

Bylaws of the South Dakota Statewide Independent Living Council

INTRODUCTION

The philosophy of Independent Living is consumer control, peer support, self-help, self-determination, equal access, and individual and system advocacy, in order to maximize the leadership, empowerment, independence, and productivity of individuals with disabilities, and the integration and full inclusion of individuals with disabilities into the mainstream of American society.

ESTABLISHMENT

The 1986 Amendments to the Rehabilitation Act of 1973, and amendments in 1992, established the Statewide Independent Living Council (hereafter referred to as the SILC). In order for any State to receive Independent Living funds, each State shall establish a SILC. The SILC may not be established as an entity within a State agency, including the designated State agency.

State legal authority for establishment and administration of the SILC rests in Executive Order 93-6.

AUTHORITIES

The SILC may, consistent with the State plan, unless prohibited by State law –

- In order to improve services provided to individuals with disabilities, work with centers for independent living to coordinate services with public and private entities;
- Conduct resource development activities to support the activities described in this subsection or to support the provision of independent living services by centers for independent living; and
- Perform such other functions, consistent with the purpose of this part and comparable to other functions described in this subsection, as the SILC determines to be appropriate.

LIMITATION

The SILC shall not provide independent living services directly to individuals with significant disabilities or manage such services.

ARTICLE I – COUNCIL MEMBERSHIP

SECTION 1.1: COMPOSITION AND APPOINTMENT

A. APPOINTMENT

Members of the SILC must be appointed by the Governor or the appropriate entity within the State. The Governor shall select members after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities.

B. COMPOSITION

The SILC shall include:

Among its voting members, at least one director of a Center chosen by the directors of centers for independent living within the State; Among its voting members, for a State in which one or more centers for independent living are run by, or in conjunction with, the governing bodies of American Indian tribes located on Federal or State reservations, at least one representative of the directors of such centers; and

As ex-officio, non-voting members, a representative from the Designated State Entity (DSE) and representatives from other State agencies that provide services to individuals with disabilities.

The SILC may include:

- Other representatives from centers for independent living;
- Individuals with disabilities;
- Parents and guardians of individuals with disabilities;
- Advocates of and for individuals with disabilities;
- Representatives from private businesses;
- Representatives from organizations that provide services for individuals with disabilities; and
- Other appropriate individuals.

The SILC shall be composed of members:

- Who provide statewide representation
- Who represent a broad range of individuals with disabilities with diverse backgrounds;
- Who are knowledgeable about centers for independent living and independent living services; and
- A majority of whom are persons who are:
 - Individuals with disabilities described in section 7(20)(B); and
 - Not employed by any State agency or center for independent living.

A majority of the voting members of the SILC shall be:

- Individuals with disabilities; and
- Individuals not employed by any State agency or center for independent living.

SECTION 1.2: TERMS OF APPOINTMENT

Length of Term

Each member of the SILC shall serve for a term of 3 years, except that:

- A member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and
- The terms of service of the members initially appointed shall be (as specified by the appointing authority described earlier for such fewer number of years as will provide for the expiration of terms on a staggered basis).

Number of Terms

No member of the SILC may serve more than two consecutive full three-year terms.

Removal/Vacancies

A member may be removed by the Governor at any time. Any vacancy occurring in the membership of the SILC shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the SILC.

SECTION 1.3: MEMBER RESPONSIBILITIES

It shall be the responsibility of members to:

- Attend and participate in meetings of the Council;
- Review all materials available in order to make informed decisions;
- View their membership as representative of their constituents;
- Serve on at least one committee;
- Be responsible for knowing current SILC policies and positions regarding issues of concern to people who wish to live independently in South Dakota and for knowing the independent living philosophy;
- Advise staff about the implementation of SILC objectives and activities and, as appropriate and feasible, participate.

ARTICLE II – DUTIES AND HEARINGS

SECTION 2.1: DUTIES

The SILC shall:

- Develop the State Plan as provided in current federal law/regulation;

- Monitor, review, and evaluate the implementation of the State Plan;
- Meet regularly, and ensure that such meetings of the SILC are open to the public and sufficient advance notice of such meetings is provided;
- Submit to the Administrator of the Administration for Community Living such periodic reports as the Administrator may reasonably request, and keep such records, and afford such access to such records, as the Administrator finds necessary to verify the information in such reports; and
- As appropriate, coordinate activities with other entities in the State that provide services similar to or complementary to independent living services, such as entities that facilitate the provision of or provide long-term community-based services and supports.

SECTION 2.2: HEARINGS

The SILC is authorized to hold any hearings and forums that the SILC determines to be necessary to carry out its duties.

SECTION 2.3: RESOURCE PLAN

- The SILC shall prepare, in conjunction with the DSE, a plan for the provision of resources, including staff and personnel, as may be necessary and sufficient to carry out the functions of the SILC under this section, with funds made available under this chapter, and under section 110 (consistent with section 101(a)(18)), and from other public and private sources. The resource plan shall, to the maximum extent possible, rely on the use of resources in existence during the period of implementation of the plan.
- No conditions or requirements may be included in the SILC resource plan that may compromise the independence of the SILC.
- The SILC is responsible for the proper expenditure of funds and use of resources that it receives under the resource plan.
- A description of the SILC resource plan must be included in the State Plan.
- The SILC shall, consistent with State law, supervise and evaluate its staff and other personnel as may be necessary to carry out its functions under this section.
- While assisting the SILC in carrying out its duties, staff and other personnel made available to the SILC by the DSE may not be assigned duties by the Designated State Entity or DSE, or any other agency or office of the State that would create a conflict of interest.

SECTION 2.4: CONFLICT OF INTEREST

The SILC Chair and/or the DSE shall not permit a person to vote in any matter, if:

- the decision is likely to benefit that person or a member of his/her immediate family; and
- Prior to any discussion or vote on an issue in which a SILC member has a vested relationship or interest, the SILC member, who has a conflict of interest, shall declare it and shall abstain from voting on the issue. If an issue comes before the SILC in which the member has a personal vested interest or a vested relationship with an agency or person that will benefit from a decision related to that issue, it shall be the duty of the member to declare a conflict of interest prior to the discussion of the issue. The member shall be exempt from the right to vote on the issue. The member then will be free to participate in the discussion of the issue within the time limits established by the Chair for all SILC members. If a member disagrees with any decision made by the majority of the SILC and wishes to act contrary to that decision, it shall be the duty of the member to inform others that the action is in opposition to the SILC's wishes and on behalf of the individual member only.

The SILC Chair and/or the DSE shall not permit any person to use his/her position for a purpose that is – or gives the appearance of being – motivated by a desire for a private financial gain for that person or for others.

While assisting the SILC in carrying out its duties, staff and other personnel shall not be assigned duties by the designated State entity, or any other agency or office of the State, that would create a conflict of interest.

SECTION 2.5: COMPENSATION AND EXPENSES

Members of the SILC shall be reimbursed for all actual and necessary expenses incurred in the performance of their duties on the SILC. SILC members shall be reimbursed for travel expenses as set forth in Title 5 of the Administrative Rules of South Dakota and within the limits set by the annual appropriation approval by the Legislature. Reimbursement of expenses such as attendant services, interpreter services and driver services necessary to allow participation by an individual with a disability shall be provided after prior notification to the designated state entity.

ARTICLE III – MEETINGS

SECTION 3.1: NOTICE OF MEETING

Written notice to all members stating the place, day and hour of all regular and special meetings of the full SILC and any documents requiring a SILC decision shall be mailed to each SILC member (in their requested format) no less than ten days prior to the date of the

meeting. In the case of a recess to another day, all SILC members shall be notified of the place, day and hour of the reconvened meeting.

SECTION 3.2: MINUTES OF MEETING

Minutes shall be recorded for all regular and special meetings of the full SILC and the Executive Committee. Distribution shall be made to the full SILC membership (in their requested format) no less than ten days prior to the date of the next meeting.

SECTION 3.3: SPECIAL MEETINGS

Special meetings of the SILC may be called any time upon request of the Chair or upon a written request to the Chair by any three members of the SILC.

SECTION 3.4: QUORUM

Those voting members present at any regular, special or committee meeting, for which notice has been provided, shall constitute a quorum.

SECTION 3.5: DECISION MAKING

After thorough consideration, all decisions of the SILC must be approved by a simple majority vote of the SILC members present unless otherwise provided in these By-laws. Non-voting members can make or second a motion. Two non-voting members cannot both make and second any given motion.

SECTION 3.6: PROCEDURES

The most recent edition of "Robert's Rules of Order" shall govern the conduct of business in all cases in which they are applicable and not inconsistent with these By-laws.

SECTION 3.7: PUBLIC COMMENT

Time will be designated by the Chair at each regular meeting of the SILC for public comment. Public comment may be extended or terminated by a majority vote of the SILC.

ARTICLE IV – OFFICERS AND ELECTIONS

SECTION 4.1: SELECTION

The officers of the SILC shall consist of a Chair, Vice-Chair and two (2) Member(s)-at-Large elected by the SILC from among its members. Election of officers shall be by a simple majority of the SILC members present. At least one officer must be a past or current recipient of independent living (IL) services.

SECTION 4.2: TERMS OF OFFICE

Nominations and elections of SILC officers shall be held annually during the first quarter of the calendar year (January, February or March) regular meeting of the SILC. Officers may serve more than one term.

SECTION 4.3: CHAIR – Sec. 705(b) (5)

The SILC Chair shall preside at all meetings of the SILC, have voting privileges, if a voting member, and shall be an ex-officio member of all SILC standing committees and task forces. In addition, he/she shall:

- With the approval of the SILC, appoint the Chairs of the SILC standing committees and task forces from among the SILC’s voting members;
- With the approval of the SILC, appoint the members of the SILC’s committees and task forces;
- Arrange orientation for new SILC members and encourage their most meaningful involvement in SILC activities; and
- Seek effective communication with all SILC members including solicitation of agenda items.

SECTION 4.4: VICE-CHAIR

The Vice-Chair shall aid the Chair in the performance of his/her duties and, in the absence of the Chair, shall preside at meetings of the SILC. If the Chair is unable to serve, the Vice-Chair shall assume the Chair’s duties, but shall not succeed to the position unless elected by the SILC.

SECTION 4.5: MEMBER(S)-AT-LARGE

The Member(s)-at-Large shall aid the Chair and Vice-Chair in the performance of his/her duties. In the absence of the Chair and Vice-Chair, one of the Members-at-Large shall assume the Chair’s duties.

ARTICLE V – COMMITTEES AND TASK FORCES

SECTION 5.1: COMMITTEES AND TASK FORCES

The SILC shall create all standing committees. As the need arises, the SILC may establish special structures called task forces for the purpose of taking action on specific issues on behalf of the SILC. The task forces are limited to acting on issues for which they are created and within the time frame established for the assignment.

SECTION 5.2: COMMITTEE AND TASK FORCE CHAIRS

The SILC Chair shall appoint the committee and task force Chairs with the approval of the SILC. Committee Chairs shall serve a one year term. Task Force Chairs may serve for the life of the task force.

SECTION 5.3: COMMITTEE AND TASK FORCE MEMBERSHIP

After consultation with the appropriate committee or task force Chair, the SILC Chair shall, with the approval of the SILC, appoint the members of each committee and task force. Each voting member of the SILC shall have one vote in appropriate committee or task force deliberations. Terms on the committees shall be for one year. A majority of task force members shall be members of the SILC. The members of a task force shall serve for the life of the task force.

SECTION 5.4: EXECUTIVE COMMITTEE

The Executive Committee shall consist of the Chair, Vice-Chair and two (2) Member(s)-at-Large. The Executive Committee shall be authorized to act on behalf of the SILC. Actions by the Executive Committee must be ratified by the SILC at the next meeting. The Executive Committee develops the agenda for all SILC meetings. The Executive Committee shall not have authority to make changes in (1) the By-laws, or (2) membership of the SILC. Representatives of the DSE and SILC Staff are non-voting members of the Executive Committee.

ARTICLE VI – AMENDMENTS

SECTION 6.1: PROCEDURES

Suggested amendments to these By-laws must be presented in writing in a regular or special SILC meeting. Action on such suggested amendments shall not occur until the next regular or special meeting at which a quorum shall be required in order for ratification of the suggested amendment(s) to occur. Ratification shall require the affirmative vote of at least two-thirds of the SILC members present.

ARTICLE VII – DESIGNATED STATE ENTITY

The Designated State Entity of such State shall retain not more than 5 percent of the funds received by the State for any fiscal year for the performance of services [including receiving, accounting for, and disbursing funds, providing administrative support services and keeping records].

ARTICLE VIII – SILC STAFF

Technical assistance and staff support shall be provided to the SILC by the designated state entity through an agreement with an outside entity.