, and in a state with an already critical shortage of mental health professionals, their ability to find appropriate treatment is low. Expanding the number of providers trained in evidence-based PTSD treatment, as well as making PTSD a “priority population” diagnosis, will help more people access crucial, life-saving treatment.³⁸ Explicitly listing PTSD as a priority population diagnosis will allow more individuals to access services at their local mental health authority (LMHA).

Recommendation 6.25: Texas and HHSC should explore the feasibility of making PTSD a “priority population” diagnosis in addition to the other mental health disabilities already recognized in order to increase access to treatment. Additionally, all licensed mental health professionals employed by the state should be given the option to receive free training and consultation that leads to certification in either PE or CBT.

Housing

Affordable, accessible housing allows people with disabilities to live independently in their community. The Governor’s Committee on People with Disabilities (GCPD) promotes the availability of accessible housing, whether these homes are a multi-family complex or single family dwellings that comply with the [Fair Housing Act \(FHA\)](#) and local visitability³⁹ ordinances. GCPD provides information on anti-discrimination laws, home modifications, financial assistance for housing and tax credits and exemptions.

³⁸ <https://www.dshs.state.tx.us/sunset/SectionVII-Mental-Health-Substance-Abuse.doc>

³⁹ “Visitability” is defined as a measure of a place's ease of access for people with disabilities.

The shortage in accessible housing for individuals with disabilities has reached a crisis point. The three biggest housing challenges for individuals with disabilities are:⁴⁰

- **Affordability:** In 2014, the national average rent for a one-bedroom rental unit was equal to 104 percent of the national average monthly income of a one-person SSI household.
- **Physical accessibility:** Residences may require accommodations which come at additional cost.
- **Discrimination:** The majority of U.S. Department of Housing and Urban Development (HUD) discrimination charges filed in 2015–2016 have been disability discrimination charges.

Policy Recommendations

Affordable and Accessible Housing Best Practices

Several Texas communities are leading the state in addressing accessible housing through the adoption of city ordinances for “visitable” single-family and duplex housing construction. The term “visitable” or “visitability” refers to single-family or owner-occupied housing designed in such a way that it can be lived in or visited by people who have trouble with steps, who use wheelchairs or walkers, or have a mobility impairment. A house is “visitable” when it meets three basic requirements:

- one no-step entrance
- doors with 32 inches of clear passage space
- one bathroom on the main floor you can get into in a wheelchair

Other “visitable” home features may include raised electrical outlets (24-inches) and lowered light switches and thermostats.

Local affordable housing programs depend largely on availability of Section 8 housing programs from the Housing and Urban Development and local building incentives to include affordability in a housing developer’s neighborhood plans.

Recommendation 7.1: Promote adoption of accessible, affordable and transit-oriented housing in Texas communities through the sharing of information on local visitability ordinances and best practices for the development of accessible single family homes and duplexes.

Recommendation 7.2: Promote greater understanding of fair housing laws through education and work with the Texas Workforce Commission’s Civil Rights Division related to housing discrimination complaints.

Recommendation 7.3: GCPD will study strategies and “solutions that work” from other states or local communities that have expanded

⁴⁰ O’Byrne, Mary & Dale, Stephanie W. (June 13, 2020) *Through Crisis: People with Disabilities Face Housing Crisis, Special Needs Alliance*. Accessed on November 16, 2020: <https://www.specialneedsalliance.org/blog/tough-choices-people-with-disabilities-face-housing-crisis/>

community-based housing options for people with disabilities and ensures long-term housing affordability.

Accessibility in Multi-Family Homes

The Fair Housing Act (FHA) provides Texans protection against discrimination in housing, rental or sale, based on mental or physical disability. The law:

- Requires multi-family home owners permit a person with a disability to make reasonable modifications necessary for use and enjoyment at the person with the disability's own expense; and
- Requires property owners make reasonable modifications to policies, rules, practices and services that allow a person with a disability equal opportunity to use and enjoy a dwelling.

Multi-family homes that receive funding from the Texas Department of Housing and Community Affairs (TDHCA) must have five percent of units be accessible for people with disabilities, in compliance with the 2010 ADA standards. Additionally, two percent of units of TDHCA funded complexes must be accessible to people who are visually and hearing impaired. TDHCA has a [web tool](#) on their website where individuals can search for accessible units by city, county or zip code. Even though both the FHA and TDHCA require multi-family complexes to meet accessibility standards, people with disabilities have difficulty finding units to meet their needs.

Recommendation 7.4: TDHCA should review the accessibility of the Vacancy Clearinghouse tool and remediate all defects that create barriers for people with disabilities, such as those that violate WCAG 2.1 Level A and AA.

Recommendation 7.5: TDHCA should create a public awareness campaign to ensure people with disabilities looking for accessible housing are able to find what they need, including individuals that assist the public in locating housing (e.g., apartment locator services, real estate agents, etc.).

Recommendation 7.6: TDHCA and the General Land Office should research and review how information about accessible multi-family rental housing managed by the GLO can be integrated into the TDHCA Vacancy Clearinghouse tool.

Recreation

Recreation has a positive impact on the physical, mental, and social health of all Texans. The Governor's Committee on People with Disabilities supports accessible recreational opportunities for people with disabilities and provides information on access to recreational facilities, including parks, sports arenas, and arts and entertainment venues.

A study conducted by the California State Parks shows how access to recreational activities help individuals with disabilities decrease the risk of chronic disease, improve mental health, alleviate depression and stress, improve quality of life and experience personal and spiritual growth. Additionally, participation in recreational activities promotes and builds positive attitudes and sensitivity toward people with disabilities.

Barriers still exist in accessing recreational activities for people with disabilities, including:

- lack of transportation to recreation location;
- limited or unavailable programs;
- limited or unavailable accessible recreational equipment;
- architectural accessibility issues;
- lack of assistive technology;
- ineffective communication methods; and
- insufficiently trained staff

Policy Recommendations

Inclusive Playgrounds

Outdoor play in playgrounds not only provides fun and games to a child, but it “promotes social, intellectual, and oral skills by allowing the child to interact with their peers and environment.”⁴¹ Approximately 12.2 percent of the 8.4 million noninstitutionalized children under the age of 20 have been diagnosed with a disability in Texas.⁴² It is likely that every county in the state is home to a child with a disability. To ensure equitable access to recreational play for all children within their community, local leaders in Harlingen developed partnerships to fund three all-inclusive playgrounds – the first of their kind in the Rio Grande Valley.⁴³ Nationally, New Jersey introduced [Assembly Bill No. 3612](#), known as Jake’s Law, to have every county to build at least one ‘inclusive’ playground that is accessible to children with disabilities.

Recommendation 8.1: The Governor’s Committee on People with Disabilities shall promote through education and outreach existing grant funding for the installation of “inclusive” playground equipment, whether by means of new construction or through retrofit of an existing playground, so that it is ADA accessible and usable by children with disabilities.

⁴¹ Duerr Evaluation Resources (2002). *Research Paper: The Benefits of Playgrounds for Children Aged 0-5*. Accessed on January 31, 2017: <http://www.imaginationplayground.com/images/content/2/9/2999/The-Benefits-of-Playgrounds-for-Children-Aged-0-5.pdf>

⁴² Yang-Tan Institute on Employment and Disability at the Cornell University ILR School (2018). *2017 Disability Status Report Texas*. Accessed on November 16 2020: https://www.disabilitystatistics.org/StatusReports/2017-PDF/2017-StatusReport_US.pdf

⁴³ Del Valle, Fernando (January 11, 2017). *Playgrounds will have equipment for special needs children*. Accessed from The Brownsville Herald website on January 31, 2017: http://www.brownsvilleherald.com/premium/article_c69dac62-d87b-11e6-bd02-27b1ecc48fbc.html

Transportation

Reliable, accessible transportation is necessary to actively participate in everyday life. The Governor's Committee on People with Disabilities (GCPD) works on a variety of transportation issues, from accessible parking and paratransit services, to business or recreational travel. Transportation provides a vital lifeline for people with disabilities to access employment, education, healthcare, and community life. Access to transportation services allow individuals with disabilities to live independently within their communities.⁴⁴ A shortage of accessible parking, limited options for accessible transportation services based on location, disability or age continue to create barriers for people with disabilities.

Policy Recommendations

Accessible Parking

During the [84th Legislative Session, House Bill 1317](#) charged GCPD to gather information and prepare a report on accessible parking issues in the state. After an extensive review of state and federal accessible parking laws and input from the public, GCPD prepared recommendations that are practical solutions to accessible parking challenges in Texas. The full report and discussion on each recommendation can be found [on GCPD's webpage](#). Policy recommendations were extracted from the accessible parking report and are provided below:

Recommendation 9.1: Strengthen enforcement of accessible parking laws as follows:

- a. Strengthen language in Texas Transportation Code, Title 7. Vehicles and Traffic, Subtitle H. Parking, Towing, and Storage of Vehicles - Chapter 681, Privileged Parking, Section 681.010 – Enforcement so that it is unequivocal in its mandate for all individuals with enforcement responsibilities to enforce accessible parking laws (i.e., change “may” to “shall” or “must”).
- b. Bolster language in enforcement responsibilities as they apply to accessible parking on private property or areas of public accommodation.
- c. Reconsider judicial discretion to discourage frequent dismissal of accessible parking citations.

Recommendation 9.2: Control accessible parking placard fraud and abuse through tighter laws and administrative remedies, such as:

- a. coordinating the Department of Motor Vehicles, county tax assessor collectors, and the Department of State Health Services cross-checking of current disability placard holder lists against the state registry for death records and cancelling any placard for an individual identified as

⁴⁴ The Arc (2016). *Transportation Issues for People with Disabilities*. Accessed on January 19, 2016: <http://www.thearc.org/what-we-do/public-policy/policy-issues/transportation>

deceased and explore tracking of parking placards by the Department of Motor Vehicles with a unique identifier (Texas driver license or state identification number);

- b. requiring the surrender of handicapped parking tags and placards at the time of the estate tax deadline by the individual inheriting the vehicle; and
- c. enforcing accessible parking placard fraud and abuse by establishing a task force for placard abuse enforcement or designating a state agency to assign resources to enforce current laws.

Recommendation 9.3: Develop statewide public awareness on accessible parking and its impact on Texans with disabilities through public awareness campaigns.

Recommendation 9.4: Change the language in the Transportation Code from “Handicapped Parking” to “Accessible Parking” to align with the spirit of Texas Government Code, Chapter 392, Person First Respectful Language Initiative.

Recommendation 9.5: Amend [Transportation Code § 681.011 Offenses; Presumption](#) to permit alternative sentencing which includes:

- a. required education classes on disability awareness and accessible parking with a reduced fine upon completion of said education; and
- b. community service/restitution requirements at a nonprofit organization that serves persons with disabilities or disabling diseases or any other community restitution that may sensitize the violator to the needs and obstacles faced by persons with disabilities.

Recommendation 9.6: Redefine the van accessible requirements in the Texas Accessibility Standards (TAS) for medical facilities to increase the number of van accessible spaces at these locations.

Recommendation 9.7: Consider expanded statutory authority in Human Resources Code, Title 7, Chapter 115.009 to grant additional authority to the GCPD to:

- a. provide education, training and assistance to law enforcement agencies on accessible parking enforcement; and
- b. work with other state agencies to provide public education and awareness on accessible parking issues and compliance with accessible parking laws.

Recommendation 9.8: Implement periodic audits by the Texas State Auditor’s Office of the disabled parking placard program to determine if statutory changes by the Legislature or changes in administration by the Texas Department of Motor Vehicles may be needed that will allow for better detection and deterrence of the misuse of disabled placards and plates. Such audits will provide an impartial assessment of the effectiveness of program processes and procedures in place as well as an analysis of program revenues derived from parking meter and/or parking lot revenues (either lost or collected) that can impact the budgets of those jurisdictions sampled

during the audit (please refer to recent audit reports from Massachusetts, California, Seattle, and San Francisco).

Accessible Parking Placards

Organizations that provide accessible transportation for individuals with disabilities to live independently and thrive in their community of choice do not have access to accessible parking placards. The Texas Transportation Code provides for accessible parking placards to:

- Individuals with a disability (Driver License or Identification Card number required);
- Individuals who are applying on behalf of an individual with a disability and who regularly assist individuals with a disability (Driver License or Identification Card number of assisting driver required); or
- The administrator or manager of an institution licensed to transport individuals with a disability defined under Section 681.0032 of the Transportation Code (which is a license for residential facilities).

The current law only allows for a van or bus operated by residential institutions, facilities, and residential retirement communities licensed under the Health and Safety Code where individuals with a disability or seniors live to obtain an accessible parking placard. Current law does not allow Centers for Independent Living or other nonprofits who regularly provide accessible transportation for individuals with a disability to obtain an accessible parking placard so that they may work, thrive, and play in the community independently. It is a third degree felony for non-residential institutions or persons not authorized to use an accessible parking placard.

Recommendation 9.9: Amend Section 681.0032 of the Texas Transportation Code to include Texas Centers for Independent Living, day habilitation and senior activity centers or other organizations that provide independent living services.

Transportation Network Companies and Wheelchair Accessible Vehicles

On-demand ride hailing services, such as those provided by Transportation Network Companies (TNCs), including businesses like Uber, Lyft, etc., help reduce transportation barriers that often limit access to jobs, health care, and community services for many people. However, these benefits have not extended to people with disabilities who use fixed-frame wheelchairs, as wheelchair-accessible vehicles (WAVs) are not readily available.

Individuals with disabilities who use fixed-frame wheelchairs are usually denied equitable access to TNCs' services because the availability of WAVs is not guaranteed. In many transportation markets a TNC company will redirect their customers with disabilities to a third-party alternative provider to whom they have no business relationship and who may or may not

provide accessible services to individuals in fixed-frame wheelchairs. In these same markets, the third-party providers are often competitors like taxi cabs with a declining business or who are no longer in business due to competition from TNCs.

Prior to 2017, multiple cities across the state had local ordinances to address TNC service accessibility for customers with disabilities. In 2017, House Bill 100 (85th Texas Legislature, Regular Session) was passed, mandating that TNCs develop two-year pilot programs offering accessible services in one of their top four largest market share cities in the state. Additionally, HB 100 removed all local and municipal regulations and elevated regulatory authority to the state under the authority of TDLR without implementing any accessibility rules. After this, TNCs expanded rapidly throughout Texas without any accessibility standards for serving riders who use fixed-frame wheelchairs.

Anecdotal reports from customers with disabilities who use fixed frame wheelchairs reveal increased complaints of discrimination regarding requesting a ride from transportation network companies. These complaints relate to greater wait times, no-shows, and higher trip costs. These same passengers express concerns about an overall reduction in available WAVs from all types of transportation service providers, largely because taxicab companies have had their fleets decreased in response to unequal and direct competition from TNCs. While taxicab companies in many local markets are still required to provide WAV services based on city ordinances, TNCs have no such requirements, resulting in unequal competition because of different regulatory requirements for these similar transportation providers. As a result, people with disabilities who use fixed-frame wheelchairs are not able to equitably access ride-hailing transportation services and are seeing a tremendous statewide decline in all private demand-response accessible transportation services. It is paramount that this issue be addressed because this issue will only get worse with the conclusion of TNC WAV pilot programs previously required under House Bill 100 (85R).

Recommendation 9.10: Transportation Network Companies (TNCs) and the Texas Legislature should further study how public and private driver incentives can lower the cost of owning and operating a WAV to provide expanded access to passengers who use fixed-frame wheelchairs.

Veterans

According to data provided by the Bureau of Labor Statistics, Texas is home to over 1.74 million veterans. About 20 percent of veterans have a service-

connected disability.^{45,46} GCPD works on all aspects of veteran services, including housing, medical care, benefits determination, employment, and health. The 82nd Legislature created the Texas Coordinating Council for Veterans Services to improve the coordination of services for veterans, service members and their families.

Texas offers a variety of benefits to veterans with disabilities, including property tax exemptions, state retirement benefits, the veterans home improvement loan program, employment preference and specialty license plates to name a few. Eligibility for benefits may depend on residency, military component and veteran disability status. Continued attention to the needs of veterans and coordination of services, illustrates the support, recognition and appreciation of veterans with disabilities.

Policy Recommendation

Monitoring, Sharing, Publishing Veterans-Related Information

The National Center for Veterans Analysis and Statistics indicates in its 2017 Compensation and Pension by County report that nearly 444,000 veterans in Texas receive a disability pension or compensation from the U.S. Department of Veterans Affairs (VA). According to the Texas Veterans Commission needs assessment of the Fund for Veterans Assistance,⁴⁷ conducted in response to the Legislative Budget Board's Government Effectiveness and Efficiency Report recommendation and [Senate Bill 1879 \(84R\)](#), resulted in identifying unmet needs of veterans including:⁴⁸

- assistance with rent, mortgage and utilities,
- transportation,
- living expenses other than housing or food and legal services,
- mental health and addiction needs and
- information and referral services.

For families of veterans, unmet needs included assistance with rent, mortgage and utilities and other living expenses.

Recommendation 10.1: The Governor's Committee on People with Disabilities will monitor legislation that affects veterans with disabilities, publish information on any changes to such laws, policies or state programs, and share relevant information with stakeholders.

⁴⁵ U.S. Department of Labor, Bureau of Labor Statistics (2019). *Employment Situation of Veterans – 2019*. Accessed November 10, 2020: <https://www.bls.gov/news.release/pdf/vet.pdf>

⁴⁶ *Ibid.*

⁴⁷ Texas Veterans Commission (2017). *Texas Needs Assessment*. Accessed from the TVC website on February 13, 2017: <http://www.tvc.texas.gov/Statewide-Needs-Assessment.aspx>

⁴⁸ Texas State University: The Center for Social Inquiry (April 2016). *Identifying the Unmet Needs of Texas Veterans and Their Families: A Statewide Needs Assessment (Executive Summary)*. Accessed on February 13, 2017: http://www.tvc.texas.gov/Documents/Needs_Assessment_Insert_Final.pdf