

# Nevada Assistive Technology Council [Draft Proposed] Bylaws

## Section 1 – Name

- 1.1 The name of this public body shall be the Nevada Assistive Technology Council (hereinafter “the AT Council”).

## Section 2 – Authority

- 2.1 The AT Council was created in response to the Assistive Technology Act of 2004 (Public Law 108-364 of the 108<sup>th</sup> Congress on October 25, 2004, 118 Stat. 1707).

## Section 3 – Purpose and Function; Creation

- 3.1 The duties and powers of the AT Council stem from 29 USC § 3003(c)(2)(A), which is entitled “Advisory Council” and provides, “There shall be established an advisory council to provide consumer-responsive, consumer-driven advice to the State for, planning of, implementation of, and evaluation of the activities carried out through the grant, including setting the measurable goals described in subsection (d)(3).”

- 3.1.1 20 USC § 3003(d)(3) details that measurable goals are to relate to:

- (i) education, including goals involving the provision of assistive technology to individuals with disabilities who receive services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);
- (ii) employment, including goals involving the State vocational rehabilitation program carried out under Title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.);
- (iii) telecommunication and information technology; and
- (iv) community living.

- 3.2 The purpose of these Bylaws is not to duplicate the federal or state Assistive Technology grant related provisions, but to address topics not directly covered elsewhere that are within the authority of the AT Council (and within the confines of Nevada Open Meeting Law, NRS 241) to address via bylaws. The AT Council has no authority to direct the determinations associated with the appointing authority as to membership. A copy of these Bylaws shall be available to the public on the AT Council’s website and shared directly with AT Council members upon their appointment.

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## **Section 4 – Membership**

- 4.1** The members of the AT Council are appointed by the Director of the Department of Health and Human Services. Prior to appointment, the AT Council may provide membership recommendations to the Director's Office for consideration so long as those recommendations are consistent with the membership makeup described in section 4.1.1.

### **4.1.1** Members include:

- (I) individuals with disabilities that use assistive technology or the family members or guardians of the individuals;
- (II) a representative of the designated state agency, as defined in section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 705);
- (III) a representative of the designated State agency for individuals who are blind or that provides assistance or services to adults who are blind (within the meaning of section 101 of that Act (29 U.S.C. 721)), if such agency is separate from the agency described in subclause (II);
- (IV) a representative of a State center for independent living described in part C of title VII of the Rehabilitation Act of 1973 (29 U.S.C. 796f et seq.), or the Statewide Independent Living Counsel established under section 705 of such Act (29 U.S.C. 796d);
- (V) a representative of the State workforce development board established under section 101 of the Workforce Innovation and Opportunity Act (20 U.S.C. 3111);
- (VI) a representative of the State educational agency, as defined in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801);
- (VII) a representative of an alternative financing program for assisted technology if –
  - (aa) there is an alternative financing program for assistive technology in the State,
  - (bb) such program is separate from the State assistive technology program supported under subsection (e)(2), and
  - (cc) the program described in item (aa) is operated by a non-profit entity.

(VIII) a representative of 1 or more of –

(aa) the agency responsible for administering the State Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.),

(bb) the designated State agency for purposes of section 124 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15024),

(cc) the State agency designated under section 305(a)(1) of the Older Americans Act of 1965 (42 U.S.C. 3025(a)(1)) or an organization that receives assistance under such Act (42 U.S.C. 3001 et seq.),

(dd) an organization representing disabled veterans,

(ee) a University Center for Excellence in Developmental Disabilities Education, Research, and Service designated under section 151(a) of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15061(a)),

(ff) the State protection and advocacy system established in accordance with section 143 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15043),

(gg) the State Council on Developmental Disabilities established under section 125 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15025),

(IX) representatives of other State agencies, public agencies, or private organizations, as determined by the State.

#### **4.1.2 Majority –**

(I) In general – not less than 51 percent of the members of the advisory council shall be members appointed under clause 4.1.1(I), a majority of whom shall be individuals with disabilities.

(II) Representative of Agencies – members appointed under subclauses 4.1.1(II) through (IX) shall not count toward the majority membership requirement.

#### **4.1.3 Term Limits**

(I) Each member of the AT Council shall serve two, 3-year terms unless that member was appointed to fill a vacancy that occurred prior to expiration of the term for which the predecessor was appointed, in which case, that member shall be appointed for the remainder of such term.

(II) No member of the AT Council may serve more than two (2) consecutive full terms.

(III) A vacancy occurring in the AT Council 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 AT Council. If an AT Council member misses three (3) council and/or standing committee meetings within a calendar year, the AT Council may remove that member by an affirmative vote of the majority of the members present at a meeting of the Council. The Council member will be given an opportunity to be present and to be heard at the meeting at which his or her removal is considered.

#### **4.2 Representation**

**4.2.1 Voting Members:** All members appointed through the Nevada Department of Health and Human Services are voting members.

**4.2.2 Non-Voting Members:** There is no provision for non-voting members.

#### **4.3 Terms and Termination of Service – Attendance, Qualification Change**

**4.3.1** AT Council members serving at the pleasure of the appointing authority and according to any terms contained in individual appointments.

**4.3.1.1** Any AT Council member may notify the Chair and support staff of a change of circumstance for themselves, or other members related to continued eligibility to serve as an AT Council member. Upon receipt of such notification, the Chair or support staff may communicate the details of the same to the appointing authority for determination as to further action.

**4.3.2** The AT Council shall notice the appointing authority of a given member of a failure to attend three successive meetings within 5 days after the third successive meeting that member fails to attend.

**4.3.2.1** Failure to Attend: an absence which is not excused by the Chair or person acting as Chair on the record of the meeting for which the excused absence is to apply.

**4.3.3** Members shall communicate in writing to the appointing authority of any resignation (by choice or change in circumstance/qualification) and copy or otherwise share such correspondence to AT Council Chair and AT Council Staff.

**4.3.3.1** Qualification: members must continue to retain qualifying status as an appointed member, including such requirements as status as a Nevada Resident.

#### **4.4 Officers of the Board**

**4.4.1** The officers of the Board consist of the Chair and Vice Chair.

**4.4.2** The term of office of the Chair and Vice Chair is two, 1-year terms.

**4.4.3** The officers of the Council shall be elected by a majority of the members and must be selected from among the members.

**4.4.4** There are no limits on successive years of service by a Chair or Vice Chair except such limits related to their underlying membership and election by properly noticed majority vote to their officer positions.

**4.4.5** Duties of the Chair – The Chair shall preside over meetings of the AT Council and engage with AT Council Staff related to timely determination of meeting agendas consistent with any prior votes of the AT Council related to contents of agendas, requests by the appointing authority and its related agencies, and the scope of the AT Council.

**4.4.6** Duties of the Vice Chair – The Vice-Chair’s duties are as the backup Chair.

**4.5** Attendance Requirements – A simple majority of members of the AT Council represents a quorum and as there are no designees permitted by law to attend in lieu of a named member, attendance is an important component of service on the AT Council.

### **Section 5 – Voting**

**5.1** Each member of the AT Council shall have one vote.

**5.2** A quorum shall consist of attendance by a majority of the appointed membership.

**5.3** Members present may abstain from a vote by placing that abstention on the record at the start of the discussion of an agenda item requiring a vote of the membership. *See also* Section 11 below regarding conflicts of interest.

### **Section 6 – Compensation**

- 6.1** Members of the Advisory Council shall be uncompensated for their service in accordance with 29 USC § 3003(c)(2)(C) but may seek reimbursement “for reasonable and necessary expenses actually incurred in the performance of official duties for the advisory council.”

### **Section 7 – AT Council Staffing; Representation by Counsel**

- 7.1** The appointing authority and/or the designated grant applicant agency may provide staff to support the obligations of their role and communications to Board members related to such matters may originate from such designated staff or be directed to such designated staff.
- 7.2** The Office of the Attorney General’s designated counsel unit (counsel for the Department of Health and Human Services) for the AT Council provides counsel to the appointing authority and the relevant state agencies and provides Open Meeting Law related counsel to the AT Council upon request.

### **Section 8 – Meetings**

- 8.1** The AT Council shall meet at times, places, and modalities as necessary to conduct business of the AT Council.
- 8.2** A quorum shall consist of attendance of a majority of members appointed to the AT Council.
- 8.3** Agenda items may be submitted verbally at prior meetings by members of the AT Council or no later than five business days before a given meeting by members as applicable.
- 8.4** Meetings shall be conducted and noticed in accordance with NRS Chapter 241, collectively known as Nevada’s Open Meeting Law. Meetings shall follow parliamentary procedure as contained in Robert’s Rules of Order insofar as they do not conflict with the Nevada Revised Statutes.

### **Section 9 –Subcommittees**

- 9.1** The Chair may appoint a subcommittee or workgroup of the AT Council to study specific issues and report back with recommendations to the AT Council to the extent designated support staff are able to furnish modalities for such activities. A majority vote of the AT Council is necessary to approve the composition and object of a given subcommittee. Subcommittees are subject to Nevada’s Open Meeting Law.
- 9.1.1** A subcommittee created by the AT Council shall end upon a pre-determined end date upon its creation or upon completion of its charge if the charge is not updated or modified by the AT Council by majority

vote of members present at a meeting where quorum has been established.

- 9.3.1** Subcommittees may utilize the AT Council's designated support staff (Section 7) for scheduling, agendas, and minutes but should not require staff to fulfill substantive obligations of the subcommittee's charge from the AT Council, such as drafting reports or conducting research.

## **Section 10 – Amendments**

- 10.1** Proposed amendments to the bylaws shall be submitted in writing to the Chair and AT Council support staff fourteen days prior to any meeting so that they may be included on the agenda for consideration.

- 10.1.1** Proposed amendments when submitted in writing shall be complete at the time of submission for posting and timely review by members of the ITAB.

- 10.2** The bylaws may be amended by a two-thirds majority vote from voting members in attendance at a given meeting where quorum has been established provided that the amendment has been submitted timely in writing and appropriately noticed on the agenda.

## **Section 11 – Conflicts of Interest; Ethical Obligations**

- 11.1** Members shall be responsible for full disclosure of current or past affiliations which may cause a conflict of interest, or the appearance of impropriety related to their actions on a given subject related to the duties of the AT Council. This includes declaration by a given member prior to discussion of any matter that would provide a direct financial benefit for that member or otherwise have the appearance of a conflict of interest. This may also include disclosure to the Chair and support staff of any current or past affiliations which the member believes could represent a future conflict given the activities of the AT Council.

- 11.2.1** A statement shall be made on the record indicating the abstention of the member from majoring motions or casting a vote before participating in related discussion. As with all activities of AT Council members, NRS Chapter 281A applies. Specifically, Members should make themselves aware of 281A.420 related to requirements as to conflicts of interest.

- 11.2.2** The AT Council's support staff shall maintain a list of generally disclosed current or past affiliations such that members may be screened from appointment to subcommittees or other AT Council functions/activities which would represent a conflict of interest, or the appearance of impropriety related to that member's involvement.

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- 11.2** Members are responsible for their awareness of, and compliance with, such ethical restrictions and considerations as those included in NRS 281A. Counsel at the Office of the Attorney General and AT Council staff cannot advise members and members are therefore encouraged to seek their own counsel as to individual concerns.

Approved 9.4.25