



Disability  
Rights  
Oregon



March 31, 2020

The Honorable Kate Brown  
Governor of Oregon  
900 Court St NE  
Salem, OR 97301

**Re: Addressing the needs of people with disabilities in this public health crisis**

Dear Governor Brown,

Thank you and the many state agency leaders for efforts that you have collectively undertaken to provide leadership and mobilize state resources to confront the COVID-19 pandemic.

Disability Rights Oregon (DRO), the ACLU of Oregon, FACT Oregon, Oregon Self Advocacy Coalition, Oregon Council on Developmental Disabilities, and others have been diligently working with key stakeholders and governmental agencies including the Oregon Department of Developmental Services, Oregon Department of Corrections, Adults and Persons with Disabilities, Oregon Health Authority, Oregon Department of Education, the Oregon State Sheriff Association, local courts, and many local jails. *See* enclosures. We are also working closely with organizations that represent the interests of historically marginalized and oppressed communities so that we collectively can ensure clarity to our constituents to mitigate the confusion and the harm this pandemic may have on the most vulnerable in our communities.

In full recognition of your exemplary work under enormous pressure, we urge you to take additional actions that are needed to protect the welfare and self-determination of Oregonians with disabilities as the crisis evolves. We know that this public health emergency can pose an enormous challenge to the 950,000 Oregonians with disabilities who live in every corner of our state. People with disabilities are among those at the greatest risk during this crisis because of several factors including: being more likely to have underlying health conditions, being economically disadvantaged, being dependent on others for care, or simply because people with disabilities are disproportionately placed in institutions, incarcerated, or homeless. **Now is a critical time to fight so that Oregonians have equal access to the supports they need to be healthy, safe, and independent.**

Below you will find a list of responsive actions that we respectfully request for you to consider. The list includes both disability-specific measures and others that are more universal but ultimately impact people living with disabilities. Ultimately, as your emergency orders have clearly recognized, Oregon must ensure that all our citizens have access to a safe living situation, medical care, and other resources to weather this crisis together.

### **INCLUSIVE CRISIS RESPONSE**

- 1. Include people with disabilities in response.** Like natural disasters, public health emergencies can be even worse for people with disabilities. Yet, their voices are often left out of the planning, response, and key decision-making. People with disabilities are the most effective advocates for issues that affect our lives. We need a seat at the table. Direct local government bodies and department heads to include people with disabilities and disability experts at all levels of government planning and response to address the needs of individuals with disabilities in the planning process.

### **PREVENTING DISCRIMINATION IN TESTING AND TREATMENT**

- 2. Direct health care providers to comply with disability nondiscrimination law.** Make clear that healthcare workers must not make discriminatory or biased decisions based on disability or age when determining who receives care and who does not. Discrimination on the basis of disability in health care is prohibited under federal civil rights law and cannot be waived during a crisis.
- 3. Increase capacity, transparency, and equal access to state-wide testing and treatment capability** by Oregon's public and private labs including ensuring Oregonians are provided clear and direct information about this first step in the public health response process. People living in institutions and correctional facilities should also be given access to testing as needed.

### **ENSURING ACCESSIBILITY**

- 4. Access to Information.** Many individuals with disabilities – including those who reside in institutions or correctional facilities and those who are houseless - require assistance with communications and special consideration in pandemic preparedness planning. Provide accessible forms of communication to individuals—such as ASL interpreters, telephone or text messaging, accessible webpages (large, high-contrast fonts, and file formats that can be read by screen readers), and language is accessible to diverse audiences—for real-time updates of the State's emergency guidelines and response.

### **EXPAND HOME AND COMMUNITY BASED SERVICES IN AGING AND PEOPLE WITH DISABILITIES SERVICES AND OFFICE OF DEVELOPMENTAL DISABILITY SERVICES**

- 5. Increase the workforce to support people experiencing disabilities (Personal Support Worker (PSW) and Direct Support Professional (DSP) Workforce for people experiencing IDD and Home Care Worker (HCW) workforce for people using Aging and People with Disabilities Services).** Thousands of Oregonians rely on PSWs, DSPs and

HCWs to live in their communities. We request that you direct APD and ODDS to:

- a. Ensure that people using PSW, DSP or HCW supports have assistance when their care providers are sick or must self-quarantine; and,
- b. Provide funding to community organizations such as developmental disability service providers to close the known existing gaps which have only exacerbated due to the COVID-19 pandemic in order to expand support services given the fluid nature of individual support needs during this crisis.

**6. Access to Safe Health Care.** Direct the Director of the Oregon Health Authority to:

- a. Halt all terminations and redeterminations of Oregon Health Plan eligibility because continued and expanded access to medical care is critical;
- b. Use your emergency powers to use emergency or appropriated funds to expand community health funding and services immediately;
- c. Ensure continuity and availability of services for children and adults who receive in-home nursing and other services and supports through HCBS waivers and the Community First Choice Plan (K Plan) by availing telehealth, devices, and other technologies to ensure treatment plans and behavior supports continue during this pandemic;
- d. Halt the removal of ventilators from children who use the Children's Intensive In-Home Support (CIIS) program;
- e. Expand community restoration programs and other community mental health supports for those patients who are diverted or are discharged from the state hospital;
- f. Ensure community mental health programs, Personal Support Workers, Direct Support Professionals, and Home Care Workers receive protective personal equipment and supplies. They provide essential services, including 24/7 crisis interventions, mobile crisis services, abuse investigations, and helping clients who are facing emergent health care needs; and,
- g. For prescriptions, relax "refill-too-soon" rules, provide maximum extended day supplies, and ensure home or mail delivery from government providers.

**7. Oregon Department of Developmental Services (ODDS)**

- a. Increase flexibly of available services and support including maintaining a sufficient pool of DSPs and PSWs in order for families whose needs will fluctuate during this crisis to easily obtain attendant care services, telehealth services, and necessary equipment and technology;
- b. Expand bed holds payments policy to sixty (60) days to ensure flexibility so that individuals can meet their needs including those who have been hospitalized for any reason or those who have had an extended stay with family during this crisis but want to return to their residential placement; and,

- c. Ensure that Stabilization and Crisis Units (SACUs) and other facilities and service providers maintain appropriate screening and precautions for COVID-19, including personal protective equipment, universal access to sanitizer for residents, and increased, private, comfortable spaces to conduct free video and telephonic visiting for all facilities that have suspended family visits.
  - d. Clarify and maintain operational protocols for remote access or other creative approaches to maintaining services and supports identified in a person's Individual Support Plan (ISP).
- 8. Oregon State Hospitals.** Direct the Superintendent to:
- a. Increase and identify free video and telephonic visiting for all facilities that have suspended family visits;
  - b. Release or conditionally release any and all state hospital patients who are over age 60 or are at elevated risk, from state hospitals.; and,
  - c. Inform all high risk OSH patients about the process for requesting conditional release.
- 9. Oregon Vocational Rehabilitation Services.** Direct the Director of Oregon Vocational Rehabilitation Services to coordinate with the federal Rehabilitation Services Administration (RSA) to adopt a protocol for remote intakes as soon as possible, instead of suspending intakes indefinitely.

### HOUSING

- 10. End ticketing and towing.** Call on local government to end all ticketing, arrests and vehicle impoundments of people living in vehicles for vehicle habitation and related parking violations;
- 11. Tenants' Rights.** Provide guidance to landlords about tenants' rights to remain in their dwelling units after testing positive for COVID-19 or being in contact with someone who has tested positive as well as prohibit landlords from requiring tenants to notify their landlord if they or anyone in their household has tested positive for COVID-19 or been in contact with someone who has, but that tenants may voluntarily choose to notify landlords. The guidance should also underscore that landlords' have an obligation to keep all individually identifying health information confidential and that tenants should not be stigmatized or discriminated against because they have tested positive for COVID-19 or are suspected of having COVID-19; and,
- 12. Prohibit encampment sweeps.** Consistent with the CDC guidelines, prohibit cities and counties from clearing encampments during this emergency and encourage increased access to individual housing units. People sleeping outside should be encouraged to sleep in 12 feet x 12 feet and should be provided with access to hygiene, including restrooms and hand-washing stations.

### EDUCATION

13. **Accessible online learning.** Direct the Oregon Department of Education (ODE) to support all schools and colleges to make every reasonable effort to ensure that students have equal access to online learning or other virtual supports and that those services are accessible to students with disabilities, including using captions, CART, and screen reader accessibility; and,
14. **Maintain Free and Appropriate Education and Providing Compensatory Education.** Direct ODE to both ensure that districts that are offering credit earning curriculum make every attempt to provide appropriate accommodations and modifications to students receiving special education and to issue guidance about the need to provide compensatory education for students with disabilities who did not receive FAPE for any period of time the district engaged in remote learning.

### CRIMINAL JUSTICE SYSTEM

15. **Screening, Safety, and Visitation.** ODOC and county jails should continue collaborating to ensure all correctional facilities are implementing sound screening and preventative measures for COVID-19 infection and outbreak, including universal free regular access to soap and sanitizer for detainees, quarantine protocols, and significantly increased and free video and telephonic visiting for all facilities that have suspended family visits;
16. **Release.** Direct all corrections institutions to work with criminal legal system stakeholders to release or parole prisoners and detainees who are over age 60 or have disabilities and others at elevated risk from jail, prison, and juvenile facilities, including by informing them in their primary language of the means to request parole or release. Institutions should make every effort to decrease populations and crowding, including by reducing intakes and refusing to house detainees for Immigrations and Customs Enforcement; and,
17. **Transparency.** Provide regularly updated detail to the public and those living in prison regarding what additional steps ODOC is taking to respond to the COVID-19 pandemic including but not limited to what information is shared with people who are incarcerated regarding how to prevent the spread of the virus and what protocols are being followed including consideration of PPE for incarcerated workers who are washing health care facility laundry labeled as or at risk of containing COVID-19.

We have closely monitored state actions; but, an emergent de-centralized approach to information sharing has made it challenging for us to find up-to-date information about all actions that are being taken to-date. We have attempted to stay abreast of the state's efforts thus far, but because events are fast moving, you may have already taken some of these

actions. If this is the case, we thank you for this critical work.

Thank you again for your continuing leadership, and for considering the additional actions outlined above. The undersigned stand ready to support as you implement these measures.

Sincerely

/S/

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Enclosures: Letters to the Oregon Department of Corrections, Adults and Persons with Disabilities, Oregon Health Authority, Oregon Department of Education, the Oregon State Sheriff Association, Oregon Judicial Department, and Governor Brown