LANTERMAN DEVELOPMENTAL DISABILITIES SERVICES ACT AND RELATED LAWS

January 2009

State of California
Department of Developmental Services

FOREWORD

This compilation, prepared by the Legislative Counsel, is the latest amended form of the Lanterman Developmental Disabilities Services Act and related laws (Divisions 4.1, 4.5, and 4.7 of the Welfare and Institutions Code and Title 14 of the Government Code).

This edition shows all sections as they are in effect on and after January 1, 2009.

History notes in parentheses following headings or sections reflect only the latest legislative action preceding this publication. The statutory record may be consulted to determine prior history in any particular instance.

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The Lanterman Act and related laws are now available in a digital format on the DDS Internet Home Page: ***http://www.dds.ca.gov***

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DIVISION 4.1. DEVELOPMENTAL SERVICES

(Division 4.1 added by Stats. 1977, Ch. 1252.)

PART 1. GENERAL ADMINISTRATION, POWERS AND DUTIES OF THE DEPARTMENT

(Part 1 added by Stats. 1977, Ch. 1252.)

4400. There is in the Health and Welfare Agency a State Department of Developmental Services.

(Added by Stats. 1977, Ch. 1252.)

4401. As used in this division:

(a) ''Department'' means the State Department of Developmental Services.

(b) ''Director'' means the Director of Developmental Services.

(c) ''State hospital'' means any hospital specified in Section 4440.

(Added by Stats. 1977, Ch. 1252.)

4404. The department is under the control of an executive officer known as the Director of Developmental Services.

(Added by Stats. 1977, Ch. 1252.)

4405. With the consent of the Senate, the Governor shall appoint to serve at his pleasure, the Director of Developmental Services. He shall have the powers of a head of a department pursuant to Chapter 2 (commencing with Section 11150) of Part 1 of Division 3 of Title 2 of the Government Code, and shall receive the salary provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code.

Upon recommendation of the director, the Governor may appoint a chief deputy director of the department who shall hold office at the pleasure of the Governor. The salary of the chief deputy director shall be fixed in accordance with law.

(Amended by Stats. 1978, Ch. 432.)

4406. The State Department of Developmental Services succeeds to and is vested with the duties, purposes, responsibilities, and jurisdiction exercised by the State Department of Health with respect to developmental disabilities on the date immediately prior to the date this section becomes operative.

(Added by Stats. 1977, Ch. 1252.)

4407. The State Department of Developmental Services shall have possession and control of all records, papers, offices, equipment, supplies, moneys, funds, appropriations, land, and other property real or personal held for the benefit or use of the Director of Health in the performance of his duties, powers, purposes, responsibilities, and jurisdiction that are vested in the State Department of Developmental Services by Section 4406.

(Added by Stats. 1977, Ch. 1252.)

4408. All officers and employees of the Director of Health who on the operative date of this section are serving in the state civil service, other than as temporary employees, and engaged in the performance of a function vested in the State Department of Developmental Services by Section 4406 shall be transferred to the State Department of Developmental Services. The status, positions, and rights of such persons shall not be affected by the transfer and shall be retained by them as officers and employees of the State Department of Developmental Services pursuant to the State Civil Service Act, except as to positions exempt from civil service.

(Added by Stats. 1977, Ch. 1252.)

4409. All regulations heretofore adopted by the State Department of Health pursuant to authority now vested in the State Department of Developmental Services by Section 4406 and in effect immediately preceding the operative date of this section shall remain in effect and shall be fully enforceable unless and until readopted, amended or repealed by the Director of Developmental Services.

(Amended by Stats. 1978, Ch. 429.)

4410. With the approval of the Department of General Services and for use in the furtherance of the work of the State Department of Developmental Services, the director may accept any or all of the following:

(a) Grants of interest in real property.

(b) Grants of money received by this state from the United States, the expenditure of which is administered through or under the direction of any department of this state.

(c) Gifts of money from public agencies or from persons, organizations, or associations interested in scientific, educational, charitable, or mental hygiene fields.

(Added by Stats. 1977, Ch. 1252.)

4411. The department may expend in accordance with law all money now or hereafter made available for its use, or for the administration of any statute administered by the department.

(Added by Stats. 1977, Ch. 1252.)

4412. The department may expend money in accordance with law for the actual and necessary travel expenses of officers and employees of the department who are authorized to absent themselves from the State of California on official business.

For the purposes of this section and of Sections 11030 and 11032 of the Government Code, the following constitutes, among other purposes, official business for said officers and employees for which such officers and employees shall be allowed actual and necessary traveling expenses when incurred either in or out of this state upon approval of the Governor and Director of Finance:

Attending meetings of any national association or organization having as its principal purpose the study of matters relating to administration of institutions, and care and treatment of developmentally disabled patients; conferring with officers or employees of the United States or other states, relative to problems of institutional care, treatment or management; and obtaining information therefrom, which information would be useful in the conduct of institutional, psychiatric, medical, and similar activities of the State Department of Developmental Services.

(Added by Stats. 1977, Ch. 1252.)

4413. The department may appoint and fix the compensation of such employees as it deems necessary, subject to the laws governing civil service.

(Added by Stats. 1977, Ch. 1252.)

4414. When convening any task force or advisory group, the department shall make its best effort to ensure representation by consumers and family members representing California's multicultural diversity.

(Added by Stats. 1997, Ch. 414, Sec. 1. Effective September 22, 1997.)

4415. Except as in this chapter otherwise prescribed, the provisions of the Government Code relating to state officers and departments shall apply to the State Department of Developmental Services.

(Added by Stats. 1977, Ch. 1252.)

4416. Unless otherwise indicated in this code, the State Department of Developmental Services has jurisdiction over the execution of the laws relating to the care, custody, and treatment of developmentally disabled persons, as provided in this code.

As used in this division, ''establishment'' and ''institutions'' include every hospital, sanitarium, boarding home, or other place receiving or caring for developmentally disabled persons.

(Added by Stats. 1977, Ch. 1252.)

4416.5. The State Department of Developmental Services may contract with one or more qualified organizations to provide the services required by Section 1919 of the Social Security Act (P.L. 100-203) to persons eligible for those services who are not otherwise within the scope of Division 4.1 (commencing with Section 4400), Division 4.5 (commencing with Section 4500), Division 6 (commencing with Section 6000), or Chapter 3 (commencing with Section 7500) of Division 7. Contracts entered into pursuant to this section may be awarded on either a competitive bidding basis or on a noncompetitive bidding basis.

(Added by Stats. 1989, Ch. 973, Sec. 2. Effective September 29, 1989.)

4417. The State Department of Developmental Services may:

(a) Disseminate educational information relating to the prevention, diagnosis and treatment of mental retardation.

(b) Upon request, advise all public officers, organizations and agencies interested in the developmental disabilities of the people of the state.

(c) Conduct such educational and related work as will tend to encourage the development of proper developmental disabilities facilities throughout the state.

The department may organize, establish and maintain community mental hygiene clinics for the prevention, early diagnosis and treatment of mental retardation. Such clinics may be maintained only for persons not requiring institutional care, who voluntarily seek the aid of such clinics. Such clinics may be maintained at the locations in the communities of the state designated by the director, or at any institution under the jurisdiction of the department designated by the director.

The department may establish such rules and regulations as are necessary to carry out the provisions of this section. This section does not authorize any form of compulsory medical or physical examination, treatment, or control of any person.

(Added by Stats. 1977, Ch. 1252.)

4418. The State Department of Developmental Services may obtain psychiatric, medical and other necessary aftercare services for judicially committed patients on leave of absence from state hospitals by contracting with any city, county, local health district, or other public officer or agency, or with any private person or agency to furnish such services to patients in or near the home community of the patient. Any city, county, local health district, or other public officer or agency authorized by law to provide mental health and aftercare services is authorized to enter such contracts.

(Added by Stats. 1977, Ch. 1252.)

4418.1. (a) The Legislature recognizes that it has a special obligation to ensure the well-being of persons with developmental disabilities who are moved from state hospitals to the community.

(b) To ensure that persons with developmental disabilities who are moved from state hospitals to the community are receiving necessary services and supports, the department shall contract with an independent agency or organization for the tracking and monitoring of those persons, including all persons moved as a result of the Coffelt v. State Department of Developmental Services settlement agreement and any persons moved after the terms of that agreement have been met.

(c) The contractor shall be experienced in all of the following:

(1) Designing valid tracking instruments.

(2) Tracking the quality of community programs, including outcome-based measures such as health and safety, quality of life, integration, choice, and consumer satisfaction.

(3) Tracking the quality and appropriateness of community placements for persons moving from large institutions into community settings.

(4) Developing data systems.

(5) Data analysis and report preparation.

(d) The contractor shall measure consumer and family satisfaction with services provided, including case management and quality of life, including, but not limited to, health and safety, independence, productivity, integration, opportunities for choice, and delivery of needed services.

(e) The information maintained for each person shall include the person's name, address, nature of disability, medical condition, scope of community-based services and supports, and the annual data collected by the contractor.

(f) The contractor shall meet with each person, and the person's family, legal guardian, or conservator, when appropriate, no less than once a year to discuss quality of life and observe the person's services and supports. In cases where the consumer is not capable of communicating his or her responses and where there is no family member, guardian, or conservator involved, the contractor shall meet with no less than two persons familiar with the consumer. Additionally, the contractor shall interview staff and friends who know the consumer best and review records, as appropriate.

(g) If the contractor identifies any suspected violation of the legal, civil, or service rights of an individual, or if the contractor determines that the health and welfare of the individual is at risk, that information shall be provided immediately to the regional center providing case management services, the client rights advocate, and to the department.

(h) The department shall monitor the corrective actions taken by the regional center and maintain a report in the person's file. The consumer and, when appropriate, his or

her parents, legal guardian, or conservator, shall be provided with access to the person's file and be provided with copies of all reports filed with the regional center or department relative to them.

(i) The department shall establish a task force, including representatives from stakeholder organizations, to annually review the findings of the contractor and make recommendations regarding additional or differing criteria for information to be gathered by the contractor in future interviews.

(j) As of July 1, 1998, and annually thereafter, the contractor shall provide a report to the Governor, the Legislature, and the department outlining the activities and findings of this process. The reports shall be public and shall contain no personally identifying information about the persons being monitored.

(Added by Stats. 1997, Ch. 294, Sec. 32. Effective August 18, 1997.)

4418.2. The department shall support, utilizing regional resource development projects, the activities specified in Sections 4418.25, 4418.3, and 4418.7.

(Added by Stats. 2002, Ch. 1161, Sec. 27. Effective September 30, 2002.)

4418.25. (a) The department shall establish policies and procedures for the development of an annual community placement plan by regional centers. The community placement plan shall be based upon an individual program plan process as referred to in subdivision (a) of Section 4418.3 and shall be linked to the development of the annual state budget. The department's policies shall address statewide priorities, plan requirements, and the statutory roles of regional centers, developmental centers, and regional resource development projects in the process of assessing consumers for community living and in the development of community resources.

(b) The community placement plan shall provide for dedicated funding for comprehensive assessments of selected developmental center residents, for identified costs of moving selected individuals from developmental centers to the community, and for deflection of selected individuals from developmental center admission. The plans shall, where appropriate, include budget requests for regional center operations, assessments, resource development, and ongoing placement costs. These budget requests are intended to provide supplemental funding to regional centers. The plan is not intended to limit the department's or regional centers' responsibility to otherwise conduct assessments and individualized program planning, and to provide needed services and supports in the least restrictive, most integrated setting in accord with the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500)).

(c) The department shall review, negotiate, and approve regional center community placement plans for feasibility and reasonableness, including recognition of each regional centers' current developmental center population and their corresponding placement level, as well as each regional centers' need to develop new and innovative service models. The department shall hold regional centers accountable for the development and implementation of their approved plans. The regional centers shall report, as required by the department, on the outcomes of their plans. The department shall make aggregate performance data for each regional center available, upon request, as well as data on admissions to, and placements from, each developmental center.

(d) Funds allocated by the department to a regional center for a community placement plan developed under this section shall be controlled through the regional center contract to ensure that the funds are expended for the purposes allocated. Funds allocated for community placement plans that are not used for that purpose may be transferred to Item 4300-003-0001 for expenditure in the state developmental centers if their population exceeds the budgeted level. Any unspent funds shall revert to the General Fund.

(Added by Stats. 2002, Ch. 1161, Sec. 28. Effective September 30, 2002.)

4418.3. (a) It is the intent of the Legislature to ensure that the transition process from a developmental center to a community living arrangement is based upon the individual's needs, developed through the individual program plan process, and ensures that needed services and supports will be in place at the time the individual moves. It is further the intent of the Legislature that regional centers, developmental centers, and regional resource development projects coordinate with each other for the benefit of their activities in assessment, in the development of individual program plans, and in planning, transition, and deflection, and for the benefit of consumers.

(b) As individuals are identified for possible movement to the community, an individual planning meeting shall be initiated by the developmental center, which shall notify the planning team, pursuant to subdivision (j) of Section 4512, and the regional resource development project of the meeting. The regional resource development project shall make services available to the developmental center and the regional center, including, but not limited to, consultations with the planning teams and the identification of services and supports necessary for the consumer to succeed in community living.

(c) The development of the individual program plan shall be consistent with Sections 4646 and 4646.5. For the purpose of this section, the planning team shall include developmental center staff knowledgeable about the service and support needs of the consumer.

(d) Regional resource development project services may include providing information in an understandable form to consumers and, where appropriate, their families, conservators, legal guardians, or authorized representatives, that will assist them in making decisions about community living and services and supports. This information may include affording the consumer the opportunity to visit a variety of community living arrangements that could meet his or her needs. If the visits are not feasible, as determined by the planning team, a family member or other representative of the consumer may conduct the visits. Regional resource development projects may be requested to facilitate these visits. The availability of this service shall be made known by the planning team to consumers and, where appropriate, their families, conservators, legal guardians, or authorized representative.

(e) Once the individual program plan is completed and providers of services and supports are identified and agreed to, pursuant to subdivision (b) of Section 4646.5, and no less than 15 days prior to the move, unless otherwise ordered by a court, a transition conference, which may be facilitated by a regional resource development project, shall be held. Participants in the transition conference shall include, but not be limited to, the consumer, where appropriate the consumer's parents, legal guardian, conservator, or authorized representative, a regional center representative, a developmental center representative, and a representative of each provider of primary services and supports

identified in the individual program plan. This meeting may take place in the catchment area to which the consumer is moving. If necessary, conferees may participate by telephone or video conference. The purpose of this conference shall be to ensure a smooth transition from the developmental center to the community.

(f) The department, through the appropriate regional resource development project, shall provide, in cooperation with regional centers and developmental centers, followup services to help ensure a smooth transition to the community. Followup services shall include, but shall not limited to, all of the following:

(1) Regularly scheduled as well as on an as-needed basis, contacts and visits with consumers and service providers during the 12 months following the consumers movement date.

(2) Participation in the development of an individual program plan in accordance with Sections 4646 and 4646.5.

(3) Identification of issues that need resolution.

(4) Arrangement for the provision of developmental center services, including, but not limited to, medication review, crisis services, and behavioral consultation.

(g) To ascertain that the individual program plan is being implemented, that planned services are being provided, and that the consumer and, where appropriate the consumer's parents, legal guardian, or conservator, are satisfied with the community living arrangement, the regional center shall schedule face-to-face reviews no less than once every 30 days for the first 90 days. Following the first 90 days, and following notification to the department, the regional center may conduct these reviews less often as specified in the individual program plan.

(h) The regional center and the regional resource development project shall coordinate their followup reviews required pursuant to subdivisions (f) and (g) and shall share with each other information obtained during the course of the followup visits.

(Amended by Stats. 2002, Ch. 1161, Sec. 29. Effective September 30, 2002.)

4418.5. The department may provide protective social services for the care of developmentally disabled patients released from state hospitals of the department or to prevent the unnecessary admission of developmentally disabled persons to hospitals at public expense or to facilitate the release of developmentally disabled patients for whom such hospital care is no longer the appropriate treatment; provided that such services may be rendered only if provision for such services is made in the California Developmental Disabilities State Plan.

The department, to the extent funds are appropriated and available, shall pay for the cost of providing for care in a private home for developmentally disabled persons described in, and subject to the request and plan conditions of, the immediately preceding paragraph. The monthly rate for such private home care shall be set by the department at an amount which will provide the best possible care at minimum cost and also insure:

(1) That the person will receive proper treatment and may be expected to show progress in achieving the maximum adjustment toward returning to community life; and

(2) That sufficient homes can be recruited to achieve the stated objectives of this section.

It is the legislative intent that the department may make the fullest possible use of available resources in serving developmentally disabled persons.

The department may provide services pursuant to this section directly or through contract with public or private entities.

Notwithstanding any other provision of law, any contract or grant entered into with a public or private nonprofit corporation for the provision of services to developmentally disabled persons may provide for periodic advance payments for services to be performed under such contract. No advanced payment made pursuant to this section shall exceed 25 percent of the total annual contract amount.

The department may provide protective social services, including the cost of care in a private home pursuant to this section or in a suitable facility as specified in Section 7354, for judicially committed developmentally disabled patients released from a state hospital on leave of absence or parole, and payments therefor shall be made from funds available to the department for that purpose or for the support of patients in state hospitals.

(Amended by Stats. 1979, Ch. 1142.)

4418.6. The department may establish within its family care program respite care services for the developmentally disabled. Such respite care services may be available to both family home caretakers and to persons referred by the regional centers for the developmentally disabled. For purposes of this section, respite care means temporary and intermittent care provided for short periods of time.

The rate of reimbursement for such respite care service shall be established by the department after it conducts a study to determine if there are increased costs inherent in the provision of an intermittent and irregular service.

(Added by renumbering Section 10053.9 by Stats. 1978, Ch. 429.)

4418.7. (a) If the regional center determines, or is informed by the consumer's parents, legal guardian, conservator, or authorized representative that the community placement of a consumer is at risk of failing, and that admittance to a state developmental center is a likelihood, the regional center shall immediately notify the appropriate regional resource development project, the consumer, and the consumer's parents, legal guardian, or conservator.

(b) In these cases, the regional resource development project shall immediately arrange for an assessment of the situation, including, visiting the consumer, if appropriate, determining barriers to successful integration, and recommending the most appropriate means necessary to assist the consumer to remain in the community. If, based on the assessment, the regional resource development project determines that additional or different services and supports are necessary, the department shall ensure that the regional center provides those services and supports on an emergency basis. An individual program plan meeting, including the regional resource development project's representative, shall be convened as soon as possible to review the emergency services and supports and determine the consumer's ongoing needs for services and supports. The regional resource development project shall follow up with the regional center as to the success of the recommended interventions until the consumer's living arrangement is stable.

(c) If the regional resource development project, in consultation with the regional center, the consumer, and the consumer's parents, legal guardian, or conservator, when appropriate, determines that admittance to a state developmental center is necessary to

prevent a substantial risk to the individual's health and safety, the regional resource development project shall immediately facilitate that admission.

(d) The department shall collect data on the outcomes of efforts to assist at-risk consumers to remain in the community. The department shall make aggregate data on the implementation of the requirements of this section available, upon request.

(Amended by Stats. 2002, Ch. 1161, Sec. 30. Effective September 30, 2002.)

4419. Within the limits of available funds it is the intent of the Legislature that the department shall require all personnel working directly with patients to complete, within a reasonable time after the effective date of this section or after their appointments, whichever is later, or have completed, training with regard to the care and treatment of such patients.

(Added by Stats. 1977, Ch. 1252.)

4420. In order to assure an adequate number of qualified psychiatric technicians, psychiatrists, physicians and surgeons, psychologists, nurses, social workers, laboratory and other technicians, and ancillary workers, the department shall negotiate with any or all of the following: the University of California, the state colleges, the community colleges, private universities and colleges, and public and private hospitals, and arrange such affiliations or make such contracts for educational or training programs and awards training grants or stipends as may be necessary. Arrangements may be made in the hospitals and clinics operated by the department for the clinical experience essential to such educational and training programs, and positions in the department as interns and residents may be established.

(Amended by Stats. 1979, Ch. 373.)

4421. In order to assure an adequate number of qualified psychiatrists and psychologists with forensic skills, the State Department of Developmental Services shall plan with the University of California, private universities, and the California Postsecondary Education Commission, for the development of programs for the training of psychiatrists and psychologists with forensic skills.

(Added by Stats. 1977, Ch. 1252.)

4422. The department may examine all public and private hospitals, boarding homes or other establishments whether or not licensed by the department, receiving or caring for developmentally disabled persons and may inquire into their methods of government, and the treatment of all patients thereof.

It may examine the condition of all buildings, grounds, or other property connected with such institutions, and may inquire into all matters relating to their management. For the purposes specified in this paragraph the department shall have free access to the grounds, buildings, and books and papers of any such institution, and every person connected therewith shall give such information and afford such facilities for examination or inquiry as the department requires.

Any evidence found of suspected licensing violations shall be reported immediately to the State Department of Health Services or the State Department of Social Services, whichever has jurisdiction.

(Amended by Stats. 1978, Ch. 432.)

4423. In every place in which a developmentally disabled person may be involuntarily held, the persons confined therein shall be permitted access to and examination or inspection of copies of this code.

(Added by Stats. 1977, Ch. 1252.)

4424. The department shall adopt, for all hospitals, rules and regulations, books of record for all departments, blank forms for clinical records and other purposes, questions for examination of employees, and questions for examination, in all the different branches of medicine and surgery and especially in the subject of diseases affecting the brain and nervous system, of all officers and interns, for the special use of the hospital.

(Added by Stats. 1977, Ch. 1252.)

4425. The department shall keep in its office a record showing the following facts concerning each patient in custody in the several institutions:

(a) Name, residence, sex, age, place of birth, occupation, and civil condition.

(b) The date of commitment, and the respective names and residences of

(1) The person who made the petition for commitment,

(2) The persons who signed the medical certificate, and

(3) The judge who made the order of commitment.

(c) The name of the institution in which he is confined, the date of his admission thereto, and whether he was brought from his home or from another institution. If he was brought from another institution, the record shall show also the name of that institution, by whom he was brought therefrom and his condition.

(d) If discharged, the date of discharge, to whose care he was committed, and whether recovered, improved, unimproved, or not in need of commitment.

(e) If transferred, for what cause the transfer was made, and to what institution.

(f) If dead, the date and cause of death.

(Added by Stats. 1977, Ch. 1252.)

4426. The department may inquire into the manner in which any mentally retarded person subject to commitment, not confined in a state hospital, is cared for and maintained. If, in its judgment, any such person is not properly and suitably cared for, it may apply to a judge of the superior court for an order to commit him to a state hospital under the provisions of this code. Such order shall not be made unless the judge finds, and certifies in the order, that such person is not properly or suitably cared for by his relatives or guardian or conservator, or that it is dangerous to the public to allow him to be cared for and maintained by such relatives or guardian or conservator.

(Amended by Stats. 1979, Ch. 730.)

4427. When the department has reason to believe that any person held in custody as developmentally disabled is wrongfully deprived of his liberty, or is cruelly or negligently treated, or that inadequate provision is made for the skillful medical care, proper supervision, and safekeeping of any such person, it may ascertain the facts. It may issue compulsory process for the attendance of witnesses and the production of papers, and may exercise the powers conferred upon a referee in a superior court. It may make such orders for the care and treatment of such person as it deems proper.

Whenever the department undertakes an investigation into the general management and administration of any establishment or place of detention for the developmentally

disabled, it may give notice of such investigation to the Attorney General, who shall appear personally or by deputy, to examine witnesses in attendance and to assist the department in the exercise of the powers conferred upon it in this code.

The department may at any time cause the patients of any county or city almshouse to be visited and examined, in order to ascertain if developmentally disabled persons are kept therein.

(Added by Stats. 1977, Ch. 1252.)

4427.5. (a) A developmental center shall immediately report all resident deaths and serious injuries of unknown origin to the appropriate law enforcement agency that may, at its discretion, conduct an independent investigation.

(b) The department shall do both of the following:

(1) Annually provide written information to every developmental center employee regarding all of the following:

(A) The statutory and departmental requirements for mandatory reporting of suspected or known abuse.

(B) The rights and protections afforded to individuals' reporting of suspected or known abuse.

(C) The penalties for failure to report suspected or known abuse.

(D) The telephone numbers for reporting suspected or known abuse to designated investigators of the department and to local law enforcement agencies.

(2) On or before August 1, 2001, in consultation with employee organizations, advocates, consumers, and family members, develop a poster that encourages staff, residents, and visitors to report suspected or known abuse and provides information on how to make these reports.

(Added by Stats. 2001, Ch. 171, Sec. 21. Effective August 10, 2001.)

4428. When complaint is made to the department regarding the officers or management of any hospital or institution for the developmentally disabled, or regarding the management of any person detained therein or regarding any person held in custody, the department may, before making an examination regarding such complaint, require it to be made in writing and sworn to before an officer authorized to administer oaths. On receipt of such a complaint, sworn to if so required, the department shall direct that a copy of the complaint be served on the authorities of the hospital or institution or the person against whom complaint is made, together with notice of the time and place of the investigation, as the department directs.

(Added by Stats. 1977, Ch. 1252.)

4429. The department shall biennially report to the Legislature its acts and proceedings for the two years ending the June 30th last preceding, with such facts regarding the management of the institution for the developmentally disabled as it deems necessary for the information of the Legislature, including estimates of the amounts required for the use of such hospitals and the reasons therefor, and including annual reports for each state hospital.

(Added by Stats. 1977, Ch. 1252.)

4430. The department shall report to the Legislature the prospective needs for the care, custody, and treatment of developmentally disabled persons, together with its recommendations therefor. For the purpose of preventing overcrowding, it shall

recommend such plans for the development of additional medical facilities as, in its judgment, will best meet the requirements of such persons.

(Added by Stats. 1977, Ch. 1252.)

4431. Charges made by the department for the care and treatment of each patient in a facility maintained by the department shall not exceed the actual cost thereof as determined by the director in accordance with standard accounting practices. The director is not prohibited from including the amount of expenditures for capital outlay or the interest thereon, or both, in his determination of actual cost.

As used in this section, the terms ''care'' and ''care and treatment'' include care, treatment, support, maintenance, and other services rendered by the department to a patient in the state hospital or other facility maintained by or under the jurisdiction of the department.

(Added by Stats. 1977, Ch. 1252.)

4432. (a) The State Department of Developmental Services shall report proposed allocations for level-of-care staffing in state hospitals that serve persons with developmental disabilities that shall include the following:

(1) All assumptions underlying estimates of state hospital developmentally disabled population.

(2) A comparison of the actual and estimated population levels for the year to date. If the actual populations differ from the estimated population by 50 or more, the department shall include in its reports a description of the change and the fiscal impact. The department shall make this information available to the Legislature during the budget process, but no later than January 10 of each year and no later than the release of the May revision of the Governor's proposed budget each year.

(b) The department shall provide the information required by subdivision (a) on the same dates as specified in subdivision (a) to the State Council on Developmental Disabilities created by Section 4520. The State Council on Developmental Disabilities shall provide the Legislature with review and comment on the information in a report.

(Amended by Stats. 1992, Ch. 713, Sec. 34. Effective September 15, 1992.)

4433. (a) The Legislature finds and declares all of the following:

(1) The State of California accepts its responsibility to ensure and uphold the rights of persons with developmental disabilities and an obligation to ensure that laws, regulations, and policies on the rights of persons with developmental disabilities are observed and protected.

(2) Persons with developmental disabilities are vulnerable to abuse, neglect, and deprivations of their rights.

(3) Clients' rights advocacy services provided by the regional centers, the advocacy services currently provided by the department at the state hospitals, and the services provided by the department's Office of Human Rights may have conflicts of interest, or the appearance of a conflict of interest.

(4) The services provided to individuals with developmental disabilities and their families are of such a special and unique nature that they cannot satisfactorily be provided by state agencies or regional centers and must be contracted out pursuant to paragraph (3) of subdivision (b) of Section 19130 of the Government Code.

(b) (1) To avoid the potential for a conflict of interest or the appearance of a conflict of interest, beginning January 1, 1998, the department shall contract for clients' rights

advocacy services. The department shall solicit a single statewide contract with a nonprofit agency that results in at least three responsive bids that meet all of the criteria specified in paragraph (2) to perform the services specified in subdivision (d). If three responsive bids are not received, the department may rebid the contract on a regional basis, not to exceed three regional contracts and one contract for developmental centers and headquarters.

(2) Any contractor selected shall meet the following requirements:

(A) The contractor can demonstrate the capability to provide statewide advocacy services to individuals with developmental disabilities living in developmental centers and in the community.

(B) The contractor does not directly or indirectly provide services to individuals with developmental disabilities, except advocacy services.

(C) The contractor has knowledge of the service system, entitlements, and service rights of persons receiving services from regional centers and in state hospitals.

(D) The contractor can demonstrate the capability of coordinating services with the protection and advocacy agency specified in Division 4.7 (commencing with Section 4900) and the area boards.

(E) The contractor has not provided any services, except advocacy services, to, or been employed by, any regional center or the Association of Regional Center Agencies during the two-year period prior to the effective date of the contract.

(c) For the purposes of this section, the Legislature further finds and declares that because of a potential conflict of interest or the appearance of a conflict of interest, the goals and purposes of the regional center clients' rights advocacy services, the state hospitals, and the services of the Office of Human Rights, cannot be accomplished through the utilization of persons selected pursuant to the regular civil service system, nor can the services be provided through the department's contracts with regional centers. Accordingly, contracts into which the department enters pursuant to this section are permitted and authorized by paragraphs (3) and (5) of subdivision (b) of Section 19130 of the Government Code.

(d) The contractor shall do all of the following:

(1) Provide clients' rights advocacy services to persons with developmental disabilities who are consumers of regional centers and to individuals who reside in the state developmental centers and hospitals, including ensuring the rights of persons with developmental disabilities, and assisting persons with developmental disabilities in pursuing administrative and legal remedies.

(2) Investigate and take action as appropriate and necessary to resolve complaints from, or concerning persons with, developmental disabilities residing in licensed health and community care facilities regarding abuse, and unreasonable denial, or punitive withholding, of rights guaranteed under this division.

(3) Provide consultation, technical assistance, supervision and training, and support services for clients' rights advocates that were previously the responsibility of the Office of Human Rights.

(4) Coordinate the provision of clients' rights advocacy services in consultation with the department, stakeholder organizations, and persons with developmental disabilities and their families representing California's multicultural diversity.

(5) Provide at least two self-advocacy trainings for consumers and family members.

(e) In order to ensure that individuals with developmental disabilities have access to high quality advocacy services, the contractor shall establish a grievance procedure

and shall advise persons receiving services under the contract of the availability of other advocacy services, including the services provided by the protection and advocacy agency specified in Division 4.7 (commencing with Section 4900) and the area boards.

(f) The department shall contract on a multiyear basis for a contract term of up to five years, subject to the annual appropriation of funds by the Legislature.

(g) This section shall not prohibit the department and the regional centers from advocating for the rights, including the right to generic services, of persons with developmental disabilities.

(Amended by Stats. 2003, Ch. 230, Sec. 45. Effective August 11, 2003.)

4433.5. Notwithstanding Section 4433, the department may contract with the State Council on Developmental Disabilities for the purpose of utilizing area boards to provide clients' rights advocacy services to individuals with developmental disabilities who reside in developmental centers and state hospitals. It is the intent of the Legislature that area boards maintain local discretion in the provision of these advocacy services. The state council shall not direct the advocacy services provided by area boards pursuant to this contract, except when necessary to ensure compliance with the contracts.

(Amended by Stats. 2002, Ch. 676, Sec. 2. Effective January 1, 2003.)

4434. (a) Notwithstanding preexisting rights to enforce the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500)), it is the intent of the Legislature that the department ensure that the regional centers operate in compliance with federal and state law and regulation and provide services and supports to consumers in compliance with the principles and specifics of this division.

(b) The department shall take all necessary actions to support regional centers to successfully achieve compliance with this section and provide high quality services and supports to consumers and their families.

(c) The contract between the department and individual regional centers required by Chapter 5 (commencing with Section 4620) of Division 4.5 shall include a provision requiring each regional center to render services in accordance with applicable provisions of state laws and regulations. In the event that the department finds a regional center has violated this requirement, or whenever it appears that any regional center has engaged in or is about to engage in any act or practice constituting a violation of any provision of Division 4.5 (commencing with Section 4500) or any regulation adopted thereunder, the department shall promptly take the appropriate steps necessary to ensure compliance with the law, including actions authorized under Section 4632 or 4635. The department, as the director deems appropriate, may pursue other legal or equitable remedies for enforcement of the obligations of regional centers including, but not limited to, seeking specific performance of the contract between the department and the regional center or otherwise act to enforce compliance with Division 4.5 (commencing with Section 4500) or any regulation adopted thereunder.

(d) As part of its responsibility to monitor regional centers, the department shall collect and review printed materials issued by the regional centers, including, but not limited to, purchase of service policies and other policies and guidelines utilized by regional centers when determining the services needs of a consumer, instructions and training materials for regional center staff, board meeting agendas and minutes, and

general policy and notifications provided to all providers and consumers and families. Within a reasonable period of time, the department shall review new or amended purchase-of-service policies prior to implementation by the regional center to ensure compliance with statute and regulation. The department shall take appropriate and necessary steps to prevent regional centers from utilizing a policy or guideline that violates any provision of Division 4.5 (commencing with Section 4500) or any regulation adopted thereunder.

(Amended by Stats. 1998, Ch. 310, Sec. 30. Effective August 19, 1998.)

PART 2. ADMINISTRATION OF STATE INSTITUTIONS FOR THE DEVELOPMENTALLY DISABLED

(Part 2 added by Stats. 1977, Ch. 1252.)

CHAPTER 1. JURISDICTION AND GENERAL GOVERNMENT

(Chapter 1 added by Stats. 1977, Ch. 1252.)

4440. The department has jurisdiction over the following institutions:
Agnews State Hospital.
Camarillo State Hospital.
Fairview State Hospital.
Frank D. Lanterman State Hospital.
Porterville State Hospital.
Sonoma State Hospital.
Stockton State Hospital.

(Amended by Stats. 1986, Ch. 224, Sec. 7. Effective June 30, 1986. Operative July 1, 1986, by Sec. 16 of Ch. 224.)

4440.1. The department may contract with the State Department of Mental Health to provide services to persons with developmental disabilities in state hospitals under the jurisdiction of the State Department of Mental Health.

(Added by Stats. 1986, Ch. 224, Sec. 8. Effective June 30, 1986.)

4440.5. A state hospital under the jurisdiction of the department may also be known as a developmental center.

(Added by Stats. 1985, Ch. 582, Sec. 2.)

4441. Except as otherwise specifically provided elsewhere in this code, all of the institutions under the jurisdiction of the State Department of Developmental Services shall be governed by uniform rule and regulation of the State Department of Developmental Services and all of the provisions of this chapter shall apply to the conduct and management of such institutions.

(Added by Stats. 1977, Ch. 1252.)

4441.5. The State Department of Developmental Services shall develop policies and procedures, by no later than 30 days following the effective date of the Budget Act of 1999, at each developmental center, to notify appropriate law enforcement agencies in the event of a forensic client walkaway or escape. Local law enforcement agencies, including local police and county sheriff's departments, shall review the policies and procedures prior to final implementation by the department.

(Added by Stats. 1999, Ch. 146, Sec. 24. Effective July 22, 1999.)

4442. Each state hospital is a corporation.

(Added by Stats. 1977, Ch. 1252.)

4443. Each such corporation may acquire and hold in its corporate name by gift, grant, devise, or bequest property to be applied to the maintenance of the patients of the hospital and for the general use of the corporation.

(Added by Stats. 1977, Ch. 1252.)

4444. All lands necessary for the use of state hospitals except those acquired by gift, devise, or purchase, shall be acquired by condemnation as lands for other public uses are acquired.

The terms of every purchase shall be approved by the State Department of Developmental Services. No public street or road for railway or other purposes, except for hospital use, shall be opened through the lands of any state hospital, unless the Legislature by special enactment consents thereto.

(Added by Stats. 1977, Ch. 1252.)

4445. Notwithstanding the provisions of Section 4444, the Director of General Services, with the consent of the State Department of Developmental Services, may grant rights-of-way for road purposes over and across state property comprising the site of the Sonoma State Hospital, upon such terms and conditions as the Director of General Services may deem to be for the best interests of the state.

(Added by renumbering Section 4105 by Stats. 1977, Ch. 1252.)

4446. (a) Notwithstanding Section 4444, the Director of General Services may enter into an agreement with the City of Santa Clara for the dedication of a public right-of-way and the granting of long-term easements, as specified in subdivision (d), by the department over and across state property within Agnews State Hospital, for public road purposes.

(b) The term of any easement agreed to by the department shall be of sufficient duration to enable the city to exercise jurisdiction over the public street or road thereon for maintenance purposes. Any construction or maintenance of a public street or road shall be at no cost to the state, and shall be subject to any applicable state or local requirements relating to accessibility for the physically handicapped or disabled.

(c) The agreement shall contain such terms, conditions, reservations, and exceptions as the director deems in the best interest of the state, and as will protect the future use and marketability of the property.

(d) Any public right-of-way or easements agreed to pursuant to subdivision (a) shall meet the following specifications:

(1) A public right-of-way over approximately an 80-foot wide strip of land starting at a point approximately 1450 feet east of the center line of De La Cruz Boulevard and running in a northerly direction from Montague Expressway approximately 2200 feet to a point 250 feet south of the northern boundary of the Camsi III property, the last 970 feet of which lies contiguous with the western boundary of the Camsi III property, together with land necessary for acceleration and deceleration lanes from the proposed collector street onto and off of Montague Expressway, the land consisting of two wedge shaped parcels, 600 feet in length and varying width, between 20 feet to 0 feet.

(2) A 20-foot wide easement for entry into state land, to fill an existing channel and install and maintain a water main, lying contiguous to the northern right-of-way line of

Montague Expressway and running from the western boundary of Camsi III property, westerly to De La Cruz Boulevard, excepting that right-of-way previously described in paragraph (1) of this subdivision for the proposed street purpose.

(3) A 30-foot wide easement, for the purpose of filling an existing storm channel, running from Montague Expressway 441 feet northerly along the water boundary of Camsi III property.

(4) Other easements determined by the Director of General Services as necessary for the purpose of constructing a business development park pursuant to Section 14672.9 of the Government Code.

(Amended by Stats. 1986, Ch. 121, Sec. 2. Effective June 3, 1986.)

4447. Notwithstanding Section 4444, the Director of General Services with the consent of the State Department of Developmental Services, may grant a right-of-way for road purposes to the City of Stockton over and along a portion of the Stockton State Hospital property adjacent to Harding Way upon such terms and conditions and with such reservations and exceptions as in the opinion of the Director of General Services may be for the best interests of the state.

The Director of General Services under the same conditions may grant a right-of-way for road purposes to the County of Orange over a portion of the Fairview State Hospital property adjacent to Harbor Boulevard.

(Added by renumbering Section 4108 by Stats. 1977, Ch. 1252.)

4448. The department shall participate with the City of Porterville in the construction of an interceptor sewer between the Porterville State Hospital facilities and the sewer facilities of the City of Porterville.

For the purpose of this section the state may expend from any available funds 20 percent of the bid for the construction of the project authorized pursuant to this section or sixty thousand dollars ($60,000), whichever is less.

(Added by renumbering Section 4108.2 by Stats. 1977, Ch. 1252.)

4449. The State Department of Developmental Services has general control and direction of the property and concerns of each state hospital specified in Section 4440. The department shall:

(a) Take care of the interests of the hospital, and see that its purpose and its bylaws, rules, and regulations are carried into effect, according to law.

(b) Establish such bylaws, rules, and regulations as it deems necessary and expedient for regulating the duties of officers and employees of the hospital, and for its internal government, discipline, and management.

(c) Maintain an effective inspection of the hospital.

(Amended by Stats. 1978, Ch. 429.)

4450. The medical superintendent shall make triplicate estimates, in minute detail, as approved by the State Department of Developmental Services of such supplies, expenses, buildings, and improvements as are required for the best interests of the hospital, and for the improvement thereof and of the grounds and buildings connected therewith. These estimates shall be submitted to the State Department of Developmental Services which may revise them. The department shall certify that it has carefully examined the estimates, and that the supplies, expenses, buildings, and improvements contained in such estimates, as approved by it, are required for the best

interests of the hospital. The department shall thereupon proceed to purchase such supplies, make such expenditures, or conduct such improvements or buildings in accordance with law.

(Added by Stats. 1977, Ch. 1252.)

4451. The state hospitals may manufacture supplies, materials, and assisting devices which are for the benefit of individuals with disabilities who otherwise would not have access to those articles, or which are necessary or required to be used in any of the state hospitals, and which can be economically manufactured therein. The necessary cost and expense of providing for and conducting the manufacture of such supplies and materials shall be paid in the same manner as other expenses of the hospitals. No hospital shall enter into or engage in manufacturing any supplies or materials unless permission for the same is obtained from the State Department of Developmental Services. If, at any time, it appears to the department that the manufacture of any article is not being or cannot be economically carried on at a state hospital, the department may suspend or stop the manufacture of such article, and on receipt of a certified copy of the order directing the suspension or stopping of such manufacture, by the medical superintendent, the hospital shall cease from manufacturing such article.

(Amended by Stats. 1987, Ch. 1071, Sec. 1.)

4452. All money belonging to the state and received by state hospitals from any source, except appropriations, shall, at the end of each month, be deposited in the State Treasury, to the credit of the General Fund. This section shall not apply to the funds known as the industrial or amusement funds or the ‘‘sheltered workshop funds.’’

(Added by Stats. 1977, Ch. 1252.)

4453. The state hospitals and the officers thereof shall make such financial statements to the Controller as the Controller requires.

(Added by Stats. 1977, Ch. 1252.)

4454. The authorities for the several hospitals shall furnish to the State Department of Developmental Services the facts mentioned in Section 4425 and such other obtainable facts as the department from time to time requires of them, with the opinion of the superintendent thereon, if requested. The superintendent or other person in charge of a hospital shall, within 10 days after the admission of any person thereto, cause an abstract of the medical certificate and order on which such person was received and a list of all property, books, and papers of value found in the possession of or belonging to such person to be forwarded to the office of the department, and when a patient is discharged, transferred, or dies, the superintendent or person in charge shall within three days thereafter, send the information to the office of the department, in accordance with the form prescribed by it.

(Added by Stats. 1977, Ch. 1252.)

4455. The department may permit, subject to such conditions and regulations as it may impose, any religious or missionary corporation or society to erect a building on the grounds of any state hospital for the holding of religious services. Each such building when erected shall become the property of the state and shall be used exclusively for the benefit of the patients and employees of the state hospital.

(Added by Stats. 1977, Ch. 1252.)

4456. The department may establish and supervise under its rules and regulations training schools or courses for employees of the department or of state institutions under its jurisdiction.

(Added by Stats. 1978, Ch. 429.)

4457. Whenever a trial is had of any person charged with escape or attempt to escape from a state hospital, whenever a hearing is had on the return of a writ of habeas corpus prosecuted by or on behalf of any person confined in a state hospital except in a proceeding to which Section 5110 applies, whenever a hearing is had on a petition under Section 1026.2, subdivision (b) of Section 1026.5, or subdivision (f) of Section 2960 of the Penal Code, or Section 7361 of this code for the release of a person confined in a state hospital, and whenever a person confined in a state hospital is tried for any crime committed therein, the appropriate financial officer or other designated official of the county in which the trial or hearing is had shall make out a statement of all costs incurred by the county for investigation and other preparation for the trial or hearing, and the actual trial or hearing, all costs of maintaining custody of the patient and transporting him or her to and from the hospital, and costs of appeal, which statement shall be properly certified by a judge of the superior court of that county and sent to the Controller for approval. After the court approval, the Controller shall cause the amount of the costs incurred on and after July 1, 1987, to be paid out of the money appropriated by the Legislature, to the county treasurer of the county where the trial or hearing was had.

(Amended by Stats. 2002, Ch. 221, Sec. 206. Effective January 1, 2003.)

4458. The State Department of Developmental Services shall cooperate with the United States Bureau of Immigration in arranging for the deportation of all aliens who are confined in, admitted, or committed to any state hospital.

(Added by Stats. 1977, Ch. 1252.)

4459. The State Department of Developmental Services shall investigate and examine all nonresident persons judicially committed to any state hospital and shall cause such persons, when found to be nonresidents as defined in this chapter, to be promptly and humanely returned under proper supervision to the state in which they have legal residence. The department may defer such action by reason of a patient's medical condition.

For the purpose of facilitating the prompt and humane return of such persons the State Department of Developmental Services may enter into reciprocal agreements with the proper boards, commissions, or officers of other states or political subdivision thereof for the mutual exchange or return of such person judicially committed to any state hospital in one state whose legal residence is in the other, and it may in such reciprocal agreements vary the period of residence as defined in this chapter to meet the requirements or laws of the other states.

The department may give written permission for the return of any resident of this state confined in a public institution in another state, corresponding to any state home for the developmentally disabled of this state. When a resident is returned to this state pursuant to this chapter, he may be admitted as a voluntary patient to any institution of the department as designated by the Director of Developmental Services.

(Added by Stats. 1977, Ch. 1252.)

4460. In order to be entitled to hospitalization in this state, an adult developmentally disabled person or the parent or guardian or conservator of a developmentally disabled minor shall be a state resident. Residence acquired in this or in another state shall not be lost by reason of military service in the armed forces of the United States.

(Amended by Stats. 1979, Ch. 730.)

4461. (a) All expenses incurred in returning such persons to other states shall be paid by this state, the person, or his or her relatives, but the expense of returning residents of this state shall be borne by the state making the returns.

(b) The cost and expense incurred in effecting the transportation of the nonresident persons to the states in which they have residence shall be advanced from the funds appropriated for that purpose or, if necessary, from the money appropriated for the care of developmentally disabled persons upon vouchers approved by the California Victim Compensation and Government Claims Board.

(Amended by Stats. 2006, Ch. 538, Sec. 695. Effective January 1, 2007.)

4462. The State Department of Developmental Services, when it deems it necessary, may, under conditions prescribed by the director, transfer any patients of a state institution under its jurisdiction to another such institution. Transfers of patients of state hospitals shall be made in accordance with the provisions of Section 7300.

Transfer of a conservatee shall only be with the consent of the conservator.

The expense of any such transfer shall be paid from the moneys available by law for the support of the department or for the support of the institution from which the patient is transferred. Liability for the care, support, and maintenance of a patient so transferred in the institution to which he has been transferred shall be the same as if he had originally been committed to such institution.

(Added by Stats. 1977, Ch. 1252.)

4463. The Director of Developmental Services may authorize the transfer of persons from any institution within the department to any institution authorized by the federal government to receive such person.

(Added by Stats. 1977, Ch. 1252.)

4464. The State Department of Developmental Services shall send to the Department of Veterans Affairs whenever requested a list of all persons who have been patients for six months or more in each state institution within the jurisdiction of the State Department of Developmental Services and who are known to have served in the armed forces of the United States.

(Added by Stats. 1977, Ch. 1252.)

4465. The Director of Developmental Services may deposit any funds of patients in the possession of each hospital administrator of a state hospital in trust with the treasurer pursuant to Section 16305.3, Government Code, or, subject to the approval of the Department of Finance, may deposit such funds in interest-bearing bank accounts or invest and reinvest such funds in any of the securities which are described in Article 1 (commencing with Section 16430), Chapter 3, Part 2, Division 1, Title 2 of the Government Code and for the purposes of deposit or investment only may mingle the funds of any patient with the funds of other patients. The hospital administrator with the consent of the patient may deposit the interest or increment on the funds of a patient in the state hospital in a special fund for each state hospital, to be designated the ‘‘benefit

fund,'' of which he shall be the trustee. He may, with the approval of the Director of Developmental Services, expend the moneys in any such fund for the education or entertainment of the patients of the institution.

On and after December 1, 1970, the funds of a patient in a state hospital or a patient on leave of absence from a state hospital shall not be deposited in interest-bearing bank accounts or invested and reinvested pursuant to this section except when authorized by the patient; any interest or increment accruing on the funds of a patient on leave of absence from a state hospital shall be deposited in his account; any interest or increment accruing on the funds of a patient in a state hospital shall be deposited in his account, unless such patient authorizes their deposit in the state hospital's ''benefit fund.''

Any state hospital charges for patient care against the funds of a patient in the possession of a hospital administrator or deposited pursuant to this section and which are used to pay for such care, shall be stated in an itemized bill to the patient.

(Added by Stats. 1977, Ch. 1252.)

4466. Whenever any patient in any state institution subject to the jurisdiction of the State Department of Developmental Services dies, and any personal funds or property of such patient remains in the hands of the superintendent thereof, and no demand is made upon such superintendent by the owner of the funds or property or his legally appointed representative all money and other personal property of such decedent remaining in the custody or possession of the superintendent thereof shall be held by him for a period of one year from the date of death of the decedent, for the benefit of the heirs, legatees, or successors in interest of such decedent.

Upon the expiration of such one-year period, any money remaining unclaimed in the custody or possession of the superintendent shall be delivered by him to the State Treasurer for deposit in the Unclaimed Property Fund under the provisions of Article 1 (commencing with Section 1440) of Chapter 6 of Title 10 of Part 3 of the Code of Civil Procedure.

Upon the expiration of such one-year period, all personal property and documents of the decedent, other than cash, remaining unclaimed in the custody or possession of the superintendent, shall be disposed of as follows:

(a) All deeds, contracts or assignments shall be filed by the superintendent with the public administrator of the county of commitment of the decedent;

(b) All other personal property shall be sold by the superintendent at public auction, or upon a sealed-bid basis, and the proceeds of the sale delivered by him to the State Treasurer in the same manner as is herein provided with respect to unclaimed money of the decedent. If he deems it expedient to do so, the superintendent may accumulate the property of several decedents and sell the property in such lots as he may determine, provided that he makes a determination as to each decedent's share of the proceeds;

(c) If any personal property of the decedent is not salable at public auction, or upon a sealed-bid basis, or if it has no intrinsic value, or if its value is not sufficient to justify the deposit of such property in the State Treasury, the superintendent may order it destroyed;

(d) All other unclaimed personal property of the decedent not disposed of as provided in subdivision (a), (b), or (c) hereof, shall be delivered by the superintendent to the State Controller for deposit in the State Treasury under the provisions of Article 1

(commencing with Section 1440) of Chapter 6 of Title 10 of Part 3 of the Code of Civil Procedure.

(Added by Stats. 1977, Ch. 1252.)

4467. Whenever any patient in any state institution subject to the jurisdiction of the State Department of Developmental Services escapes, or is discharged or is on leave of absence from such institution, and any personal funds or property of such patient remains in the hands of the superintendent thereof, and no demand is made upon said superintendent by the owner of the funds or property or his legally appointed representative, all money and other intangible personal property of such patient, other than deeds, contracts, or assignments, remaining in the custody or possession of the superintendent thereof shall be held by him for a period of seven years from the date of such escape, discharge, or leave of absence, for the benefit of such patient or his successors in interest; provided, however, that unclaimed personal funds or property of minors on leave of absence may be exempted from the provisions of this section during the period of their minority and for a period of one year thereafter, at the discretion of the Director of Developmental Services.

Upon the expiration of said seven-year period, any money and other intangible property, other than deeds, contracts, or assignments, remaining unclaimed in the custody or possession of the superintendent shall be subject to the provisions of Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure.

Upon the expiration of one year from the date of such escape, discharge, or parole:

(a) All deeds, contracts or assignments shall be filed by the superintendent with the public administrator of the county of commitment of such patient;

(b) All tangible personal property other than money, remaining unclaimed in his custody or possession, shall be sold by the superintendent at public auction, or upon a sealed-bid basis, and the proceeds of the sale shall be held by him subject to the provisions of Section 4465 of this code, and subject to the provisions of Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure. If he deems it expedient to do so, the superintendent may accumulate the property of several patients and may sell the property in such lots as he may determine, provided that he makes a determination as to each patient's share of the proceeds;

If any tangible personal property covered by this section is not salable at public auction or upon a sealed-bid basis, or if it has no intrinsic value, or if its value is not sufficient to justify its retention by the superintendent to be offered for sale at public auction or upon a sealed-bid basis at a later date, the superintendent may order it destroyed.

(Added by Stats. 1977, Ch. 1252.)

4468. Before any money or other personal property or documents are delivered to the State Treasurer, State Controller, or public administrator, or sold at auction or upon a sealed-bid basis, or destroyed, under the provisions of Section 4466, and before any personal property or documents are delivered to the public administrator, or sold at auction or upon a sealed-bid basis, or destroyed, under the provisions of Section 4467, notice of such intended disposition shall be posted at least 30 days prior to the disposition, in a public place at the institution where the disposition is to be made, and a copy of such notice shall be mailed to the last known address of the owner or deceased

owner, at least 30 days prior to such disposition. The notice prescribed by this section need not specifically describe each item of property to be disposed of.

(Added by Stats. 1977, Ch. 1252.)

4469. At the time of delivering any money or other personal property to the State Treasurer or State Controller under the provisions of Section 4126 or of Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure, the superintendent shall deliver to the State Controller a schedule setting forth a statement and description of all money and other personal property delivered, and the name and last known address of the owner or deceased owner.

(Added by Stats. 1977, Ch. 1252.)

4470. When any personal property has been destroyed as provided in Section 4466 or 4467, no suit shall thereafter be maintained by any person against the state or any officer thereof for or on account of such property.

(Added by Stats. 1977, Ch. 1252.)

4471. All day hospitals and rehabilitation centers maintained by the State Department of Developmental Services shall be subject to the provisions of this code pertaining to the admission, transfer, and discharge of patients at the state hospitals, except that all admissions to such facilities shall be subject to the approval of the chief officer thereof. Charges for services rendered to patients at such facilities shall be determined pursuant to Section 4431. The liability for such charges shall be governed by the provisions of Article 4 (commencing with Section 6715) of Chapter 3 of Part 2 of Division 6 of this code and Chapter 4 (commencing with Section 7500) of Division 7 of this code.

(Added by Stats. 1977, Ch. 1252.)

4472. The state hospitals under the jurisdiction of the State Department of Developmental Services shall comply with the California Food Sanitation Act, Article 1 (commencing with Section 111950) of Chapter 4 of Part 6 of Division 104 of the Health and Safety Code.

The state hospitals under the jurisdiction of the State Department of Developmental Services shall also comply with the California Uniform Retail Food Facilities Law, Chapter 4 (commencing with Section 113700) of Part 7 of Division 104.

Sanitation, health and hygiene standards that have been adopted by a city, county, or city and county that are more strict than those of the California Uniform Retail Food Facilities Law or the California Food Sanitation Act shall not be applicable to state hospitals that are under the jurisdiction of the State Department of Developmental Services.

(Amended by Stats. 1996, Ch. 1023, Sec. 462. Effective September 29, 1996.)

4473. Whenever a patient dies in a state hospital for the developmentally disabled and the coroner finds that the death was by accident or at the hands of another person other than by accident, the State Department of Developmental Services shall determine upon review of the coroner's investigation if such death resulted from the negligence, recklessness, or intentional act of a state employee. If it is determined that such death directly resulted from the negligence, recklessness, or intentional act of a state employee, the department shall immediately notify the State Personnel Board and any appropriate licensing agency and shall terminate the employment of such

employee as provided by law. In addition, if such state employee is a licensed mental health professional, the appropriate licensing board shall inquire into the circumstances of such death, examine the findings of the coroner's investigation, and make a determination of whether such mental health professional should have his license revoked or suspended or be subject to other disciplinary action. ''Licensed mental health professional,'' as used in this section, means a person licensed by any board, bureau, department, or agency pursuant to a state law and employed in a state hospital for the developmentally disabled.

(Added by Stats. 1978, Ch. 69.)

4474. Each patient in a state hospital for the developmentally disabled who has resided in the state hospital for a period of at least 30 days shall be paid an amount of aid for his or her personal and incidental needs which when added to his or her income equals twelve dollars and fifty cents ($12.50) per month.

(Added by renumbering Section 4473 (as added by Stats. 1978, Ch. 429) by Stats. 1986, Ch. 248, Sec. 250.)

4474.1. (a) Whenever the State Department of Developmental Services proposes the closure of a state developmental center, the department shall be required to submit a detailed plan to the Legislature not later than April 1 immediately prior to the fiscal year in which the plan is to be implemented, and as a part of the Governor's proposed budget. No plan submitted to the Legislature pursuant to this section, including any modifications made pursuant to subdivision (b), shall be implemented without the approval of the Legislature.

(b) A plan submitted on or before April 1 immediately prior to the fiscal year in which the plan is to be implemented may be subsequently modified during the legislative review process.

(c) Prior to submission of the plan to the Legislature, the department shall solicit input from the State Council on Developmental Disabilities, the Association of Regional Center Agencies, the protection and advocacy agency specified in Section 4901, the local area board on developmental disabilities, the local regional center, consumers living in the developmental center, parents, family members, guardians, and conservators of persons living in the developmental centers or their representative organizations, persons with developmental disabilities living in the community, developmental center employees and employee organizations, community care providers, the affected city and county governments, and business and civic organizations, as may be recommended by local state Senate and Assembly representatives.

(d) Prior to the submission of the plan to the Legislature, the department shall confer with the county in which the developmental center is located, the regional centers served by the developmental center, and other state departments using similar occupational classifications, to develop a program for the placement of staff of the developmental center planned for closure in other developmental centers, as positions become vacant, or in similar positions in programs operated by, or through contract with, the county, regional centers, or other state departments.

(e) Prior to the submission of the plan to the Legislature, the department shall hold at least one public hearing in the community in which the developmental center is located, with public comment from that hearing summarized in the plan.

(f) The plan submitted to the Legislature pursuant to this section shall include all of the following:

(1) A description of the land and buildings affected.

(2) A description of existing lease arrangements at the developmental center.

(3) The impact on residents and their families.

(4) Anticipated alternative placements for residents.

(5) The impact on regional center services.

(6) Where services will be obtained that, upon closure of the developmental center, will no longer be provided by that facility.

(7) Potential job opportunities for developmental center employees and other efforts made to mitigate the effect of the closure on employees.

(8) The fiscal impact of the closure.

(9) The timeframe in which closure will be accomplished.

(Amended by Stats. 2002, Ch. 676, Sec. 3. Effective January 1, 2003.)

4474.2. Notwithstanding any provision of law to the contrary, the department may operate any facility, provide its employees to assist in the operation of any facility, or provide other necessary services and supports if in the discretion of the department it determines that the activity will assist in meeting the goal of an orderly closure of Agnews Developmental Center. The department may contract with any entity for the use of the department's employees to provide services in furtherance of an orderly closure of Agnews Developmental Center.

(Added by Stats. 2005, Ch. 538, Sec. 2. Effective January 1, 2006.)

4474.3. The provisions of Section 10411 of the Public Contract Code shall not apply to any person who, in connection with the closure of Agnews Developmental Center, provides developmental services.

(Added by Stats. 2005, Ch. 538, Sec. 3. Effective January 1, 2006.)

4474.4. Notwithstanding any other provision of law to the contrary, the Secretary of California Health and Human Services shall verify that the State Department of Developmental Services and the State Department of Health Care Services have established protocols in place between the departments, as well as with the regional centers and health care plans participating in the Medi-Cal Program who will be providing services, including health, dental, and vision care, to people with developmental disabilities transitioning from Agnews Developmental Center.

The Secretary of California Health and Human Services shall provide written verification of the establishment of these protocols to the Joint Legislative Budget Committee, as well as to the fiscal and policy committees of the Legislature that oversee health and human services programs.

The purpose of the protocols is to ensure that a mutual goal of providing appropriate, high-quality care and services to children and adults who have developmental disabilities in order to optimize the health and welfare of each individual. Further, the purpose of the protocols is to ensure that all involved parties, including consumers and families, the state, regional centers, and providers, are clear as to their roles and responsibilities, and are appropriately accountable for optimizing the health and welfare of each individual.

The protocols, at a minimum, shall address enrollment for services, all referral practices, including those to specialty care, authorization practices for services of all

involved parties, coordination of case management services, education and training services to be provided, the management of medical records, and provider reimbursement methods. These protocols shall be provided to the consumers and their families, and be made available to the public upon request.

(Added by Stats. 2007, Ch. 188, Sec. 21. Effective August 24, 2007.)

4474.5. (a) In order to meet the unique medical health needs of consumers transitioning from Agnews Developmental Center into Alameda, San Mateo, and Santa Clara Counties pursuant to the Plan for the Closure of Agnews Developmental Center, whose individual program plans document the need for coordinated medical and specialty care that cannot be met using the traditional Medi-Cal Fee-For-Service system, services provided under the contract shall be provided by Medi-Cal managed care health plans that are currently operational in these counties as a county organized health system or a local initiative if consumers, where applicable, choose to enroll. Reimbursement shall be by the State Department of Health Care Services for all Medi-Cal services provided under the contract that are not reimbursed by the Medicare program.

(b) Medi-Cal managed care health plans enrolling members referred to in subdivision (a) shall be further reimbursed for the reasonable cost of administrative services. Administrative services pursuant to this subdivision include, but are not limited to, coordination of care and case management not provided by a regional center, provider credentialing and contracting, quality oversight, assuring member access to covered services, consultation with Agnews Developmental Center staff, regional center staff, Department of Developmental Services staff, contractors, and family members, and financial management of the program, including claims processing. Reasonable cost is defined as the actual cost incurred by the Medi-Cal managed care health plan, including both direct and indirect costs incurred by the Medi-Cal managed care health plan, in the performance of administrative services, but shall not include any incurred costs found by the State Department of Health Care Services to be unnecessary for the efficient delivery of necessary health services. Payment for administrative services shall continue on a reasonable cost basis until sufficient cost experience exists to allow these costs to be part of an all-inclusive capitation rate covering both administrative services and direct patient care services.

(c) Until the State Department of Health Care Services is able to determine by actuarial methods, prospective per capita rates of payment for services for those members who enroll in the Medi-Cal managed care health plans specified in subdivision (a), the State Department of Health Care Services shall reimburse the Medi-Cal managed care health plans for the net reasonable cost of direct patient care services and supplies set forth in the scope of services in the contract between the Medi-Cal managed care health plans and the State Department of Health Care Services and that are not reimbursed by the Medicare Program. Net reasonable cost is defined as the actual cost incurred by the Medi-Cal managed care health plans, as measured by the Medi-Cal managed care health plan's payments to providers of services and supplies, less payments made to the plans by third parties other than Medicare, and shall not include any incurred cost found to be unnecessary by the State Department of Health Care Services in the efficient delivery of necessary health services. Reimbursement shall be accomplished by the State Department of Health Care Services making

estimated payments at reasonable intervals, with these estimates being reconciled to actual net reasonable cost at least semiannually.

(d) The State Department of Health Care Services shall seek any approval necessary for implementation of this section from the federal government, for purposes of federal financial participation under Title XIX of the Social Security Act (42 U.S.C. Sec. 1396 et seq.). Notwithstanding any other provision of law, this section shall be implemented only to the extent that federal financial participation is available pursuant to necessary federal approvals.

(Added by Stats. 2007, Ch. 188, Sec. 22. Effective August 24, 2007.)

4474.8. Notwithstanding any other provision of law to the contrary, the State Department of Developmental Services shall continue the operation of the Agnews Outpatient Clinic until such time as the State Department of Developmental Services is no longer responsible for the property.

(Added by Stats. 2007, Ch. 188, Sec. 23. Effective August 24, 2007.)

CHAPTER 2. BOARDS OF TRUSTEES AND OTHER ADVISORY BOARDS

(Chapter 2 added by Stats. 1977, Ch. 1252.)

4475. (a) Each developmental center under the jurisdiction of the State Department of Developmental Services shall have a developmental center advisory board of eight members appointed by the Governor from a list of nominations submitted to him or her by the boards of supervisors of counties within each developmental center's designated service area. If a state hospital and developmental center provides services for both persons with mental disorders and persons with developmental disabilities, there shall be a separate advisory board for the program provided the persons with mental disorders and a separate board for the program provided the persons with developmental disabilities. To the extent feasible, an advisory board serving a developmental center for persons with developmental disabilities shall consist of two relatives of persons with developmental disabilities who are residents in that developmental center, three representatives of professional disciplines who are not employees of the state developmental center system, but who are serving persons with developmental disabilities, two representatives of the general public who have demonstrated an interest in services to persons with developmental disabilities, and one current or former resident of a state developmental center.

(b) Each appointment to the advisory board shall be for the term of three years, except that an appointment to fill a vacancy shall be for the unexpired term only. No person shall be appointed to serve more than a maximum of two terms as a member of the board.

(Amended by Stats. 1994, Ch. 1095, Sec. 2. Effective September 29, 1994.)

4476. No person shall be eligible for appointment to a developmental center advisory board if he or she is a Member of the Legislature or an elective state officer, and if that person becomes a Member of the Legislature or an elective state officer after his or her appointment his or her office shall be vacated and a new appointment made. If any appointee fails to attend three consecutive regular meetings of the board, unless he or she is ill or absent from the state, his or her office becomes vacant, and the board, by

resolution, shall so declare, and shall transmit a certified copy of that resolution to the Governor immediately.

(Amended by Stats. 1994, Ch. 1095, Sec. 3. Effective September 29, 1994.)

4477. The advisory boards of the several state developmental centers are advisory to the State Department of Developmental Services and the Legislature with power of visitation and advice with respect to the conduct of the developmental centers and coordination with community mental health programs or regional programs for persons with developmental disabilities. The members of the boards shall serve without compensation other than necessary expenses incurred in the performance of duty. They shall organize and elect a chairperson. They shall meet at least once every three months and at any other times they are called by the chairperson, by the medical director, by the head of the department, or by a majority of the board. No expenses shall be allowed except in connection with meetings so held. The advisory board or boards of each developmental center or state hospital and developmental center may make a written report on its activities.

(Amended by Stats. 1994, Ch. 1095, Sec. 4. Effective September 29, 1994.)

4478. (a) The chairperson of an advisory board advising a developmental center shall meet annually with the developmental center director, the regional center directors, and the area board chairpersons representing areas within the developmental center's service area, as defined in Division 4.5 (commencing with Section 4500).

(b) The chairpersons shall be allowed necessary expenses incurred in attending these meetings.

(c) It is the intent of the Legislature that the department assist the development of annual regional meetings required by this section.

(Amended by Stats. 1994, Ch. 1095, Sec. 5. Effective September 29, 1994.)

CHAPTER 3. OFFICERS AND EMPLOYEES

(Chapter 3 added by Stats. 1977, Ch. 1252.)

4480. As used in this article, ''officers'' of a state hospital means:

(a) Clinical director.

(b) Hospital administrator.

(c) Hospital director.

(Added by Stats. 1977, Ch. 1252.)

4481. (a) The Director of Developmental Services shall appoint and define the duties, subject to the laws governing civil service, of the clinical director and the hospital administrator for each state hospital. The director shall appoint either the clinical director or the hospital administrator to be the hospital director.

(b) The director shall appoint a medical director for each state hospital where neither the hospital director nor the clinical director is a licensed physician. The medical director shall be a physician licensed to practice medicine in California and shall be responsible for standards, coordination, surveillance, and planning for improvement of medical care in the facility. The director shall accomplish the requirements of this subdivision by a reclassification and redirection of non-level-of-care administrative positions in existence on December 31, 1983.

(c) The director shall appoint a program director for each program at a state hospital. In each hospital for the developmentally disabled, the director may appoint a medical program director.

(Amended by Stats. 1984, Ch. 1262, Sec. 1.)

4482. The Director of the State Department of Developmental Services shall have the final authority for determining all other employee needs after consideration of program requests from the various hospitals, and with the concurrence of the Health and Welfare Agency, the State Personnel Board, the Department of Finance and the Department of General Services, as appropriate, may establish positions to assist with the planning, development, direction, management, supervision, and evaluation of patient, administrative and support services in the hospital facility.

(Amended by Stats. 1980, Ch. 1191, Sec. 7. Effective September 29, 1980.)

4483. Salaries of resident and other officers and wages of employees shall be included in the budget estimates of, and paid in the same manner as other expenses of, the state hospitals.

(Added by Stats. 1977, Ch. 1252.)

4484. The primary purpose of a state hospital is the medical and nursing care of patients who are developmentally disabled. The efforts and direction of the officers and employees of each state hospital shall be directed to this end.

(Added by Stats. 1977, Ch. 1252.)

4485. Subject to the rules and regulations established by the department, and under the supervision of the hospital director when the hospital director is the hospital administrator, the clinical director of each state hospital shall be responsible for the planning, development, direction, management, supervision, and evaluation of all patient services, and of the supervision of research and clinical training.

(Amended by Stats. 1984, Ch. 1262, Sec. 2.)

4486. Subject to the rules and regulations established by the department, under the supervision of the hospital director when the hospital director is the clinical director, the hospital administrator shall be responsible for the planning, development, direction, management and supervision of all administrative and supportive services in the hospital facility. Such services include, but are not limited to:

(a) All administrative functions such as personnel, accounting, budgeting, and patients' accounts.

(b) All life-support functions such as food services, facility maintenance and patient supplies.

(c) All other business and security functions.

It shall be the responsibility of the hospital administrator to provide support services, as specified in this section, within available resources, to all hospital treatment programs.

(Added by Stats. 1977, Ch. 1252.)

4487. The hospital director is the chief executive officer of the hospital and is responsible for all hospital operations. If the hospital director is the clinical director,

then the hospital administrator is responsible to him; if the hospital director is the hospital administrator, then the clinical director is responsible to him.

(Added by Stats. 1977, Ch. 1252.)

4488. As often as a vacancy occurs in a hospital under the jurisdiction of the Director of Developmental Services, he shall appoint, as provided in Section 4481, a clinical director, a hospital administrator, a hospital director, a medical program director, and program directors.

A hospital administrator shall be a college graduate preferably with an advanced degree in hospital, business or public administration and shall have had experience in this area. He shall receive a salary which is competitive with other private and public mental hospital administrators.

A clinical director for a state hospital for the developmentally disabled shall be a person who is a physician, psychologist, registered nurse, clinical social worker, physical therapist or psychiatric technician, and licensed as such pursuant to the Business and Professions Code, or a person who is a rehabilitation therapist, or a person who possesses a valid and unrevoked teaching credential which authorizes specialist instruction in special education in grades kindergarten through 12 or in the community college, or a person who has had at least five years of experience teaching the developmentally disabled. The clinical director for any state hospital shall be well qualified by training or experience to have proven skills in mental hospital program administration.

The hospital director shall be either the hospital administrator or the clinical director. He shall be selected based on his overall knowledge of the hospital, its programs, and its relationship to its community, and on his demonstrated abilities to administer a large facility.

The standards for the professional qualifications of a program director shall be established by the Director of Developmental Services for each patient program. The director shall not adopt any regulations which prohibit a licensed psychiatrist, psychologist, psychiatric technician, or clinical social worker from employment in a patient program in any professional, administrative, or technical position; provided, however, that the program director of a medical-surgical unit shall be a licensed physician.

If the program director is not a physician, a physician shall be available to assume responsibility for all those acts of diagnosis, treatment, or prescribing or ordering of drugs which may only be performed by a licensed physician.

A medical program director for a state hospital for the developmentally disabled shall be a physician who has passed, or shall pass, an examination for a license to practice medicine in California and who shall be a qualified specialist in a branch of medicine which includes diseases affecting the brain and nervous system, and the care, treatment, and habilitation of the developmentally disabled.

(Amended by Stats. 1978, Ch. 100.)

4489. The hospital director is responsible for the overall management of the hospital. In his absence one of the other hospital officers or in the absence of both officers a program director shall be designated to perform his duties and assume his responsibilities.

(Added by Stats. 1977, Ch. 1252.)

4491. The hospital administrator shall be responsible for preserving the peace in the hospital buildings and grounds and may arrest or cause the arrest and appearance before the nearest magistrate for examination, of all persons who attempt to commit or have committed a public offense thereon.

(Added by Stats. 1977, Ch. 1252.)

4492. The hospital director may establish rules and regulations not inconsistent with law or departmental regulations, concerning the care and treatment of patients, research, clinical training, and for the government of the hospital buildings and grounds. Any person who knowingly or willfully violates such rules and regulations may, upon the order of either of the hospital officers, be ejected from the buildings and premises of the hospital.

(Added by Stats. 1977, Ch. 1252.)

4493. The hospital administrator of each state hospital may designate, in writing, as a police officer, one or more of the bona fide employees of the hospital. The hospital administrator and each such police officer have the powers and authority conferred by law upon peace officers listed in Section 830.38 of the Penal Code. Such police officers shall receive no compensation as such and the additional duties arising therefrom shall become a part of the duties of their regular positions. When and as directed by the hospital administrator, such police officers shall enforce the rules and regulations of the hospital, preserve peace and order on the premises thereof, and protect and preserve the property of the state.

(Amended by Stats. 1989, Ch. 1165, Sec. 50.)

4494. The Director of Developmental Services may set aside and designate any space on the grounds of any of the institutions under the jurisdiction of the department that is not needed for other authorized purposes, to enable such institution to establish and maintain therein a store or canteen for the sale to or for the benefit of patients of the institution of candies, cigarettes, sundries and other articles. The stores shall be conducted subject to the rules and regulations of the department and the rental, utility and service charges shall be fixed as will reimburse the institutions for the cost thereof. The stores when conducted under the direction of a hospital administrator shall be operated on a nonprofit basis but any profits derived shall be deposited in the benefit fund of each such institution as set forth in Section 4465.

Before any store is authorized or established, the Director of Developmental Services shall first determine that such facilities are not being furnished adequately by private enterprise in the community where it is proposed to locate the store, and may hold public hearings or cause surveys to be made, to determine the same.

The Director of Developmental Services may rent such space to private individuals, for the maintenance of a store or canteen at any of the said institutions upon such terms and subject to such regulations as are approved by the Department of General Services, in accordance with the provisions of Section 13109 of the Government Code. The terms imposed shall provide that the rental, utility and service charges to be paid shall be fixed so as to reimburse the institution for the cost thereof and any additional charges required to be paid shall be deposited in the benefit fund of such institution as set forth in Section 4465.

(Added by Stats. 1977, Ch. 1252.)

4495. Wherever the term ‘‘superintendent’’ appears, the term shall be deemed to mean clinical director, except in Sections 4450, 4466, 4467, 4469, 7281, and 7289, where the term shall be deemed to mean hospital administrator.

(Amended by Stats. 1984, Ch. 1262, Sec. 3.)

4496. Subject to rules and regulations adopted by the department, the hospital director may establish a sheltered workshop at a state hospital to provide patients with remunerative work performed in a setting which simulates that of industry and is performed in such a manner as to meet standards of industrial quality. The workshop shall be so operated as to provide the treatment staff with a realistic atmosphere for assessing patients’ capabilities in work settings, and to provide opportunities to strengthen and expand patient interests and aptitudes.

(Added by Stats. 1977, Ch. 1252.)

4497. At each state hospital at which there is established a sheltered workshop, there shall be a sheltered workshop fund administered by the clinical director. The fund shall be used for the purchase of materials, for the purchase or rental of equipment needed in the manufacturing, fabricating, or assembly of products, for the payment of remuneration to patients engaged in work at the workshop, and for the payment of such other costs of the operation of the workshop as may be directed by the medical director. The clinical director may cause the raw materials, goods in process, finished products, and equipment necessary for the production thereof to be insured against any and all risks of loss, subject to the approval of the Department of General Services. The costs of such insurance shall be paid from the sheltered workshop fund.

All money received from the manufacture, fabrication, assembly, or distribution of products at any state hospital sheltered workshop shall be deposited and credited to the hospital’s sheltered workshop fund.

(Added by Stats. 1977, Ch. 1252.)

4498. To assure a continuous level of competency for all state hospital treatment personnel under the jurisdiction of the State Department of Developmental Services, the department shall provide adequate in-service training programs for such state hospital treatment personnel.

(Repealed and added by Stats. 1978, Ch. 429.)

4499. To assure an adequate supply of licensed psychiatric technicians for state hospitals for the developmentally disabled, the State Department of Developmental Services, to the extent necessary, shall establish in state hospitals for the developmentally disabled a course of study and training equivalent, as determined by the Board of Vocational Nurse and Psychiatric Technician Examiners, to the minimum requirements of an accredited program for psychiatric technicians in the state. No unlicensed psychiatric technician trainee shall be permitted to perform the duties of a licensed psychiatric technician as provided by Section 4502 of the Business and Professions Code unless such trainee performs such duties pursuant to a plan of supervision approved by the Board of Vocational Nurse and Psychiatric Technician Examiners as part of the equivalency trainee program. This section shall not be construed to reduce the effort presently expended by the community college system or private colleges in training psychiatric technicians.

(Added by Stats. 1978, Ch. 429.)

DIVISION 4.5. SERVICES FOR THE DEVELOPMENTALLY DISABLED

(Division 4.5 added by Stats. 1977, Ch. 1252.)

CHAPTER 1. GENERAL PROVISIONS

(Chapter 1 added by Stats. 1977, Ch. 1252.)

4500. This division shall be known and may be cited as the Lanterman Developmental Disabilities Services Act.

(Added by Stats. 1977, Ch. 1252.)

4500.5. The Legislature makes the following findings regarding the State of California's responsibility to provide services to persons with developmental disabilities, and the right of those individuals to receive services, pursuant to this division:

(a) Since the enactment of this division in 1977, the number of consumers receiving services under this division has substantially increased and the nature, variety, and types of services necessary to meet the needs of the consumers and their families have also changed. Over the years the concept of service delivery has undergone numerous revisions. Services that were once deemed desirable by consumers and families may now no longer be appropriate, or the means of service delivery may be outdated.

(b) As a result of the increased demands for services and changes in the methods in which those services are provided to consumers and their families, the value statements and principles contained in this division should be updated.

(c) It is the intent of the Legislature, in enacting the act that added this section, to update existing law; clarify the role of consumers and their families in determining service needs; and to describe more fully service options available to consumers and their families, pursuant to the individual program plan. Nothing in these provisions shall be construed to expand the existing entitlement to services for persons with developmental disabilities set forth in this division.

(d) It is the intent of the Legislature that the department monitor regional centers so that an individual consumer eligible for services and supports under this division receive the services and supports identified in his or her individual program plan.

(Amended by Stats. 1997, Ch. 414, Sec. 4. Effective September 22, 1997.)

4501. The State of California accepts a responsibility for persons with developmental disabilities and an obligation to them which it must discharge. Affecting hundreds of thousands of children and adults directly, and having an important impact on the lives of their families, neighbors, and whole communities, developmental disabilities present social, medical, economic, and legal problems of extreme importance.

The complexities of providing services and supports to persons with developmental disabilities requires the coordination of services of many state departments and community agencies to ensure that no gaps occur in communication or provision of services and supports. A consumer of services and supports, and where appropriate, his or her parents, legal guardian, or conservator, shall have a leadership role in service design.

An array of services and supports should be established which is sufficiently complete to meet the needs and choices of each person with developmental disabilities, regardless of age or degree of disability, and at each stage of life and to support their

integration into the mainstream life of the community. To the maximum extent feasible, services and supports should be available throughout the state to prevent the dislocation of persons with developmental disabilities from their home communities.

Services and supports should be available to enable persons with developmental disabilities to approximate the pattern of everyday living available to people without disabilities of the same age. Consumers of services and supports, and where appropriate, their parents, legal guardian, or conservator, should be empowered to make choices in all life areas. These include promoting opportunities for individuals with developmental disabilities to be integrated into the mainstream of life in their home communities, including supported living and other appropriate community living arrangements. In providing these services, consumers and their families, when appropriate, should participate in decisions affecting their own lives, including, but not limited to, where and with whom they live, their relationships with people in their community, the way in which they spend their time, including education, employment, and leisure, the pursuit of their own personal future, and program planning and implementation. The contributions made by parents and family members in support of their children and relatives with developmental disabilities are important and those relationships should also be respected and fostered, to the maximum extent feasible, so that consumers and their families can build circles of support within the community.

The Legislature finds that the mere existence or the delivery of services and supports is, in itself, insufficient evidence of program effectiveness. It is the intent of the Legislature that agencies serving persons with developmental disabilities shall produce evidence that their services have resulted in consumer or family empowerment and in more independent, productive, and normal lives for the persons served. It is further the intent of the Legislature that the Department of Developmental Services, through appropriate and regular monitoring activities, ensure that regional centers meet their statutory, regulatory, and contractual obligations in providing services to persons with developmental disabilities. The Legislature declares its intent to monitor program results through continued legislative oversight and review of requests for appropriations to support developmental disabilities programs.

(Amended by Stats. 1997, Ch. 414, Sec. 5. Effective September 22, 1997.)

4501.5. In counties where State Department of Developmental Services hospitals are located, the state hospitals shall ensure that appropriate special education and related services, pursuant to Chapter 8 (commencing with Section 56850) of Part 30 of the Education Code, are provided eligible individuals with exceptional needs residing in state hospitals.

(Added by Stats. 1980, Ch. 1191, Sec. 8. Effective September 29, 1980.)

4502. Persons with developmental disabilities have the same legal rights and responsibilities guaranteed all other individuals by the United States Constitution and laws and the Constitution and laws of the State of California. No otherwise qualified person by reason of having a developmental disability shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity, which receives public funds.

It is the intent of the Legislature that persons with developmental disabilities shall have rights including, but not limited to, the following:

(a) A right to treatment and habilitation services and supports in the least restrictive environment. Treatment and habilitation services and supports should foster the developmental potential of the person and be directed toward the achievement of the most independent, productive, and normal lives possible. Such services shall protect the personal liberty of the individual and shall be provided with the least restrictive conditions necessary to achieve the purposes of the treatment, services, or supports.

(b) A right to dignity, privacy, and humane care. To the maximum extent possible, treatment, services, and supports shall be provided in natural community settings.

(c) A right to participate in an appropriate program of publicly supported education, regardless of degree of disability.

(d) A right to prompt medical care and treatment.

(e) A right to religious freedom and practice.

(f) A right to social interaction and participation in community activities.

(g) A right to physical exercise and recreational opportunities.

(h) A right to be free from harm, including unnecessary physical restraint, or isolation, excessive medication, abuse, or neglect.

(i) A right to be free from hazardous procedures.

(j) A right to make choices in their own lives, including, but not limited to, where and with whom they live, their relationships with people in their community, the way they spend their time, including education, employment, and leisure, the pursuit of their personal future, and program planning and implementation.

(Amended by Stats. 1992, Ch. 1011, Sec. 3. Effective January 1, 1993.)

4502.1. The right of individuals with developmental disabilities to make choices in their own lives requires that all public or private agencies receiving state funds for the purpose of serving persons with developmental disabilities, including, but not limited to, regional centers, shall respect the choices made by consumers or, where appropriate, their parents, legal guardian, or conservator. Those public or private agencies shall provide consumers with opportunities to exercise decisionmaking skills in any aspect of day-to-day living and shall provide consumers with relevant information in an understandable form to aid the consumer in making his or her choice.

(Added by Stats. 1992, Ch. 1011, Sec. 3.5. Effective January 1, 1993.)

4503. Each person with developmental disabilities who has been admitted or committed to a state hospital, community care facility as defined in Section 1502 of the Health and Safety Code, or a health facility as defined in Section 1250 of the Health and Safety Code shall have the following rights, a list of which shall be prominently posted in English, Spanish, and other appropriate languages, in all facilities providing those services and otherwise brought to his or her attention by any additional means as the Director of Developmental Services may designate by regulation:

(a) To wear his or her own clothes, to keep and use his or her own personal possessions including his or her toilet articles, and to keep and be allowed to spend a reasonable sum of his or her own money for canteen expenses and small purchases.

(b) To have access to individual storage space for his or her private use.

(c) To see visitors each day.

(d) To have reasonable access to telephones, both to make and receive confidential calls.

(e) To have ready access to letterwriting materials, including stamps, and to mail and receive unopened correspondence.

(f) To refuse electroconvulsive therapy.

(g) To refuse behavior modification techniques which cause pain or trauma.

(h) To refuse psychosurgery notwithstanding the provisions of Sections 5325, 5326, and 5326.3. Psychosurgery means those operations currently referred to as lobotomy, psychiatric surgery, and behavioral surgery and all other forms of brain surgery if the surgery is performed for any of the following purposes:

(1) Modification or control of thoughts, feelings, actions, or behavior rather than the treatment of a known and diagnosed physical disease of the brain.

(2) Modification of normal brain function or normal brain tissue in order to control thoughts, feelings, action, or behavior.

(3) Treatment of abnormal brain function or abnormal brain tissue in order to modify thoughts, feelings, actions, or behavior when the abnormality is not an established cause for those thoughts, feelings, actions, or behavior.

(i) To make choices in areas including, but not limited to, his or her daily living routines, choice of companions, leisure and social activities, and program planning and implementation.

(j) Other rights, as specified by regulation.

(Amended by Stats. 2003, Ch. 62, Sec. 324. Effective January 1, 2004.)

4504. The professional person in charge of the facility or his designee may, for good cause, deny a person any of the rights specified under subdivisions (a), (b), (c), (d), and (e) of Section 4503. To ensure that these rights are denied only for good cause, the Director of Developmental Services shall adopt regulations specifying the conditions under which they may be denied. Denial of a person's rights shall in all cases be entered into the person's treatment record and shall be reported to the Director of Developmental Services on a quarterly basis. The content of these records shall enable the Director of Developmental Services to identify individual treatment records, if necessary, for future analysis and investigation. These reports shall be available, upon request, to Members of the Legislature. Information pertaining to denial of rights contained in the person's treatment record shall be made available, on request, to the person, his attorney, his parents, his conservator or guardian, the State Department of Developmental Services, and Members of the Legislature.

(Added by Stats. 1977, Ch. 1252.)

4505. For the purposes of subdivisions (f) and (g) of Section 4503, if the patient is a minor age 15 years or over, the right to refuse may be exercised either by the minor or his parent, guardian, conservator, or other person entitled to his custody.

If the patient or his parent, guardian, conservator, or other person responsible for his custody do not refuse the forms of treatment or behavior modification described in subdivisions (f) and (g) of Section 4503, such treatment and behavior modification may be provided only after review and approval by a peer review committee. The Director of Developmental Services shall, by March 1, 1977, adopt regulations establishing peer review procedures for this purpose.

(Amended by Stats. 1979, Ch. 373.)

4507. Developmental disabilities alone shall not constitute sufficient justification for judicial commitment. Instead, persons with developmental disabilities shall receive

services pursuant to this division. Persons who constitute a danger to themselves or others may be judicially committed if evidence of such danger is proven in court.

(Added by Stats. 1977, Ch. 1252.)

4508. Persons with developmental disabilities may be released from developmental centers for provisional placement, with parental consent in the case of a minor or with the consent of an adult person with developmental disabilities or with the consent of the guardian or conservator of the person with developmental disabilities, not to exceed twelve months, and shall be referred to a regional center for services pursuant to this division. Any person placed pursuant to this section shall have an automatic right of return to the developmental center during the period of provisional placement.

(Amended by Stats. 1997, Ch. 414, Sec. 6. Effective September 22, 1997.)

4509. By January 1, 1977, the Director of Developmental Services shall compile a roster of all persons who are in the custody of a state hospital, or on leave therefrom, pursuant to an order of judicial commitment as a mentally retarded person made prior to January 1, 1976. The appropriate regional center shall be given a copy of the names and pertinent records of the judicially committed retarded persons within its jurisdiction, and shall investigate the need and propriety of further judicial commitment of such persons under the provisions of Sections 6500 and 6500.1.

Each regional center shall complete all investigations required by this section within two years after the roster is submitted. In conducting its investigations, each regional center shall solicit information, advice, and recommendations of state hospital personnel familiar with the person whose needs are being evaluated.

For those persons found by a regional center to no longer require state hospital care, the regional center shall immediately prepare an individual program plan pursuant to Sections 4646 and 4648 for the provision of appropriate alternative services outside the state hospital.

If such alternative is not immediately available, the regional center shall give continuing high priority to the location and development of such services. As part of the program budget submission required in Section 4776, the regional director shall include a report specifying:

(a) The number of state hospital residents for whom a community alternative is deemed more suitable than a state hospital.

(b) The number of residents for whom no placement is made because of a lack of community services.

(c) The number, type, nature, and cost of community services that would be necessary in order for placement to occur.

For those persons found to be in continued need of state hospital care, the regional center shall either admit such person as a voluntary resident of the state hospital, or shall file a petition seeking the commitment of those persons for whom commitment is believed to be appropriate.

(Added by Stats. 1977, Ch. 1252.)

4510. The State Department of Developmental Services and the State Department of Mental Health shall jointly develop and implement a statewide program for encouraging the establishment of sufficient numbers and types of living arrangements, both in communities and state hospitals, as necessary to meet the needs of persons

served by those departments. The departments shall consult with the following organizations in the development of procedures pursuant to this section:

(a) The League of California Cities, the County Supervisors Association of California, and representatives of other local agencies.

(b) Organizations or advocates for clients receiving services in residential care services.

(c) Providers of residential care services.

(Amended by Stats. 1992, Ch. 713, Sec. 36. Effective September 15, 1992.)

4511. (a) The Legislature finds and declares that meeting the needs and honoring the choices of persons with developmental disabilities and their families requires information, skills and coordination and collaboration between consumers, families, regional centers, advocates and service and support providers.

(b) The Legislature further finds and declares that innovative and ongoing training opportunities can enhance the information and skills necessary and foster improved coordination and cooperation between system participants.

(c) The department shall be responsible, subject to the availability of fiscal and personnel resources, for securing, providing, and coordinating training to assist consumers and their families, regional centers, and services and support providers in acquiring the skills, knowledge, and competencies to achieve the purposes of this division.

(d) This training may include health and safety issues; person-centered planning; consumer and family rights; building circles of support; training and review protocols for the use of psychotropic and other medications; crime prevention; life quality assessment and outcomes; maximizing inclusive opportunities in the community; how to communicate effectively with consumers; and developing opportunities for decisionmaking.

(e) Whenever possible, the department shall utilize existing training tools and expertise.

(f) Each training module shall include an evaluation component.

(g) The department shall establish an advisory group, consisting of consumers, family members, regional centers, service providers, advocates and legislative representatives. The advisory group shall make recommendations for training subjects, review the design of training modules, and assess training outcomes.

(Added by Stats. 1998, Ch. 310, Sec. 31. Effective August 19, 1998.)

4512. As used in this division:

(a) ''Developmental disability'' means a disability that originates before an individual attains age 18 years, continues, or can be expected to continue, indefinitely, and constitutes a substantial disability for that individual. As defined by the Director of Developmental Services, in consultation with the Superintendent of Public Instruction, this term shall include mental retardation, cerebral palsy, epilepsy, and autism. This term shall also include disabling conditions found to be closely related to mental retardation or to require treatment similar to that required for individuals with mental retardation, but shall not include other handicapping conditions that are solely physical in nature.

(b) ''Services and supports for persons with developmental disabilities'' means specialized services and supports or special adaptations of generic services and supports directed toward the alleviation of a developmental disability or toward the

social, personal, physical, or economic habilitation or rehabilitation of an individual with a developmental disability, or toward the achievement and maintenance of independent, productive, normal lives. The determination of which services and supports are necessary for each consumer shall be made through the individual program plan process. The determination shall be made on the basis of the needs and preferences of the consumer or, when appropriate, the consumer's family, and shall include consideration of a range of service options proposed by individual program plan participants, the effectiveness of each option in meeting the goals stated in the individual program plan, and the cost-effectiveness of each option. Services and supports listed in the individual program plan may include, but are not limited to, diagnosis, evaluation, treatment, personal care, day care, domiciliary care, special living arrangements, physical, occupational, and speech therapy, training, education, supported and sheltered employment, mental health services, recreation, counseling of the individual with a developmental disability and of his or her family, protective and other social and sociolegal services, information and referral services, follow-along services, adaptive equipment and supplies, advocacy assistance, including self-advocacy training, facilitation and peer advocates, assessment, assistance in locating a home, child care, behavior training and behavior modification programs, camping, community integration services, community support, daily living skills training, emergency and crisis intervention, facilitating circles of support, habilitation, homemaker services, infant stimulation programs, paid roommates, paid neighbors, respite, short-term out-of-home care, social skills training, specialized medical and dental care, supported living arrangements, technical and financial assistance, travel training, training for parents of children with developmental disabilities, training for parents with developmental disabilities, vouchers, and transportation services necessary to ensure delivery of services to persons with developmental disabilities. Nothing in this subdivision is intended to expand or authorize a new or different service or support for any consumer unless that service or support is contained in his or her individual program plan.

(c) Notwithstanding subdivisions (a) and (b), for any organization or agency receiving federal financial participation under the federal Developmental Disabilities Assistance and Bill of Rights Act, as amended ''developmental disability'' and ''services for persons with developmental disabilities'' means the terms as defined in the federal act to the extent required by federal law.

(d) ''Consumer'' means a person who has a disability that meets the definition of developmental disability set forth in subdivision (a).

(e) ''Natural supports'' means personal associations and relationships typically developed in the community that enhance the quality and security of life for people, including, but not limited to, family relationships, friendships reflecting the diversity of the neighborhood and the community, associations with fellow students or employees in regular classrooms and workplaces, and associations developed through participation in clubs, organizations, and other civic activities.

(f) ''Circle of support'' means a committed group of community members, who may include family members, meeting regularly with an individual with developmental disabilities in order to share experiences, promote autonomy and community involvement, and assist the individual in establishing and maintaining natural supports. A circle of support generally includes a plurality of members who

neither provide nor receive services or supports for persons with developmental disabilities and who do not receive payment for participation in the circle of support.

(g) ''Facilitation'' means the use of modified or adapted materials, special instructions, equipment, or personal assistance by an individual, such as assistance with communications, that will enable a consumer to understand and participate to the maximum extent possible in the decisions and choices that effect his or her life.

(h) ''Family support services'' means services and supports that are provided to a child with developmental disabilities or his or her family and that contribute to the ability of the family to reside together.

(i) ''Voucher'' means any authorized alternative form of service delivery in which the consumer or family member is provided with a payment, coupon, chit, or other form of authorization that enables the consumer or family member to choose his or her own service provider.

(j) ''Planning team'' means the individual with developmental disabilities, the parents or legally appointed guardian of a minor consumer or the legally appointed conservator of an adult consumer, the authorized representative, including those appointed pursuant to subdivision (d) of Section 4548 and subdivision (e) of Section 4705, one or more regional center representatives, including the designated regional center service coordinator pursuant to subdivision (b) of Section 4640.7, any individual, including a service provider, invited by the consumer, the parents or legally appointed guardian of a minor consumer or the legally appointed conservator of an adult consumer, or the authorized representative, including those appointed pursuant to subdivision (d) of Section 4548 and subdivision (e) of Section 4705.

(k) ''Stakeholder organizations'' means statewide organizations representing the interests of consumers, family members, service providers, and statewide advocacy organizations.

(l) ''Substantial disability'' means the existence of significant functional limitations in three or more of the following areas of major life activity, as determined by a regional center, and as appropriate to the age of the person:

(1) Self-care.
(2) Receptive and expressive language.
(3) Learning.
(4) Mobility.
(5) Self-direction.
(6) Capacity for independent living.
(7) Economic self-sufficiency.

Any reassessment of substantial disability for purposes of continuing eligibility shall utilize the same criteria under which the individual was originally made eligible.

(Amended by Stats. 2006, Ch. 399, Sec. 1. Effective January 1, 2007.)

4513. (a) Whenever the department allocates funds to a regional center through a request for proposal process to implement special projects funded through the Budget Act, the department shall require that the regional center demonstrate community support for the proposal.

(b) In awarding funds to regional centers to implement such proposals, the department shall consider, among other indicators, the following:

(1) The demonstrated commitment of the regional center in establishing or expanding the service or support.

(2) The demonstrated ability of the regional center to implement the proposal.

(3) The success or failure of previous efforts to establish or expand the service or support.

(4) The need for the establishment or expansion of the service and support in the regional center catchment area as compared to other geographic areas.

(c) The department may require periodic progress reports from the regional center in implementing a proposal.

(d) The department shall ensure that each funded and implemented proposal be evaluated and that the evaluation process include the input of consumers, families, providers and advocates, as appropriate.

(e) The department shall make these evaluations available to the public, upon request.

(f) The department shall develop and implement strategies for fostering the duplication of successful projects.

(Added by Stats. 1998, Ch. 310, Sec. 32. Effective August 19, 1998.)

4514. All information and records obtained in the course of providing intake, assessment, and services under Division 4.1 (commencing with Section 4400), Division 4.5 (commencing with Section 4500), Division 6 (commencing with Section 6000), or Division 7 (commencing with Section 7100) to persons with developmental disabilities shall be confidential. Information and records obtained in the course of providing similar services to either voluntary or involuntary recipients prior to 1969 shall also be confidential. Information and records shall be disclosed only in any of the following cases:

(a) In communications between qualified professional persons, whether employed by a regional center or state developmental center, or not, in the provision of intake, assessment, and services or appropriate referrals. The consent of the person with a developmental disability, or his or her guardian or conservator, shall be obtained before information or records may be disclosed by regional center or state developmental center personnel to a professional not employed by the regional center or state developmental center, or a program not vendored by a regional center or state developmental center.

(b) When the person with a developmental disability, who has the capacity to give informed consent, designates individuals to whom information or records may be released, except that nothing in this chapter shall be construed to compel a physician, psychologist, social worker, marriage and family therapist, nurse, attorney, or other professional to reveal information that has been given to him or her in confidence by a family member of the person unless a valid release has been executed by that family member.

(c) To the extent necessary for a claim, or for a claim or application to be made on behalf of a person with a developmental disability for aid, insurance, government benefit, or medical assistance to which he or she may be entitled.

(d) If the person with a developmental disability is a minor, ward, or conservatee, and his or her parent, guardian, conservator, or limited conservator with access to confidential records, designates, in writing, persons to whom records or information may be disclosed, except that nothing in this chapter shall be construed to compel a physician, psychologist, social worker, marriage and family therapist, nurse, attorney, or other professional to reveal information that has been given to him or her in

confidence by a family member of the person unless a valid release has been executed by that family member.

(e) For research, provided that the Director of Developmental Services designates by regulation rules for the conduct of research and requires the research to be first reviewed by the appropriate institutional review board or boards. These rules shall include, but need not be limited to, the requirement that all researchers shall sign an oath of confidentiality as follows:

" _____
Date

As a condition of doing research concerning persons with developmental disabilities who have received services from _____ (fill in the facility, agency or person), I, _____, agree to obtain the prior informed consent of persons who have received services to the maximum degree possible as determined by the appropriate institutional review board or boards for protection of human subjects reviewing my research, or the person's parent, guardian, or conservator, and I further agree not to divulge any information obtained in the course of the research to unauthorized persons, and not to publish or otherwise make public any information regarding persons who have received services so those persons who received services are identifiable.

I recognize that the unauthorized release of confidential information may make me subject to a civil action under provisions of the Welfare and Institutions Code.

_____"
Signed

(f) To the courts, as necessary to the administration of justice.

(g) To governmental law enforcement agencies as needed for the protection of federal and state elective constitutional officers and their families.

(h) To the Senate Committee on Rules or the Assembly Committee on Rules for the purposes of legislative investigation authorized by the committee.

(i) To the courts and designated parties as part of a regional center report or assessment in compliance with a statutory or regulatory requirement, including, but not limited to, Section 1827.5 of the Probate Code, Sections 1001.22 and 1370.1 of the Penal Code, Section 6502 of the Welfare and Institutions Code, and Section 56557 of Title 17 of the California Code of Regulations.

(j) To the attorney for the person with a developmental disability in any and all proceedings upon presentation of a release of information signed by the person, except that when the person lacks the capacity to give informed consent, the regional center or state developmental center director or designee, upon satisfying himself or herself of the identity of the attorney, and of the fact that the attorney represents the person, shall release all information and records relating to the person except that nothing in this article shall be construed to compel a physician, psychologist, social worker, marriage and family therapist, nurse, attorney, or other professional to reveal information that has been given to him or her in confidence by a family member of the person unless a valid release has been executed by that family member.

(k) Upon written consent by a person with a developmental disability previously or presently receiving services from a regional center or state developmental center, the director of the regional center or state developmental center, or his or her designee, may release any information, except information that has been given in confidence by members of the family of the person with developmental disabilities, requested by a probation officer charged with the evaluation of the person after his or her conviction of a crime if the regional center or state developmental center director or designee determines that the information is relevant to the evaluation. The consent shall only be operative until sentence is passed on the crime of which the person was convicted. The confidential information released pursuant to this subdivision shall be transmitted to the court separately from the probation report and shall not be placed in the probation report. The confidential information shall remain confidential except for purposes of sentencing. After sentencing, the confidential information shall be sealed.

(*l*) Between persons who are trained and qualified to serve on ''multidisciplinary personnel'' teams pursuant to subdivision (d) of Section 18951. The information and records sought to be disclosed shall be relevant to the prevention, identification, management, or treatment of an abused child and his or her parents pursuant to Chapter 11 (commencing with Section 18950) of Part 6 of Division 9.

(m) When a person with a developmental disability dies from any cause, natural or otherwise, while hospitalized in a state developmental center, the State Department of Developmental Services, the physician in charge of the client, or the professional in charge of the facility or his or her designee, shall release information and records to the coroner. The State Department of Developmental Services, the physician in charge of the client, or the professional in charge of the facility or his or her designee, shall not release any notes, summaries, transcripts, tapes, or records of conversations between the resident and health professional personnel of the hospital relating to the personal life of the resident that is not related to the diagnosis and treatment of the resident's physical condition. Any information released to the coroner pursuant to this section shall remain confidential and shall be sealed and shall not be made part of the public record.

(n) To authorized licensing personnel who are employed by, or who are authorized representatives of, the State Department of Health Services, and who are licensed or registered health professionals, and to authorized legal staff or special investigators who are peace officers who are employed by, or who are authorized representatives of, the State Department of Social Services, as necessary to the performance of their duties to inspect, license, and investigate health facilities and community care facilities, and to ensure that the standards of care and services provided in these facilities are adequate and appropriate and to ascertain compliance with the rules and regulations to which the facility is subject. The confidential information shall remain confidential except for purposes of inspection, licensing, or investigation pursuant to Chapter 2 (commencing with Section 1250) and Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code, or a criminal, civil, or administrative proceeding in relation thereto. The confidential information may be used by the State Department of Health Services or the State Department of Social Services in a criminal, civil, or administrative proceeding. The confidential information shall be available only to the judge or hearing officer and to the parties to the case. Names which are confidential shall be listed in attachments separate to the general pleadings. The confidential information shall be sealed after the conclusion of the criminal, civil, or administrative

hearings, and shall not subsequently be released except in accordance with this subdivision. If the confidential information does not result in a criminal, civil, or administrative proceeding, it shall be sealed after the State Department of Health Services or the State Department of Social Services decides that no further action will be taken in the matter of suspected licensing violations. Except as otherwise provided in this subdivision, confidential information in the possession of the State Department of Health Services or the State Department of Social Services shall not contain the name of the person with a developmental disability.

(o) To any board which licenses and certifies professionals in the fields of mental health and developmental disabilities pursuant to state law, when the Director of Developmental Services has reasonable cause to believe that there has occurred a violation of any provision of law subject to the jurisdiction of a board and the records are relevant to the violation. The information shall be sealed after a decision is reached in the matter of the suspected violation, and shall not subsequently be released except in accordance with this subdivision. Confidential information in the possession of the board shall not contain the name of the person with a developmental disability.

(p) To governmental law enforcement agencies by the director of a regional center or state developmental center, or his or her designee, when (1) the person with a developmental disability has been reported lost or missing or (2) there is probable cause to believe that a person with a developmental disability has committed, or has been the victim of, murder, manslaughter, mayhem, aggravated mayhem, kidnapping, robbery, carjacking, assault with the intent to commit a felony, arson, extortion, rape, forcible sodomy, forcible oral copulation, assault or battery, or unlawful possession of a weapon, as provided in Section 12020 of the Penal Code.

This subdivision shall be limited solely to information directly relating to the factual circumstances of the commission of the enumerated offenses and shall not include any information relating to the mental state of the patient or the circumstances of his or her treatment unless relevant to the crime involved.

This subdivision shall not be construed as an exception to, or in any other way affecting, the provisions of Article 7 (commencing with Section 1010) of Chapter 4 of Division 8 of the Evidence Code, or Chapter 11 (commencing with Section 15600) and Chapter 13 (commencing with Section 15750) of Part 3 of Division 9.

(q) To the Youth Authority and Adult Correctional Agency or any component thereof, as necessary to the administration of justice.

(r) To an agency mandated to investigate a report of abuse filed pursuant to either Section 11164 of the Penal Code or Section 15630 of the Welfare and Institutions Code for the purposes of either a mandated or voluntary report or when those agencies request information in the course of conducting their investigation.

(s) When a person with developmental disabilities, or the parent, guardian, or conservator of a person with developmental disabilities who lacks capacity to consent, fails to grant or deny a request by a regional center or state developmental center to release information or records relating to the person with developmental disabilities within a reasonable period of time, the director of the regional or developmental center, or his or her designee, may release information or records on behalf of that person provided both of the following conditions are met:

(1) Release of the information or records is deemed necessary to protect the person's health, safety, or welfare.

(2) The person, or the person's parent, guardian, or conservator, has been advised annually in writing of the policy of the regional center or state developmental center for release of confidential client information or records when the person with developmental disabilities, or the person's parent, guardian, or conservator, fails to respond to a request for release of the information or records within a reasonable period of time. A statement of policy contained in the client's individual program plan shall be deemed to comply with the notice requirement of this paragraph.

(t) (1) When an employee is served with a notice of adverse action, as defined in Section 19570 of the Government Code, the following information and records may be released:

(A) All information and records that the appointing authority relied upon in issuing the notice of adverse action.

(B) All other information and records that are relevant to the adverse action, or that would constitute relevant evidence as defined in Section 210 of the Evidence Code.

(C) The information described in subparagraphs (A) and (B) may be released only if both of the following conditions are met:

(i) The appointing authority has provided written notice to the consumer and the consumer's legal representative or, if the consumer has no legal representative or if the legal representative is a state agency, to the clients' rights advocate, and the consumer, the consumer's legal representative, or the clients' rights advocate has not objected in writing to the appointing authority within five business days of receipt of the notice, or the appointing authority, upon review of the objection has determined that the circumstances on which the adverse action is based are egregious or threaten the health, safety, or life of the consumer or other consumers and without the information the adverse action could not be taken.

(ii) The appointing authority, the person against whom the adverse action has been taken, and the person's representative, if any, have entered into a stipulation that does all of the following:

(I) Prohibits the parties from disclosing or using the information or records for any purpose other than the proceedings for which the information or records were requested or provided.

(II) Requires the employee and the employee's legal representative to return to the appointing authority all records provided to them under this subdivision, including, but not limited to, all records and documents or copies thereof that are no longer in the possession of the employee or the employee's legal representative because they were from any source containing confidential information protected by this section, and all copies of those records and documents, within 10 days of the date that the adverse action becomes final except for the actual records and documents submitted to the administrative tribunal as a component of an appeal from the adverse action.

(III) Requires the parties to submit the stipulation to the administrative tribunal with jurisdiction over the adverse action at the earliest possible opportunity.

(2) For the purposes of this subdivision, the State Personnel Board may, prior to any appeal from adverse action being filed with it, issue a protective order, upon application by the appointing authority, for the limited purpose of prohibiting the parties from disclosing or using information or records for any purpose other than the proceeding for which the information or records were requested or provided, and to require the employee or the employee's legal representative to return to the appointing authority all records provided to them under this subdivision, including, but not limited to, all

records and documents from any source containing confidential information protected by this section, and all copies of those records and documents, within 10 days of the date that the adverse action becomes final, except for the actual records and documents that are no longer in the possession of the employee or the employee's legal representatives because they were submitted to the administrative tribunal as a component of an appeal from the adverse action.

(3) Individual identifiers, including, but not limited to, names, social security numbers, and hospital numbers, that are not necessary for the prosecution or defense of the adverse action, shall not be disclosed.

(4) All records, documents, or other materials containing confidential information protected by this section that have been submitted or otherwise disclosed to the administrative agency or other person as a component of an appeal from an adverse action shall, upon proper motion by the appointing authority to the administrative tribunal, be placed under administrative seal and shall not, thereafter, be subject to disclosure to any person or entity except upon the issuance of an order of a court of competent jurisdiction.

(5) For purposes of this subdivision, an adverse action becomes final when the employee fails to answer within the time specified in Section 19575 of the Government Code, or, after filing an answer, withdraws the appeal, or, upon exhaustion of the administrative appeal or of the judicial review remedies as otherwise provided by law.

(Amended by Stats. 2004, Ch. 406, Sec. 1. Effective January 1, 2005.)

4514.3. (a) Notwithstanding Section 4514, information and records shall be disclosed to the protection and advocacy agency designated by the Governor in this state to fulfill the requirements and assurances of the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000, contained in Chapter 144 (commencing with Section 15001) of Title 42 of the United States Code, for the protection and advocacy of the rights of persons with developmental disabilities, as defined in Section 15002(8) of Title 42 of the United States Code.

(b) Access to information and records to which subdivision (a) applies shall be in accord with Division 4.7 (commencing with Section 4900).

(Amended by Stats. 2003, Ch. 878, Sec. 3. Effective January 1, 2004.)

4514.5. Upon request of a family member of a resident of a state hospital, community care facility, or health facility, or other person designated by the resident, the facility shall give such family member or the designee notification of the resident's presence in the facility, the transfer, the diagnosis, the prognosis, the medications prescribed, the side effects of medications prescribed, if any, the progress of the resident, and the serious illness of the resident, if, after notification of the resident that such information is requested, the resident authorizes such disclosure. If, when initially informed of the request for notification, the resident is unable to authorize the release of such information, notation of the attempt shall be made into the resident's treatment record, and daily efforts shall be made to secure the resident's consent or refusal of such authorization. However, if a request for information is made by the spouse, parent, child, or sibling of the resident and the resident is unable to authorize the release of such information, such requester shall be given notification of the resident's presence in the facility, except to the extent prohibited by federal law. Upon request of a family member of a resident or the designee, the facility shall notify such family member or designee of the release or death of the resident. Nothing in this section shall be

construed to require photocopying of the resident's medical records in order to satisfy its provisions.

(Added by Stats. 1982, Ch. 1141, Sec. 2.)

4515. Signed consent forms by a person with a developmental disability or, where appropriate, the parent, guardian, or conservator, for release of any information to which such person consents under the provision of Sections 11878 or 11879 of the Health and Safety Code, or subdivision (a) or (d) of Section 4514 shall be obtained for each separate use with the use specified, the information to be released, the name of the agency or individual to whom information will be released indicated on the form and the name of the responsible individual who has authorization to release information specified. Any use of this form shall be noted in the file of the person with developmental disabilities. Persons who sign consent forms shall be given a copy of the consent forms signed.

(Added by Stats. 1982, Ch. 1141, Sec. 3.)

4516. When any disclosure of information or records is made as authorized by the provisions of subdivision (a), (d), or (q) of Section 4514 or Section 4514.5, the physician in charge of the person with a developmental disability or the professional in charge of the facility shall promptly cause to be entered into the person's medical record the date and circumstances under which such disclosure was made, the names and relationships to the person, if any, of individuals or agencies to whom such disclosure was made, and the specific information disclosed.

(Added by Stats. 1982, Ch. 1141, Sec. 4.)

4517. Nothing in this chapter shall be construed to prohibit the compilation and publication of statistical data for use by government or researchers and standards set by the Director of Developmental Services.

(Added by Stats. 1982, Ch. 1141, Sec. 5.)

4518. Any person may bring an action against an individual who has willfully and knowingly released confidential information or records concerning him or her in violation of the provisions of this chapter, or of Chapter 1 (commencing with Section 11860) of Part 3 of Division 10.5 of the Health and Safety Code, for the greater of the following amounts:

(1) Five hundred dollars ($500).

(2) Three times the amount of actual damages, if any, sustained by the plaintiff.

Any person may, in accordance with the provisions of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, bring an action to enjoin the release of confidential information or records in violation of the provisions of this chapter, and may in the same action seek damages as provided in this section.

It is not a prerequisite to an action under this section that the plaintiff suffer or be threatened with actual damages.

(Added by Stats. 1982, Ch. 1141, Sec. 6.)

4519. (a) The department shall not expend funds, and a regional center shall not expend funds allocated to it by the department, for the purchase of any service outside the state unless the Director of Developmental Services or the director's designee has received, reviewed, and approved a plan for out-of-state service in the client's individual program plan developed pursuant to Sections 4646 to 4648, inclusive. The

department shall authorize the purchase of out-of-state services when the director determines the proposed service or an appropriate alternative, as determined by the director, is not available from resources and facilities within the state. For the purposes of this section, the department shall be considered a service agency under Chapter 7 (commencing with Section 4700).

(b) No funds shall be expended for the cost of interstate travel or transportation by regional center staff in connection with the purchase of any service outside the state unless authorized by the director or the director's designee.

(c) When a regional center places a client out-of-state pursuant to subdivision (a), it shall prepare a report for inclusion in the client's individual program plan. This report shall summarize the regional center's efforts to locate, develop, or adapt an appropriate program for the client within the state. This report shall be reviewed and updated every six months and a copy sent to the director.

(d) Notwithstanding subdivisions (a), (b), and (c), the State Department of Developmental Services or a regional center may expend funds allocated to it for the purchase of services for residents of this state and administrative costs incurred in providing services in the border areas of a state adjacent to California when the purchase is approved by the regional center director.

(Added by Stats. 1984, Ch. 135, Sec. 4. Effective May 31, 1984.)

4519.7. (a) Any regional center employee shall not be liable for civil damages on account of an injury or death resulting from an employee's act or omission where the act or omission was the result of the exercise of the discretion vested in him or her, in good faith, in carrying out the intent of this division, except for acts or omissions of gross negligence or acts or omissions giving rise to a claim under Section 3294 of the Civil Code. This section shall not be applied to provide immunity from liability for any criminal act.

(b) This section is not intended to change, alter, or affect the liability of regional centers, including, but not limited to, the vicarious liability of a regional center due to a negligent employee.

(c) A regional center employee, when participating in filing a complaint or providing information as required by law regarding a consumer's health, safety, or well-being, or participating in a judicial proceeding resulting therefrom, shall be presumed to be acting in good faith, and unless the presumption is rebutted, shall be immune from any liability, civil or criminal, and shall be immune from any penalty, sanction, or restriction that might be incurred or imposed. The presumption established by this subdivision is a presumption affecting the burden of producing evidence.

(d) This section shall apply only to acts or omissions that occur on or after January 1, 2001.

(Amended by Stats. 2008, Ch. 51, Sec. 1. Effective January 1, 2009.)

CHAPTER 2. STATE COUNCIL ON DEVELOPMENTAL DISABILITIES

(Chapter 2 added by Stats. 1977, Ch. 1252.)

Article 1. Composition and Appointments

(Article 1 added by Stats. 1977, Ch. 1252.)

4520. (a) The Legislature finds that services for persons with developmental disabilities constitute a major expenditure of public funds, that these programs are

provided by hundreds of public and private statewide and local agencies, that the legal, civil, and service rights of persons with developmental disabilities are frequently denied, and that there is no effective method for planning and coordinating the state's resources to assure these rights. Therefore, a State Council on Developmental Disabilities with authority independent of any single state service agency is needed and is hereby created.

(b) The Legislature further finds that the state faces unique challenges because of its size and diversity, and neighborhoods and communities lack the support necessary to monitor system functions and ensure the legal, civil, and service rights of persons with developmental disabilities. Therefore, local area boards on developmental disabilities shall be established to conduct the local advocacy, capacity building, and systemic change activities required by the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000 (Public Law 106-402 (42 U.S.C. Sec. 15001)).

(c) This chapter, Chapter 3 (commencing with Section 4560), and Chapter 4 (commencing with Section 4570), and Division 4.7 (commencing with Section 4900), are intended by the Legislature to secure full compliance with the requirements of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (Public Law 106-402), as amended and extended, which provides federal funds to assist the state in planning, coordinating, monitoring, and evaluating services for persons with developmental disabilities and in establishing a system to protect and advocate the legal and civil rights of persons with developmental disabilities.

(Amended by Stats. 2002, Ch. 676, Sec. 4. Effective January 1, 2003.)

4521. (a) All references to ''state council'' in this part shall be a reference to the State Council on Developmental Disabilities.

(b) There shall be 31 voting members on the state council appointed by the Governor, as follows:

(1) One member from each of the 13 area boards on developmental disabilities described in Article 6 (commencing with Section 4543), nominated by the area board to serve as a council member, who shall be persons with a developmental disability, as defined in Section 15002(8) of Title 42 of the United States Code, or parents or guardians of minors with developmental disabilities or conservators of adults with developmental disabilities residing in California. Five of these members shall be persons with a developmental disability, as defined in Section 15002(8) of Title 42 of the United States Code, three shall be parents, immediate relatives, guardians, or conservators of persons with developmental disabilities, and five shall be either a person with a developmental disability or a parent, immediate relatives, guardian, or conservator of a person with a developmental disability. The nominee from each area board shall be an area board member who was appointed by the Governor.

(2) Eleven members of the council shall include the following:

(A) The Secretary of California Health and Human Services, or his or her designee, who shall represent the agency and the state agency that administers funds under Title XIX of the Social Security Act for people with developmental disabilities.

(B) The Director of Developmental Services or his or her designee.

(C) The Director of Rehabilitation or his or her designee.

(D) The Superintendent of Public Instruction or his or her designee.

(E) A representative from a nongovernmental agency or group concerned with the provision of services to persons with developmental disabilities.

(F) One representative from each of the three university centers for excellence in the state, pursuant to Section 15061 et seq. of Title 42 of the United States Code, providing training in the field of developmental services. These individuals shall have expertise in the field of developmental disabilities.

(G) The Director of Health Care Services or his or her designee.

(H) The executive director of the agency established in California to fulfill the requirements and assurance of Title I, Subtitle C, of the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000 for a system to protect and advocate the rights of persons with developmental disabilities, or his or her designee.

(I) The Director of Aging or his or her designee.

(3) Seven members at large, appointed by the Governor, as follows:

(A) Three shall be persons with developmental disabilities, as defined in Section 15002(8) of Title 42 of the United States Code.

(B) One shall be a person who is a parent, immediate relative, guardian, or conservator of a resident of a developmental center.

(C) One shall be a person who is a parent, immediate relative, guardian, or conservator of a person with a developmental disability living in the community.

(D) One shall be a person who is a parent, immediate relative, guardian, or conservator of a person with a developmental disability living in the community, nominated by the Speaker of the Assembly.

(E) One shall be a person with developmental disabilities, as defined in Section 15002(8) of Title 42 of the United States Code, nominated by the Senate Committee on Rules.

(c) Prior to appointing the 31 members pursuant to this section, the Governor shall request and consider recommendations from organizations representing, or providing services to, or both, persons with developmental disabilities, and shall take into account socioeconomic, ethnic, and geographic considerations of the state.

(d) The term of each member described in paragraph (1) of, subparagraphs (E) and (H) of paragraph (2) of, and paragraph (3) of, subdivision (b) shall be for three years; provided, however, of the members first appointed by the Governor pursuant to paragraph (1) of subdivision (b), five shall hold office for three years, four shall hold office for two years, and four shall hold office for one year. In no event shall any member described in paragraph (1) of, subparagraphs (E) and (H) of paragraph (2) of, and paragraph (3) of, subdivision (b) serve for more than a total of six years of service. Service by any individual on any state council on developmental disabilities existing on and after January 1, 2003, shall be included in determining the total length of service.

(e) Members appointed to the state council prior to June 1, 2002, shall continue to serve until the term to which they were appointed expires. Members appointed on June 1, 2002, or thereafter shall have their terms expire on January 1, 2003.

(f) Notwithstanding subdivision (c) of Section 4546, members described in subdivision (b) shall continue to serve on the area board following the expiration of their term on the area board until their term on the state council has expired.

(g) A member may continue to serve following the expiration of his or her term until the Governor appoints that member's successor. The state council shall notify the Governor regarding membership requirements of the council and shall notify the

Governor at least 60 days before a member's term expires, and when a vacancy on the council remains unfilled for more than 60 days.

(Amended by Stats. 2008, Ch. 419, Sec. 1. Effective January 1, 2009.)

4521.5. Notwithstanding Section 7.5 of the Government Code, each designee shall act as the member in his or her place and stead to all intents and purposes as though the director or secretary were personally present, including the right of the designee to be counted in constituting a quorum to participate in the proceeding of the state council and to vote upon any and all matters.

Each designee shall have the right to represent the director or secretary who appointed him or her regardless of the number of other designees representing directors or secretaries at a particular meeting or session of the state council. Each designee shall represent only one director or secretary at any meeting or session of the state council.

(Amended by Stats. 2008, Ch. 419, Sec. 2. Effective January 1, 2009.)

4521.6. For purposes of this chapter, the Governor's appointment of the Secretary of Health and Human Services, the Director of the California Department of Aging, Director of Developmental Services, Director of Health Services, and Director of the Department of Rehabilitation shall also constitute his or her appointment as a member of the State Council on Developmental Disabilities.

(Added by Stats. 2002, Ch. 676, Sec. 7. Effective January 1, 2003.)

4522. Nothing in this chapter shall prevent the reappointment or replacement of any individual presently serving on the existing state council if the reappointment or replacement is in conformity with all of the criteria established in this chapter.

(Amended by Stats. 2002, Ch. 676, Sec. 8. Effective January 1, 2003.)

4523. Persons appointed to membership on the state council shall have demonstrated interest and leadership in human service activities, including interest in Californians who have developmental disabilities, their families, services, and supports.

(Amended by Stats. 2002, Ch. 676, Sec. 9. Effective January 1, 2003.)

Article 2. Conflict of Interest

(Article 2 added by Stats. 1977, Ch. 1252.)

4525. (a) In order to prevent any potential conflicts of interest, members of the state council may not be employees of a state, local, or private agency or facility that provides services to persons with a developmental disability, or be members of the governing board of any entity providing the service, when the service is funded in whole or in part with state funds.

(b) For purposes of this section, ''employees of a state, local, or private agency or facility that provides services to persons with a developmental disability'' shall not be deemed to include any of the following:

(1) A parent, relative, guardian or conservator, who receives public funds expressly for the purpose of providing direct services to his or her child, relative, ward or conservatee, respectively, who is a person with a developmental disability.

(2) A person with a developmental disability who receives employment services through a provider receiving state or federal funds.

(3) A person who serves as a member of an area board.

(c) This section shall not apply to the appointments made pursuant to subparagraphs (A), (B), (C), (D), (F), (G), (H), and (I) of paragraph (2) of subdivision (b) of Section 4521.

(Amended by Stats. 2002, Ch. 676, Sec. 10. Effective January 1, 2003.)

Article 3. Location of State Council

(Article 3 added by Stats. 1977, Ch. 1252.)

4530. For administrative purposes only, the state council shall be attached to the California Health and Human Services Agency. The agency secretary shall ensure the state council is provided efficient accounting, financial management, personnel, and other reasonable support services when requested by the council in the performance of its mandated responsibilities.

The attachment of the state council to the California Health and Human Services Agency shall not limit the council's scope of concern to health programs or limit the council's responsibilities or functions regarding all other pertinent state and local programs, as defined in Article 5 (commencing with Section 4540) of this chapter.

The administrative attachment of the state council to the California Health and Human Services Agency shall not be construed to interfere in any way with the provisions of Section 4552 requiring all personnel employed by the council to be solely responsible, organizationally and administratively, to the council.

(Amended by Stats. 2002, Ch. 676, Sec. 11. Effective January 1, 2003.)

Article 4. Organization

(Article 4 added by Stats. 1977, Ch. 1252.)

4535. (a) The state council shall meet at least six times each year, and, on call of its chairperson, as often as necessary to fulfill its duties. All meetings and records of the state council shall be open to the public.

(b) The state council shall, by majority vote of the voting members, elect its own chairperson and vice chairperson who shall have full voting rights on all state council actions, from among the appointed members, described in paragraph (1) or (3) of subdivision (b) of Section 4521, and shall establish any committees it deems necessary or desirable. The chairperson shall appoint all members of committees of the state council. The chairs and vice chairs of the state council and its standing committees shall be individuals with a developmental disability, or the parent, sibling, guardian, or conservator of an individual with a developmental disability.

(c) The state council may appoint technical advisory consultants and may establish committees composed of professional persons serving persons with developmental disabilities as necessary for technical assistance. The state council may call upon representatives of all agencies receiving state or federal funds for assistance and information, and shall invite persons with developmental disabilities, their parents, guardians, or conservators, professionals, or members of the general public to participate on state council committees, when appropriate.

(d) When convening any task force or advisory group, the state council shall make its best effort to ensure representation by consumers and family members representing the state's multicultural diversity.

(Amended by Stats. 2004, Ch. 68, Sec. 2. Effective January 1, 2005.)

Article 5. State Council Functions

(Article 5 added by Stats. 1977, Ch. 1252.)

4540. In order to comply with the intent and requirements of this division and Public Law 106-402 (42 U.S.C. Sec. 15001 et seq.), the state council, in addition to any other responsibilities established under this division and to the extent that resources are available, shall do all of the following:

(a) Serve as the ''state planning council'' responsible for developing the ''California Developmental Disabilities State Plan,'' in accordance with requirements issued by the United States Secretary of Health and Human Services, monitoring and evaluating the implementation of this plan, reviewing and commenting on other plans and programs in the state affecting persons with developmental disabilities, and submitting these reports as the United States Secretary of Health and Human Services may reasonably request.

(b) Serve as the official agency responsible for planning the provision of the federal funds allotted to the state under Public Law 106-402 (42 U.S.C. Sec. 15001 et seq.), and apportion these funds among agencies and area developmental disabilities boards in compliance with applicable state and federal law.

(c) Prepare and approve a budget, for the use of amounts paid to the state to hire any staff and to obtain the services of any professional, technical, or clerical personnel consistent with state and federal law, as the council determines to be necessary to carry out its functions.

(d) (1) Conduct activities related to meeting the objectives of the state plan. To the extent that resources are available, these activities shall include all of the following:

(A) Through support of the area boards, engaging in geographically based outreach and individual and systemic advocacy to assist and enable individuals and families to obtain services, supports, and other forms of assistance.

(B) Support and conduct technical assistance activities to assist public and private entities to contribute to the objectives of the state plan.

(C) Support and conduct activities to promote interagency collaboration and coordination at the state and local levels.

(D) Support and conduct activities to educate the public about the capabilities, preferences, and needs of individuals with developmental disabilities and their families, and to develop and support coalitions that support the policy agenda of the council, including training in self-advocacy, education of policymakers, and citizen leadership roles.

(E) Support and conduct activities to provide information to policymakers.

(2) These activities may also include, but shall not be limited to, all of the following:

(A) Support and conduct training for persons with developmental disabilities, their families, and personnel, to enable these individuals to obtain access to, or to provide, community services, individualized supports, and other forms of assistance.

(B) Support and conduct activities to assist neighborhoods and communities to respond positively to individuals with disabilities and their families.

(C) Support and conduct activities to eliminate barriers to access and use of community services by individuals with developmental disabilities, enhance system design and redesign, and enhance citizen participation.

(D) Support and conduct, on a time-limited basis, activities to demonstrate new approaches to serving individuals with developmental disabilities that are a part of an overall strategy for systemic change.

(e) Conduct other activities, including, but not limited to, public hearings and forums and the evaluation and issuance of public reports on the programs identified in the state plan, as may be necessary to carry out the duties of the state council.

(f) Review and comment on pertinent portions of the proposed plans and budgets of all state agencies serving persons with developmental disabilities to include, but not be limited to, the State Department of Education, the Department of Rehabilitation, and the State Department of Developmental Services. This review may include public hearings prior to the submission of the Governor's Budget to the Legislature, with advice directed to the Governor, and after introduction of the Governor's Budget, with advice directed to the Legislature.

(g) Prepare an annual written report of its activities, its recommendations, and an evaluation of the efficiency of the administration of this division to the Governor and the Legislature.

This report shall include both the statewide activities of the state council and the local activities of the area boards.

(h) Review and publicly comment on significant regulations proposed to be promulgated by any state agency in the implementation of this division.

(i) Monitor the execution of this division and report directly to the Governor and the Legislature any delay in the rapid execution of this division.

(j) Be responsible for monitoring and evaluating the effectiveness of appeals procedures established in this division.

(k) Provide testimony to legislative committees reviewing fiscal or policy matters pertaining to persons with developmental disabilities.

(*l*) Conduct, or cause to be conducted, investigations or public hearings to resolve disagreements between state agencies, or between state and regional or local agencies, or between persons with developmental disabilities and agencies receiving state funds. These investigations or public hearings shall be conducted at the discretion of the state council only after all other appropriate administrative procedures for appeal, as established in state and federal law, have been fully utilized.

Except as otherwise provided in this division, the state council shall not engage in the administration of the day-to-day operation of service programs identified in the state plan, nor in the financial management and accounting of funds. These activities shall be performed by appropriate agencies designated in the state plan.

(m) To the greatest extent possible, area boards shall participate in conducting the activities described in this section.

(Amended by Stats. 2002, Ch. 676, Sec. 13. Effective January 1, 2003.)

Article 6. Area Boards on Developmental Disabilities

(Article 6 added by Stats. 2002, Ch. 676, Sec. 15. Effective January 1, 2003.)

4543. (a) Because of the vast size, complexity, and diversity of the State of California, the Legislature finds that the planning activities of the State Council on Developmental Disabilities depend upon the direct involvement of local representatives familiar with the structure and operation of services and programs for persons with developmental disabilities. The Legislature further finds that the legal,

civil, and service rights of persons with developmental disabilities cannot be adequately guaranteed throughout the state, and the state plan cannot be implemented, unless monitoring responsibility is established on a regional basis through area boards on developmental disabilities.

(b) For administrative purposes and to ensure compliance with federal and state laws, the area boards shall be attached to the state council.

(Added by Stats. 2002, Ch. 676, Sec. 15. Effective January 1, 2003.)

4544. The area boards in existence as of January 1, 2003, shall continue to exist, within the same geographic regions of the state after January 1, 2003, but shall thereafter be constituted and shall operate according to this article.

(Added by Stats. 2002, Ch. 676, Sec. 15. Effective January 1, 2003.)

4545. The State Council on Developmental Disabilities shall periodically conduct a thorough review of the geographic boundaries served by area boards to determine whether existing area board boundaries should be changed, or additional area boards should be established to more effectively implement this division. In conducting this review, the state council shall seek input from area boards, persons with developmental disabilities, family members, service providers, advocates, and other interested parties. Prior to recommending the establishment of new geographic boundaries, the state council shall hold a public hearing within any existing area board geographic area affected by the proposed change. The state council shall submit to the Governor and the Legislature any recommendations for changes in area board boundaries or recommendations that additional area boards be established. Any area board established after January 1, 2003, shall nominate a member to be appointed by the Governor as a voting member of the state council pursuant to Section 4521.

(Added by Stats. 2002, Ch. 676, Sec. 15. Effective January 1, 2003.)

4546. After January 1, 2003, area boards shall be comprised as follows:

(a) For areas consisting of one to four counties, the area board shall consist of a total of 12 voting members appointed by the governing bodies of the counties, each county appointing an equal number of voting members, and five voting members appointed by the Governor.

(b) For areas consisting of five to seven counties, the area board shall consist of two voting members appointed by the governing body of each county, and five voting members appointed by the Governor.

(c) For areas consisting of eight or more counties, the area board shall consist of one voting member appointed by the governing body of each county, and five members appointed by the Governor.

Of the members first appointed, five shall serve for one year, five shall serve for two years, and the remaining members shall serve for three years. Subsequent members shall serve for three years. In counties with a population of more than 100,000, no member shall serve more than two consecutive three-year terms.

(d) The governing bodies of the counties in each area shall select their appointees from among the following groups, and, to the extent feasible, in the following proportions:

(1) Sixty percent from persons with developmental disabilities or the immediate relatives, guardians, or conservators of these persons.

(2) Forty percent from representatives of the general public.

(e) The appointments made by the Governor shall meet the requirements of paragraph (1) of subdivision (b) of Section 4521.

(f) (1) Prior to making their appointments, the Governor and the governing bodies of counties shall request recommendations from professional organizations, from organizations within the area representing persons with developmental disabilities, and from organizations and agencies within the area that deliver services to these individuals.

(2) In making their appointments, the Governor and the governing bodies of counties shall appoint persons who have demonstrated interest and leadership in human service activities.

(g) (1) In order to prevent any potential conflicts of interest, voting members of area boards shall not be employees of a state, local, or private agency or facility that provides service to a person with a developmental disability, or be members of the governing board of any entity providing this service, when the service is funded in whole or in part with state funds.

(2) For purposes of this section ''employees of a state, local, or private agency or facility that provides services to a person with a developmental disability'' shall not be deemed to include any of the following:

(A) A parent, relative, guardian, or conservator who receives public funds expressly for the purpose of providing direct services to his or her child, relative, ward, or conservatee, respectively, who is a person with a developmental disability.

(B) A person with a developmental disability who receives employment services through a provider receiving state or federal funds.

(C) A person who serves as a member of the state council.

(h) The Governor shall give consideration to the relative populations of the counties within the area in selecting appointees to the area boards.

(i) A member may continue to serve following the expiration of his or her term until the Governor or appointing body of the county appoints that member's successor. The state council shall notify the Governor or the appointing body of the county regarding membership requirements of the area boards and shall notify the Governor or the appointing body of the county at least 60 days before a member's term expires, and when a vacancy on an area board remains unfilled for more than 60 days.

(j) All members of the area board shall be residents of the area.

(k) The members of an area board shall serve without compensation, but shall be reimbursed for any actual and necessary expenses incurred in connection with the performance of their duties as members of the board or of committees established by the board.

(Added by Stats. 2002, Ch. 676, Sec. 15. Effective January 1, 2003.)

4547. (a) Each area board shall meet at least quarterly, and on call of the board chairperson, as often as necessary to fulfill its duties. All meetings and records of the area board shall be open to the public.

(b) (1) Each area board shall, by majority vote of the voting members, elect its own chairperson from among the appointed members who are persons with developmental disabilities, or parents, immediate relatives, guardians, or conservators of these persons, and shall establish any committees it deems necessary or desirable. The board chairperson shall appoint all members of committees of the area board.

(2) An area board may call upon representatives of all agencies receiving state funds, for assistance and information, and shall invite persons with developmental disabilities, their parents, immediate relatives, guardians, or conservators, professionals, or members of the general public to participate on area board committees.

(3) When convening any task force or advisory group, the area board shall make its best effort to ensure representation by consumers and family members representing the community's multicultural diversity.

(Amended by Stats. 2004, Ch. 68, Sec. 3. Effective January 1, 2005.)

4548. (a) Area boards shall locally assist the state council with the implementation of subtitles A and B of Title I of Public Law 106-402 (42 U.S.C. Sec. 15001 et seq.).

(b) Area boards shall protect and advocate the rights of all persons in the area with developmental disabilities.

(c) Area boards shall conduct capacity building activities and provide advocacy for systemic change.

(d) (1) The area board shall have the authority to pursue legal, administrative, and other appropriate remedies to ensure the protection of the legal, civil, and service rights of persons who require services or who are receiving services in the area. In carrying out this responsibility, area boards may appoint a representative to assist the person in expressing his or her desires and in making decisions and advocating his or her needs, preferences, and choices, where the person with developmental disabilities has no parent, guardian, or conservator legally authorized to represent him or her and the person has either requested the appointment of a representative or the rights or interests of the person, as determined by the area board, will not be properly protected or advocated without the appointment of a representative.

(2) Where there is no guardian or conservator, the person's choice, if expressed, including the right to reject the assistance of a representative, shall be honored. If the person does not express a preference, the order of preference for selection of the representative shall be the person's parent, involved family member, or a volunteer selected by the area board. In establishing these preferences, it is the intent of the Legislature that parents or involved family members shall not be required to be appointed guardian or conservator in order to be selected. Unless the consumer expresses otherwise, or good cause otherwise exists, the request of the parents or involved family members to be appointed the representative shall be honored.

(3) Where appropriate pursuant to this section, the area board shall appoint a representative to advocate the rights and protect the interests of a person residing in a developmental center for whom community placement is proposed pursuant to Section 4803.

(4) The area board shall identify any evidence of the denial of these rights, shall inform the appropriate local, state, or federal officials of their findings, and shall assist these officials in eliminating all forms of discrimination against persons with developmental disabilities in housing, recreation, education, health and mental health care, employment, and other service programs available to the general population.

(e) Area boards shall conduct, or cause to be conducted, public information programs for consumers, families, professional groups, and for the general public, to increase professional and public awareness of prevention and habilitation programs,

and to eliminate barriers to social integration, employment, and participation of persons with developmental disabilities in all community activities.

(f) Area boards shall encourage and assist in the establishment or strengthening of self-advocacy organizations led by individuals with developmental disabilities.

(g) (1) To the extent that resources are available, area boards shall review the policies and practices of publicly funded agencies that serve or may serve persons with developmental disabilities, to determine if the programs are meeting their obligations under local, state, and federal laws. A regional center may notify the area board when the regional center believes a publicly funded program is failing to meet its obligations in serving persons with developmental disabilities. The regional center may provide the area board with a comprehensive summary of the issues and the statute or regulation alleged to be violated. If the area board finds that the agency is not meeting its obligations, the area board shall inform the director and the managing board of the noncomplying agency, in writing, of its findings.

(2) Within 15 days, the agency shall respond, in writing, to the area board's findings. Following receipt of the agency's response, if the area board continues to find that the agency is not meeting its obligations, the area board shall pursue informal efforts to resolve the issue.

(3) If, within 30 days of implementing informal efforts to resolve the issue, the area board continues to find that the agency is not meeting its obligations under local, state, or federal statutes, the area board shall conduct a public hearing to receive testimony on its findings.

(4) If the problem has not been resolved within 30 days following the public hearing, the area board may provide the state council with its findings and may request authorization to initiate legal action. An area board shall not initiate legal action without prior authorization from the state council. However, the area board may assist any other person, agency, or organization that may pursue litigation related to the area board's findings.

(5) The executive director of the state council shall review the findings developed pursuant to this subdivision and may conduct additional factfinding investigations. The executive director shall report his or her findings to the state council within 30 days and shall recommend a course of action to be pursued by the council, the area board, or other state administrative or legislative officials.

(6) The state council shall review the report of the executive director and shall take any action it deems necessary to resolve the problem. If the state council authorizes the area board to initiate legal action, the state council shall make legal assistance available to the area board pursuant to the legal services provisions of Public Law 106-402 (42 U.S.C. Sec. 15001 et seq.).

(h) Area boards shall encourage the development of needed services and supports of good quality that do not result in duplication, fragmentation of services, and unnecessary expenditures. Prior to providing additional funds for major expansion of existing programs, creation of new programs, or establishment of pilot projects to test new methodologies of service delivery for persons with developmental disabilities within an area board catchment area, the department or regional center, as appropriate, shall consult with the area board regarding the appropriateness of those program developments.

(i) In carrying out their review functions, area boards shall solicit the advice of knowledgeable professionals, consumers, and consumer representatives about

problems within the service delivery system in the region. In enacting this article, it is the intent of the Legislature that the area boards not duplicate the functions assigned to other agencies that are routinely responsible for monitoring, regulating, or licensing programs for persons with developmental disabilities. Area boards may call upon these agencies for information and assistance in order to carry out their responsibilities more effectively. Unless otherwise prohibited by law, these agencies shall provide information requested by the area boards, and shall cooperate fully in complying with all reasonable requests for assistance.

(j) (1) Area boards shall remain informed about the quality of services in the area, and shall inform appropriate state and local licensing agencies of alleged fire, safety, health, or other violations of legally established standards, in any facility providing service to persons with developmental disabilities, that may be brought to the attention of the area board.

(2) If an area board receives evidence of criminal misconduct by an individual or agency funded in whole or in part with state funds under this division, the area board shall immediately inform appropriate public safety agencies about the alleged misconduct.

(k) (1) Area boards shall cooperate with county coordinating councils on developmental disabilities, other regional planning bodies, and consumer organizations in the area. Area boards shall comply with the reasonable requests of these groups and may request the assistance of the groups in carrying out area board responsibilities.

(2) The governing body of any county within the area may request that the area board study or investigate programs in the county for persons with developmental disabilities. The area board shall cooperate with county governments to the fullest extent possible within the limitations of the resources of the board.

(*l*) Each area board shall submit to the state council a summary of its activities and accomplishments in the previous year. The state council, in consultation with area boards, shall determine the timing of, and format for, this summary.

(m) It is the intent of the Legislature that area boards shall maintain local discretion in conducting their advocacy activities. The state council shall not direct the advocacy activities of the area boards, except when specifically authorized by law, or when necessary to ensure compliance with federal requirements.

(Added by Stats. 2002, Ch. 676, Sec. 15. Effective January 1, 2003.)

Article 7. State Council and Area Board Costs and Support Services

(Heading of Article 7 amended by Stats. 2002, Ch. 676, Sec. 16. Effective January 1, 2003.)

4550. The state council's operating costs shall include honoraria and actual and necessary expenses for council members, costs associated with the area boards, as described in this article, and other administrative, professional, and secretarial support services necessary to the operation of the state council. Federal developmental disability funds received by the state under Public Law 106-402 (42 U.S.C. Sec. 15001 et seq.), shall be allotted in any one year for these operating costs. Each member of the state council shall receive one hundred dollars ($100) per day for each full day of work performed directly related to council business, not to exceed 50 days in any fiscal year,

and shall be reimbursed for any actual and necessary expenses incurred in connection with the performance of their duties under this division.

(Amended by Stats. 2002, Ch. 676, Sec. 17. Effective January 1, 2003.)

4551. (a) (1) Within the limit of funds allotted for these purposes, the state council chairperson, with the concurrence of a majority of the state council, shall appoint an executive director and, pursuant to paragraph (1) of subdivision (c) of Section 4553, shall appoint an executive director for each area board. The Governor, upon the recommendation of the executive director of the state council following consultation with the area boards, shall appoint a deputy director for area board operations. The Governor, upon recommendation of the executive director of the state council, shall appoint not more than two deputy directors. All other state council employees that the state council may require shall be appointed by the executive director, with the approval of the state council.

(2) The executive director, all deputy directors, and each area board executive director, shall be paid a salary that is comparable to the director, deputy director, or manager of other state boards, commissions, or state department regional offices with similar responsibilities. The executive director and three deputy directors of the state council and the executive director of each area board shall be exempt from civil service.

(b) Among other duties as the executive director of the state council may require, the deputy director for area board operations shall provide assistance to the area boards, including, but not limited to, resolving common problems, improving coordination, and fostering the exchange of information among the area boards and between the area boards and the state council.

(c) Each area board executive director employed by the state on December 31, 2002, shall continue to be employed in a job classification at the same or higher salary by the council on January 1, 2003, and thereafter, unless he or she resigns or is terminated from employment for good cause. The Executive Director of the Organization of Area Boards on December 31, 2002, shall continue to be employed in a job classification at the same or higher salary by the council on January 1, 2003, and shall serve as the deputy director of area board operations unless he or she resigns or is terminated from employment for good cause.

(Amended by Stats. 2006, Ch. 399, Sec. 2. Effective January 1, 2007.)

4552. The state council may contract for additional assistance with any public or private agency or individual to carry out planning, monitoring, evaluation, and other responsibilities under this division. In order to comply with Public Law 106-402 (42 U.S.C. Sec. 15001 et seq.) regulations, all personnel employed by the state council shall be solely responsible, organizationally and administratively, to the state council. The state council shall have responsibility for the selection, hiring, and supervision of all this personnel.

(Amended by Stats. 2002, Ch. 676, Sec. 19. Effective January 1, 2003.)

4552.5. The state council may request information, records, and documents from any other agency of state government, except for confidential patient records. These agencies shall comply with the reasonable requests of the state council.

(Added by Stats. 2002, Ch. 676, Sec. 20. Effective January 1, 2003.)

4553. (a) The Legislature finds and declares that the advocacy, coordinating, appeals, and other related functions of area boards cannot be effectively provided unless area boards have staff support services from personnel directly responsible and accountable to the area board and state council. Area board staff shall be state employees of the state council.

(b) (1) Each area board shall provide to the state council all information and documentation required by the council to prepare and account for the expenditures of an annual budget that includes the basic funding necessary for the area boards to meet the requirements of applicable state and federal law. The state council, in consultation with the area boards, shall determine the timing of, and format for, the provision of this information and documentation. An area board may present for consideration by the state council a proposal for funds to support any additional activities of the area board not anticipated to be funded through their basic allocation. The state council shall review all area board proposals and shall determine the amount of federal funds under Public Law 106-402 (42 U.S.C. Sec. 15001 et seq.) that shall be allotted to each area board. Nothing in this section shall prevent the appropriation of additional funds to the state council or area boards, or both, from the General Fund or other sources. These funds shall be used only for purposes of extending the activities of the state council or area boards, or both, as authorized by state or federal law.

(2) The state council may receive, on behalf of the council or on behalf of any area board, grants of funds in addition to any allocation of state funds or federal funds under Public Law 106-402 (42 U.S.C. Sec. 15001 et seq.), as authorized under this division. These funds shall be used only for purposes of extending the council's or area boards' activities as authorized by state or federal law.

(c) (1) Each area board shall have an executive director, nominated by the affirmative votes of a majority of the members of the area board, appointed by the executive director of the state council, and approved by the state council. The executive director shall select and supervise persons to serve in any staff positions as the area board and state council may authorize, pursuant to subdivision (a) of Section 4551. The affirmative votes of a majority of the members of the area board and approval of the state council shall be necessary for removal of an executive director by the executive director of the state council.

(2) Each area board, with the approval of the state council, may contract for additional assistance to carry out its duties as established by this division.

(3) Notwithstanding the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2), an area board may meet in executive session for purposes of discussing confidential matters, including, but not limited to, personnel matters.

(Repealed and added by Stats. 2002, Ch. 676, Sec. 22. Effective January 1, 2003.)

4555. Notwithstanding any other provision of law, any contract entered into between the State of California and the state council may provide for periodic advanced payments for services to be performed under the contract. No advanced payment made pursuant to this section shall exceed 25 percent of the total annual contract amount.

(Added by Stats. 2002, Ch. 676, Sec. 24. Effective January 1, 2003.)

CHAPTER 3. CALIFORNIA DEVELOPMENTAL DISABILITIES STATE PLAN

(Chapter 3 added by Stats. 1977, Ch. 1252.)

4560. The Legislature finds that whenever multiple, uncoordinated, and duplicative planning activities are conducted by different state agencies on behalf of persons with developmental disabilities, the result is confusion of responsibilities, a lack of systemwide priorities, and failure to make the most appropriate use of all federal, state, and local funds and programs.

(Added by Stats. 1977, Ch. 1252.)

4561. In order to integrate all relevant state planning and budgeting, and in order to comply with federal requirements, a California Developmental Disabilities State Plan shall be prepared by the state council not less often than once every five years, and shall be reviewed and revised, as necessary, on an annual basis. All references in this part to ''state plan'' shall be references to the California Developmental Disabilities State Plan.

The state plan shall include, but not be limited to, all state plan requirements contained in subtitles A and B of Title I of Public Law 106-402 (42 U.S.C. Sec. 15001 et seq.), or requirements established by the United States Secretary of Health and Human Services.

(Amended by Stats. 2002, Ch. 676, Sec. 25. Effective January 1, 2003.)

4562. (a) The state council and the area boards on developmental disabilities shall conduct activities necessary to develop or implement the state plan in the various regions of the state.

(b) In preparing this plan, the council shall utilize information provided by the area boards, statewide and local entities, individuals with developmental disabilities, family members, and other interested parties, to help identify and prioritize actions needed to improve California's system of services and supports for persons with developmental disabilities. The purpose of the plan shall be to ensure a coordinated and comprehensive system of community services and supports that is consumer and family centered and consumer and family directed, and to enable individuals with developmental disabilities to exercise self-determination, independence, productivity, and to be integrated and included in all facets of community life.

(Repealed and added by Stats. 2002, Ch. 676, Sec. 27. Effective January 1, 2003.)

4563. (a) Area boards shall assess the extent to which services, supports, and other forms of assistance are available to individuals with developmental disabilities and their families within the area board catchment area, and shall make recommendations of objectives in both policy reform and service demonstration, based on identified service and support needs and priorities within the area board catchment area, to be included in the state plan.

(b) Area boards shall participate with the state council in the development and implementation of the state plan and shall submit any information concerning the area's services, needs, and priorities to the state council in a time and format as may be required to meet federal reporting requirements.

(Repealed and added by Stats. 2002, Ch. 676, Sec. 29. Effective January 1, 2003.)

4564. The state council, in conjunction with the area boards, shall conduct open hearings on the state plan and related budgetary issues prior to submission of the plan pursuant to Section 4565.

(Amended by Stats. 2002, Ch. 676, Sec. 30. Effective January 1, 2003.)

4565. The state plan shall be given to the Governor, the Secretary of the California Health and Human Services Agency, the protection and advocacy agency designated by the Governor to fulfill the requirements and assurances of the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000, the Superintendent of Public Instruction, the Legislature, and to the chairpersons of all area boards for review and comment prior to its submission by the chairperson of the state council to the United States Secretary of Health and Human Services.

Copies of the state plan shall be provided, no later than November 1 of each year, to the Director of Finance and to the Legislature for guidance in the development of the Governor's Budget and legislative review of the budget, and for guidance in other legislation pertaining to programs for persons with developmental disabilities.

(Amended by Stats. 2002, Ch. 676, Sec. 31. Effective January 1, 2003.)

4566. The state plan shall, in addition to the requirements established herein, comply in substance and format with requests of the Secretary of Health and Human Services.

(Amended by Stats. 1988, Ch. 1011, Sec. 9.)

4567. All state agencies shall cooperate with the reasonable requests of the state council by providing information to the state council in the preparation of the state plan. Any expenditures incurred by state agencies in providing this assistance to the state council shall be identified in the state plan and in the state agency's annual budget. These expenditures may be funded in whole or in part by state funds appropriated as the required state share of the developmental disabilities program, or by federal funds from Public Law 106-402, as amended (42 U.S.C. Sec. 15001 et seq.), or both, when the state council allots funds for these purposes in the state plan.

(Amended by Stats. 2002, Ch. 676, Sec. 32. Effective January 1, 2003.)

4568. In no event shall the state council allot federal funds from Public Law 106-402, as amended (42 U.S.C. Sec. 15001 et seq.), to state agencies to replace state funds currently allocated to those agencies for the purpose of planning programs for persons with developmental disabilities.

(Amended by Stats. 2002, Ch. 676, Sec. 33. Effective January 1, 2003.)

CHAPTER 4. LIFE QUALITY ASSESSMENTS CONDUCTED BY AREA BOARDS

(Chapter 4 repealed and added by Stats. 2002, Ch. 676, Sec. 35. Effective January 1, 2003.)

4570. (a) In order to remain informed regarding the quality of services in the area and to protect the legal, civil, and service rights of persons with developmental disabilities, the Legislature finds that it is necessary to conduct life quality assessments with consumers served by the regional centers.

(b) The department shall enter into an interagency agreement with the state council, on behalf of the area boards, to conduct the life quality assessments described in this section. This interagency agreement shall include assurances that the state council shall not direct the area boards in their conduct of these assessments or in the content or format of the annual reports submitted to the council by the area boards.

(c) Consistent with the responsibilities described in this chapter, the area board, with the consent of the consumer and, when appropriate, a family member, shall conduct life quality assessments with consumers living in out-of-home placements, supported living arrangements, or independent living arrangements no less than once every three years or more frequently upon the request of a consumer, or, when appropriate, a family member. If a consumer who is eligible to receive a life quality assessment is a dependent of a juvenile court pursuant to Section 300, 601, or 602, the assessment may be conducted with the consent of the court or social services agency. A regional center or the department shall annually provide the local area board with a list, including, but not limited to, the name, address, and telephone number of each consumer, and, when appropriate, a family member, the consumer's date of birth, and the consumer's case manager, for all consumers living in out-of-home placements, supported living arrangements, or independent living arrangements, in order to facilitate area board contact with consumers and, when appropriate, family members, for the purpose of conducting life quality assessments.

(d) The life quality assessments shall be conducted by utilizing the ''Looking at Life Quality Handbook'' or subsequent revisions developed by the department.

(e) The assessments shall be conducted by consumers, families, providers, and others, including volunteer surveyors. Each area board shall recruit, train, supervise, and coordinate surveyors. Upon request, and if feasible, the area board shall respect the request of a consumer and, when appropriate, family member, for a specific surveyor to conduct the life quality assessment. An area board may provide stipends to surveyors.

(f) A life quality assessment shall be conducted within 90 days prior to a consumer's triennial individual program plan meeting, so that the consumer and regional center may use this information as part of the planning process.

(g) Prior to conducting a life quality assessment, the area board shall meet with the regional center to coordinate the exchange of appropriate information necessary to conduct the assessment and ensure timely followup to identified violations of any legal, civil, or service rights.

(h) Following the completion of each life quality assessment, the area board shall develop a report of its findings and provide a copy of the report to the consumer, when appropriate, family members, and the regional center providing case management services to the consumer. A copy of the life quality assessment of a consumer who is a dependent of a juvenile court pursuant to Section 300, 601, or 602 shall be provided, upon request, to the court or social services agency. In the event that a report identifies alleged violations of any legal, civil, or service right, the area board shall notify the regional center and the department of the alleged violation. The department shall monitor the regional center to ensure that violations are addressed and resolved in a timely manner.

(i) Regional centers shall review information from the life quality assessments on a systemic basis in order to identify training and resource development needs.

(j) (1) On an annual basis, each area board shall prepare and submit a report to the state council describing its activities and accomplishments related to the implementation of this section. The report shall include, but not be limited to, the number of life quality assessments conducted, the number of surveyors, including those provided stipends, a description of the surveyor recruitment process and training program, including any barriers to recruitment, the number, nature, and outcome of any

identified violations of legal, civil, or service rights reported to regional centers, and recommendations for improvement in the life quality assessment process.

(2) By September 15 of each year, the state council shall compile these reports and forward to the Governor, the Legislature, and the department.

(k) Implementation of this section shall be subject to an annual appropriation of funds in the Budget Act for this purpose.

(Amended by Stats. 2003, Ch. 862, Sec. 14. Effective January 1, 2004.)

CHAPTER 5. REGIONAL CENTERS FOR PERSONS WITH DEVELOPMENTAL DISABILITIES

(Chapter 5 added by Stats. 1977, Ch. 1252.)

Article 1. Regional Center Contracts

(Article 1 added by Stats. 1977, Ch. 1252.)

4620. (a) In order for the state to carry out many of its responsibilities as established in this division, the state shall contract with appropriate agencies to provide fixed points of contact in the community for persons with developmental disabilities and their families, to the end that these persons may have access to the services and supports best suited to them throughout their lifetime. It is the intent of the Legislature in enacting this division that the network of regional centers for persons with developmental disabilities and their families be accessible to every family in need of regional center services. It is the further intent of the Legislature that the design and activities of regional centers reflect a strong commitment to the delivery of direct service coordination and that all other operational expenditures of regional centers are necessary to support and enhance the delivery of direct service coordination and services and supports identified in individual program plans.

(b) The Legislature finds that the service provided to individuals and their families by regional centers is of such a special and unique nature that it cannot be satisfactorily provided by state agencies. Therefore, private nonprofit community agencies shall be utilized by the state for the purpose of operating regional centers.

(Amended by Stats. 1992, Ch. 1011, Sec. 5. Effective January 1, 1993.)

4620.1. The Legislature recognizes the ongoing contributions many parents and family members make to the support and well-being of their children and relatives with developmental disabilities. It is the intent of the Legislature that the important nature of these relationships be respected and fostered by regional centers and providers of direct services and supports.

(Added by Stats. 1992, Ch. 1011, Sec. 6. Effective January 1, 1993.)

4620.2. (a) The State Department of Developmental Services, after consultation with stakeholder groups, shall develop a system of enrollment fees, copayments, or both, to be assessed against the parents of each child between the ages of three and 17 years who lives in the parent's home and receives services purchased through a regional center. This system shall be submitted to the Legislature on or before April 1, 2004, immediately prior to the fiscal year in which the system is to be implemented, and as a part of the Governor's proposed 2004–05 budget or subsequent legislation.

(b) The department, after consultation with stakeholder groups, shall submit a detailed plan for implementing a parental copayment system for children receiving services purchased through a regional center. This plan shall be submitted to the Legislature by April 1, 2004.

(c) The plan submitted on or before April 1, 2004, pursuant to subdivision (b), and any resources requested in the 2004–05 Governor's Budget and related authority may be subsequently modified during the legislative review process.

(d) The parental copayment system shall only be applicable to families that have adjusted gross family incomes of over 200 percent of the federal poverty level and that have a child who meets all of the following criteria:

(1) The child is receiving services purchased through a regional center.

(2) The child is living at home.

(3) The child is not otherwise eligible to receive services provided under the Medi-Cal program.

(4) The child is at least three years of age and not more than 17 years of age.

(e) The department's plan shall address, at a minimum all of the following components for the development of a parental copayment system:

(1) Description of the families and children affected, including those families with more than one child as described under subdivision (d).

(2) Privacy issues and potential safeguards regarding the families' income, the children's regional center clinical records, and related matters.

(3) Schedule of parental copayments and any other related assessments, and criteria or service thresholds for which these copayments and assessments are based.

(4) The options for a sliding scale for the schedule of parental copayments based on family income and family size.

(5) Proposed limits on parental cost sharing.

(6) An exemption process for families who are experiencing financial hardships and may need deferral or waiver of any copayments or assessments.

(7) An appeal process for families who may dispute the level of copayment or assessments for which they are billed.

(8) The specific methods and processes to be used by the department, regional centers, or other responsible party, for the collection of all parental copayments and assessments.

(9) Any potentials for the disruption of services to applicable regional center consumers due to the implementation of a parental copayment system.

(10) The estimated amount of revenues to be collected and any applicable assumptions made for making this determination.

(11) Any estimate related to a slowing of the trend in the growth for regional center services due to the implementation of a parental copayment system.

(12) A comparison to how the State Department of Health Services and other state agencies utilize personal information to manage the delivery of benefits and assessment of copayments.

(13) A recommendation on whether the parental copayment system should be centralized at the department or decentralized in the regional centers and the basis for this recommendation.

(14) The estimated cost for implementing a parental copayment system, including any costs associated with consultant contracts, state personnel, revenue collection, computer system processing, regional center operations, or any other cost factor that would need to be included in order to capture all estimated costs for implementation.

(15) The timeframe for which the parental copayment system is to be implemented.

(f) (1) In order for the department to develop a detailed plan for the implementation of a parental copayment system, the department shall collect information from selected

families. In order to be cost efficient and prudent regarding the collection of information, the department may conduct a survey of only those families known to have children not eligible for the Medi-Cal program. The survey instrument may only be used for the sole purpose of obtaining information that is deemed necessary for the development of a parental copayment system, including the following:

(A) A family's annual adjusted gross family income.

(B) The number of family members dependent on that income.

(C) The number of children who meet the criteria specified in subdivision (d).

(2) Results of the survey in the aggregate shall be provided to the Legislature as part of the department's plan as required by subdivision (a).

(Added by Stats. 2003, Ch. 230, Sec. 47. Effective August 11, 2003.)

4621. The department, within the limitations of funds appropriated, shall contract with appropriate private nonprofit corporations for the establishment of regional centers.

Notwithstanding any other provision of law, any contract entered into pursuant to this section may provide for periodic advance payments for services to be performed under such contract. No advance payment made pursuant to this section shall exceed 25 percent of the total annual contract amount.

(Added by Stats. 1977, Ch. 1252.)

4621.5. Notwithstanding subdivision (c) of Section 1 of Chapter 501 of the Statutes of 1971, the department shall, within the limitations of funds appropriated, contract with an appropriate private nonprofit corporation or corporations to operate regional centers as follows:

(a) One regional center to serve the Counties of Inyo, Kern, and Mono.

(b) One regional center to serve the Counties of Riverside and San Bernardino.

(Added by Stats. 1993, Ch. 364, Sec. 1. Effective January 1, 1994.)

4622. The state shall contract only with agencies, the governing boards of which conform to all of the following criteria:

(a) The governing board shall be composed of individuals with demonstrated interest in, or knowledge of, developmental disabilities.

(b) The membership of the governing board shall include persons with legal, management, public relations, and developmental disability program skills.

(c) The membership of the governing board shall include representatives of the various categories of disability to be served by the regional center.

(d) The governing board shall reflect the geographic and ethnic characteristics of the area to be served by the regional center.

(e) A minimum of 50 percent of the members of the governing board shall be persons with developmental disabilities or their parents or legal guardians. No less than 25 percent of the members of the governing board shall be persons with developmental disabilities.

(f) Members of the governing board shall not be permitted to serve more than seven years within each eight-year period.

(g) The regional center shall provide necessary training and support to these board members to facilitate their understanding and participation. As part of its monitoring responsibility, the department shall review and approve the method by which training

and support are provided to board members to ensure maximum understanding and participation by board members.

(h) The governing board may appoint a consumers' advisory committee composed of persons with developmental disabilities representing the various categories of disability served by the regional center.

(i) The governing board shall appoint an advisory committee composed of a wide variety of persons representing the various categories of providers from which the regional center purchases client services. The advisory committee shall provide advice, guidance, recommendations, and technical assistance to the regional center board in order to assist the regional center in carrying out its mandated functions. The advisory committee shall designate one of its members to serve as a member of the regional center board.

(j) The governing board shall annually review the performance of the director of the regional center.

(k) No member of the board who is an employee or member of the governing board of a provider from which the regional center purchases client services shall do any of the following:

(1) Serve as an officer of the board.

(2) Vote on any fiscal matter affecting the purchase of services from any regional center provider.

(3) Vote on any issue other than as described in paragraph (2), in which the member has a financial interest, as defined in Section 87103 of the Government Code, and determined by the regional center board. The member shall provide a list of his or her financial interests, as defined in Section 87103, to the regional center board.

Nothing in this section shall prevent the appointment to a regional center governing board of a person who meets the criteria for more than one of the categories listed above.

This section shall become operative on July 1, 1999.

(Amended by Stats. 2006, Ch. 399, Sec. 2.5. Effective January 1, 2007.)

4623. In the event that the governing board of the regional center is not composed of individuals as specified in subdivisions (a) to (f), inclusive, of Section 4622, such governing board shall establish a program policy committee which is composed of such individuals. The program policy committee shall appoint one of its members to serve as an ex officio member of the governing board.

(Added by Stats. 1977, Ch. 1252.)

4624. When the governing board of the regional center is not composed of individuals as specified in subdivisions (a) to (f), inclusive, of Section 4622, the program policy committee to the regional center shall be responsible for establishing the program policies of the regional center. All program policies adopted by a program policy committee shall conform to the provisions of this division and the contract between the department and the governing board.

(Added by Stats. 1977, Ch. 1252.)

4625. The department shall not contract with any new regional center contracting agency unless the governing board of the agency is composed of individuals as specified in subdivisions (a) to (f), inclusive, of Section 4622.

This section shall become operative on July 1, 1999.

(Repealed (in Sec. 14) and added by Stats. 1997, Ch. 414, Sec. 14.5. Effective September 22, 1997. Section operative July 1, 1999, by its own provisions.)

4626. (a) In order to prevent potential conflicts of interest, no member of the governing board or member of the program policy committee of a regional center shall be any of the following:

(1) An employee of the State Department of Developmental Services or any state or local agency which provides services to a regional center client, if employed in a capacity which includes administrative or policymaking responsibility, or responsibility for the regulation of the regional center.

(2) An employee or a member of the state council or an area board.

(3) Except as otherwise provided in subdivision (h) of Section 4622, an employee or member of the governing board of any entity from which the regional center purchases client services.

(4) Any person who has a financial interest, as defined in Section 87103 of the Government Code, in regional center operations, except as a consumer of regional center services.

(b) Notwithstanding paragraph (1) of subdivision (a), members serving on the governing board or program policy committee of a regional center on January 1, 1982, may continue to serve on the board or committee until the expiration of their term as defined in subdivision (f) of Section 4622. Notwithstanding any other provision of this section, members serving on the governing board or program policy committee of a regional center on January 1, 1982, may continue to serve on the board or committee until the expiration of their current term. Changes in the composition of the board or committee required by amendments to this section that are operative on January 1, 1982, shall apply only to subsequent vacancies on the board or committee.

(Amended (as amended by Stats. 1986, Ch. 159) by Stats. 1988, Ch. 1443, Sec. 2.)

4627. The director of the department shall promulgate and enforce conflict of interest regulations to insure that members of the governing board, program policy committee, and employees of the regional center make decisions with respect to the regional centers that are in the best interests of the center's clients and families.

(Added by Stats. 1977, Ch. 1252.)

4628. If, for good reason, a contracting agency is unable to meet all the criteria for a governing board established in this chapter, the director may waive such criteria for a period of time, not to exceed one year, with the approval of the area board in the area and with the approval of the state council.

(Added by Stats. 1977, Ch. 1252.)

4629. (a) The state shall enter into five-year contracts with regional centers, subject to the annual appropriation of funds by the Legislature.

(b) The contracts shall include a provision requiring each regional center to render services in accordance with applicable provision of state laws and regulations.

(c) (1) The contracts shall include annual performance objectives that shall do both of the following:

(A) Be specific, measurable, and designed to do all of the following:

(i) Assist consumers to achieve life quality outcomes.

(ii) Achieve meaningful progress above the current baselines.

(iii) Develop services and supports identified as necessary to meet identified needs.

(B) Be developed through a public process as described in the department's guidelines that includes, but is not limited to, all of the following:

(i) Providing information, in an understandable form, to the community about regional center services and supports, including budget information and baseline data on services and supports and regional center operations.

(ii) Conducting a public meeting where participants can provide input on performance objectives and using focus groups or surveys to collect information from the community.

(iii) Circulating a draft of the performance objectives to the community for input prior to presentation at a regional center board meeting where additional public input will be taken and considered before adoption of the objectives.

(2) In addition to the performance objectives developed pursuant to this section, the department may specify in the performance contract additional areas of service and support that require development or enhancement by the regional center. In determining those areas, the department shall consider public comments from individuals and organizations within the regional center catchment area, the distribution of services and supports within the regional center catchment area, and review how the availability of services and supports in the regional area catchment area compares with other regional center catchment areas.

(d) Each contract with a regional center shall specify steps to be taken to ensure contract compliance, including, but not limited to, all of the following:

(1) Incentives that encourage regional centers to meet or exceed performance standards.

(2) Levels of probationary status for regional centers that do not meet, or are at risk of not meeting, performance standards. The department shall require that corrective action be taken by any regional center which is placed on probation. Corrective action may include, but is not limited to, mandated consultation with designated representatives of the Association of Regional Center Agencies or a management team designated by the department, or both. The department shall establish the specific timeline for the implementation of corrective action and monitor its implementation. When a regional center is placed on probation, the department shall provide the appropriate area board with a copy of the correction plan, timeline, and any other action taken by the department relating to the probationary status of the regional center.

(e) In order to evaluate the regional center's compliance with its contract performance objectives and legal obligations related to those objectives, the department shall do both of the following:

(1) Annually assess each regional center's achievement of its previous year's objectives and make the assessment, including baseline data and performance objectives of the individual regional centers, available to the public. The department may make a special commendation of the regional centers that have best engaged the community in the development of contract performance objectives and have made the most meaningful progress in meeting or exceeding contract performance objectives.

(2) Monitor the activities of the regional center to ensure compliance with the provisions of its contracts, including, but not limited to, reviewing all of the following:

(A) The regional center's public process for compliance with the procedures sets forth in paragraph (2) of subdivision (c).

(B) Each regional center's performance objectives for compliance with the criteria set forth in paragraph (1) of subdivision (c).

(C) Any public comments on regional center performance objectives sent to the department or to the regional centers, and soliciting public input on the public process and final performance standards.

(f) The renewal of each contract shall be contingent upon compliance with the contract including, but not limited to, the performance objectives, as determined through the department's evaluation.

(Amended by Stats. 1998, Ch. 310, Sec. 34. Effective August 19, 1998.)

4630. The contract between the state and the contracting agency shall not:

(a) Require information that violates client confidentiality.

(b) Prevent a regional center from employing innovative programs, techniques, or staffing arrangements which may reasonably be expected to enhance program effectiveness.

(c) Contain provisions which impinge upon the legal rights of private corporations chartered under California statutes.

(d) Prevent the right of employees of a regional center to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection. Nothing in this subdivision shall be construed to limit the state's authority to contract within available funds pursuant to Section 4621 or to obligate the state to appropriate funds in excess of those appropriated in the then current Budget Act.

(Amended by Stats. 1979, Ch. 931.)

4631. (a) In order to provide to the greatest extent practicable a larger degree of uniformity and consistency in the services, funding, and administrative practices of regional centers throughout the state, the State Department of Developmental Services shall, in consultation with the regional centers, adopt regulations prescribing a uniform accounting system, a uniform budgeting and encumbrancing system, a systematic approach to administrative practices and procedures, and a uniform reporting system which shall include:

(1) Number and costs of diagnostic services provided by each regional center.

(2) Number and costs of services by service category purchased by each regional center.

(3) All other administrative costs of each regional center.

(b) The department's contract with a regional center shall require strict accountability and reporting of all revenues and expenditures, and strict accountability and reporting as to the effectiveness of the regional center in carrying out its program and fiscal responsibilities as established herein.

(c) The Director of Developmental Services shall publish a report of the financial status of all regional centers and their operations by February 28 of each year. At a minimum, the report shall include each regional center's budget and actual expenditures for the previous fiscal year and each center's budget and projected expenditures for the current fiscal year.

(Amended by Stats. 2001, Ch. 171, Sec. 23. Effective August 10, 2001.)

4632. If the department and a regional center are unable to resolve any contract dispute, including disputes between the regional center and the department over whether a contract should be renewed or continued, either party may request the state council to review and advise with regard to the issues in dispute. The state council shall review and shall provide its advice in writing within 30 days of receiving a request for such review and advice. Copies of the state council's advice shall be transmitted to the Director of Developmental Services and the governing board of the regional center. The state council's advice shall not be binding upon either party.

(Amended by Stats. 1982, Ch. 399, Sec. 1. Effective July 7, 1982.)

4633. If the department or any regional center intends to adopt any material change in policy which will have a direct effect upon the contract between the state and the regional center, the department or the regional center shall give at least 30 days' notice of an intent to change policy, and, if necessary, the contract between the state and such regional center shall be amended. The department shall not require regional centers to provide or purchase any services beyond the level of the funding appropriation for such services. If the department should alter the rates of payments to providers, the regional center budget shall be adjusted accordingly.

(Added by Stats. 1977, Ch. 1252.)

4634. Contracts between the department and regional center shall be presented for final negotiation to regional center governing boards at least 90 days' prior to the effective date of such contracts. A regional center shall not be expected to perform functions not specified in the contract without a revision of such contract.

(Added by Stats. 1977, Ch. 1252.)

4635. (a) If any regional center finds that it is unable to comply with the requirements of this division or its contract with the state, the regional center shall be responsible for informing the department immediately that it does not expect to fulfill its contractual obligations. Failure to provide the notification to the department in a timely manner shall constitute grounds for possible revocation or nonrenewal of the contract. If any regional center makes a decision to cancel or not renew its contract with the department, the regional center shall give a minimum of 90 days' written notice of its decision.

(b) (1) If the department finds that any regional center is not fulfilling its contractual obligations, the department shall make reasonable efforts to resolve the problem within a reasonable period of time with the cooperation of the regional center, including the action described in paragraph (2) of subdivision (b) of Section 4629 or renegotiation of the contract.

(2) If the department's efforts to resolve the problem are not successful, the department shall issue a letter of noncompliance. The letter of noncompliance shall state the noncompliant activities and establish a specific timeline for the development and implementation of a corrective action plan. The department shall approve the plan and monitor its implementation. Letters of noncompliance shall be made available to the public upon request. The letter of noncompliance shall not include privileged or confidential consumer information or information that would violate the privacy rights of regional center board members or employees. The department shall notify the appropriate area board and shall provide the area board with a copy of the corrective

action plan, the timeline, and any other action taken by the department relating to the requirements for corrective action.

(c) If the department finds that any regional center continues to fail in fulfilling its contractual obligations after reasonable efforts have been made, and finds that other regional centers are able to fulfill similar obligations under similar contracts, and finds that it will be in the best interest of the persons being served by the regional center, the department shall take steps to terminate the contract and to negotiate with another governing board to provide regional center services in the area. These findings may also constitute grounds for possible nonrenewal of the contract in addition to, or in lieu of, other grounds.

(d) If the department makes a decision to cancel or not renew its contract with the regional center, the department shall give a minimum of 90 days' written notice of its decision, unless it has determined that the 90 days' notice would jeopardize the health or safety of the regional center's consumers, or constitutes willful misuse of state funds, as determined by the Attorney General. Within 14 days after receipt of the notice, the regional center may make a written protest to the department of the decision to terminate or not renew the contract. In that case, the department shall: (1) arrange to meet with the regional center and the appropriate area board within 30 days after receipt of the protest to discuss the decision and to provide its rationale for the termination or nonrenewal of the contract, and to discuss any feasible alternatives to termination or nonrenewal, including the possibility of offering a limited term contract of less than one fiscal year; and (2) initiate the procedures for resolving disputes contained in Section 4632. To the extent allowable under state and federal law, any outstanding audit exceptions or other deficiency reports, appeals, or protests shall be made available and subject to discussion at the meeting arranged under clause (1).

(e) When terminating or not renewing a regional center contract and negotiating with another governing board for a regional center contract, the department shall do all of the following:

(1) Notify the area board, State Council on Developmental Disabilities, all personnel employed by the regional center, all service providers to the regional center, and all consumers of the regional center informing them that it proposes to terminate or not renew the contract with the regional center, and that the state will continue to fulfill its obligations to ensure a continuity of services, as required by state law, through a contract with a new governing board.

(2) Issue a request for proposals prior to selecting and negotiating with another governing board for a regional center contract. The local area board shall review all proposals and make recommendations to the department.

(3) Request the area board and any other community agencies to assist the state by locating or organizing a new governing board to contract with the department to operate the regional center in the area. Area boards shall cooperate with the department when that assistance is requested.

(4) Provide any assistance which may be required to ensure that the transfer of responsibility to a new regional center will be accomplished with minimum disruption to the clients of the service program.

(f) In no event shall the procedures for termination or nonrenewal of a regional center contract limit or abridge the state's authority to contract with any duly authorized organization for the purpose of service delivery, nor shall these procedures

be interpreted to represent a continued contractual obligation beyond the limits of any fiscal year contract.

(Amended by Stats. 1998, Ch. 310, Sec. 36. Effective August 19, 1998.)

4636. If necessary, to avoid disruption of the service program, the department may directly operate a regional center during the interim period between the termination of its contract with one governing board and the assumption of operating responsibility by a regional center contract with another governing board. In no event shall the department directly operate a regional center program for longer than 120 days before contracting with a new governing board. The department may, if requested by the new governing board, continue to provide additional assistance to avoid disruption of the service program, until such time as the governing board has assumed full responsibility for the operation of the program.

(Added by Stats. 1977, Ch. 1252.)

4638. Non-profit corporations operating regional centers shall not use state funds allocated to the corporation for operating the center for activities directly related to influencing employees of the center regarding their decision to organize or not to organize and to form a union or to join an existing union because these activities are not directly related to the purchase of services to clients. State funds shall not be used for these activities by the officers or employees of the corporation itself, by the officers or employees of the regional center, or by an independent contractor, consultant or attorney.

State funds shall not be used to litigate the issue of the application of the National Labor Relations Act to, nor the jurisdiction of the National Labor Relations Board over, non-profit corporations operating regional centers.

Nothing in this section shall be construed as limiting the employers rights under Section 8(c) of the National Labor Relations Act. Nothing in this section shall be construed as limiting the use of state funds by the regional center in the employment of, or for contracting for, assistance in good faith collective bargaining or in handling employee grievances, including arbitration, under an employee-employer contract.

(Added by Stats. 1982, Ch. 327, Sec. 200. Effective June 30, 1982.)

4639. The governing board of a regional center shall annually contract with an independent accounting firm for an audited financial statement. The audit report and accompanying management letter shall be reviewed and approved by the regional center board and submitted to the department within 60 days of completion and before April 1 of each year. Upon submission to the department, the audit report and accompanying management letter shall be made available to the public by the regional center. It is the intent of the Legislature that no additional funds be appropriated for this purpose.

(Added by Stats. 1997, Ch. 294, Sec. 36. Effective August 18, 1997.)

4639.5. (a) By December 1 of each year, each regional center shall provide a listing to the State Department of Developmental Services a complete current salary schedule for all personnel classifications used by the regional center. The information shall be provided in a format prescribed by the department. The department shall provide this information to the public upon request.

(b) By December 1 of each year, each regional center shall report information to the State Department of Developmental Services on all prior fiscal year expenditures from the regional center operations budget for all administrative services, including managerial, consultant, accounting, personnel, labor relations, and legal services, whether procured under a written contract or otherwise. Expenditures for the maintenance, repair or purchase of equipment or property shall not be required to be reported for purposes of this subdivision. The report shall be prepared in a format prescribed by the department and shall include, at a minimum, for each recipient the amount of funds expended, the type of service, and purpose of the expenditure. The department shall provide this information to the public upon request.

(Added by Stats. 2000, Ch. 93, Sec. 47. Effective July 7, 2000.)

4639.75. (a) On an ongoing basis, and as necessary, the State Department of Developmental Services shall provide to regional centers, and make available on the Internet, up-to-date information about work incentive programs for persons with developmental disabilities and other information relevant to persons with developmental disabilities in making informed choices about employment options. This information may include, but not be limited to, the access and retention of needed benefits, the interactions of earned income, asset building, and other financial changes on benefits, employment resources and protections, taxpayer requirements and responsibilities, training opportunities, and information and services available through other agencies, organizations, or on the Internet.

(b) The department, in consultation with regional centers, shall assess the need for, and develop a plan for, training of regional center staff on employment issues facing persons with a developmental disability. The department shall not be required to implement training pursuant to this section if implementation cannot be achieved within existing resources, unless additional funding for this purpose becomes available.

(Added by Stats. 2006, Ch. 397, Sec. 3. Effective January 1, 2007.)

Article 2. Regional Center Responsibilities

(Article 2 added by Stats. 1977, Ch. 1252.)

4640. (a) Contracts between the department and regional centers shall specify the service area and the categories of persons that regional centers shall be expected to serve and the services and supports to be provided.

(b) In order to ensure uniformity in the application of the definition of developmental disability contained in this division, the Director of Developmental Services shall, by March 1, 1977, issue regulations that delineate, by diagnostic category and degree of disability, those persons who are eligible for services and supports by regional centers. In issuing the regulations, the director shall invite and consider the views of regional center contracting agencies, the state council, and persons with a demonstrated and direct interest in developmental disabilities.

(Amended by Stats. 1998, Ch. 1043, Sec. 4. Effective January 1, 1999.)

4640.6. (a) In approving regional center contracts, the department shall ensure that regional center staffing patterns demonstrate that direct service coordination are the highest priority.

(b) Contracts between the department and regional centers shall require that regional centers implement an emergency response system that ensures that a regional center staff person will respond to a consumer, or individual acting on behalf of a consumer, within two hours of the time an emergency call is placed. This emergency response system shall be operational 24 hours per day, 365 days per year.

(c) Contracts between the department and regional centers shall require regional centers to have service coordinator-to-consumer ratios, as follows:

(1) An average service coordinator-to-consumer ratio of 1 to 62 for all consumers who have not moved from the developmental centers to the community since April 14, 1993. In no case shall a service coordinator for these consumers have an assigned caseload in excess of 79 consumers for more than 60 days.

(2) An average service coordinator-to-consumer ratio of 1 to 45 for all consumers who have moved from a developmental center to the community since April 14, 1993. In no case shall a service coordinator for these consumers have an assigned caseload in excess of 59 consumers for more than 60 days.

(3) Commencing January 1, 2004, the following coordinator-to-consumer ratios shall apply:

(A) All consumers three years of age and younger and for consumers enrolled on the Home and Community-based Services Waiver for persons with developmental disabilities, an average service coordinator-to-consumer ratio of 1 to 62.

(B) All consumers who have moved from a developmental center to the community since April 14, 1993, and have lived continuously in the community for at least 12 months, an average service coordinator-to-consumer ratio of 1 to 62.

(C) All consumers who have not moved from the developmental centers to the community since April 14, 1993, and who are not described in subparagraph (A), an average service coordinator-to-consumer ratio of 1 to 66.

(4) For purposes of paragraph (3), service coordinators may have a mixed caseload of consumers three years of age and younger, consumers enrolled on the Home and Community-based Services Waiver program for persons with developmental disabilities, and other consumers if the overall average caseload is weighted proportionately to ensure that overall regional center average service coordinator-to-consumer ratios as specified in paragraph (3) are met. For purposes of paragraph (3), in no case shall a service coordinator have an assigned caseload in excess of 84 for more than 60 days.

(d) For purposes of this section, ‘‘service coordinator’’ means a regional center employee whose primary responsibility includes preparing, implementing, and monitoring consumers’ individual program plans, securing and coordinating consumer services and supports, and providing placement and monitoring activities.

(e) In order to ensure that caseload ratios are maintained pursuant to this section, each regional center shall provide service coordinator caseload data to the department, annually for each fiscal year. The data shall be submitted in the format, including the content, prescribed by the department. Within 30 days of receipt of data submitted pursuant to this subdivision, the department shall make a summary of the data available to the public upon request. The department shall verify the accuracy of the data when conducting regional center fiscal audits. Data submitted by regional centers pursuant to this subdivision shall:

(1) Only include data on service coordinator positions as defined in subdivision (d). Regional centers shall identify the number of positions that perform service

coordinator duties on less than a full-time basis. Staffing ratios reported pursuant to this subdivision shall reflect the appropriate proportionality of these staff to consumers served.

(2) Be reported separately for service coordinators whose caseload includes any of the following:

(A) Consumers who are three years of age and older and who have not moved from the developmental center to the community since April 14, 1993.

(B) Consumers who have moved from a developmental center to the community since April 14, 1993.

(C) Consumers who are younger than three years of age.

(D) Consumers enrolled in the Home and Community-based Services Waiver program.

(3) Not include positions that are vacant for more than 60 days or new positions established within 60 days of the reporting month that are still vacant.

(4) For purposes of calculating caseload ratios for consumers enrolled in the Home- and Community-based Services Waiver program, vacancies shall not be included in the calculations.

(f) The department shall provide technical assistance and require a plan of correction for any regional center that, for two consecutive reporting periods, fails to maintain service coordinator caseload ratios required by this section or otherwise demonstrates an inability to maintain appropriate staffing patterns pursuant to this section. Plans of correction shall be developed following input from the local area board, local organizations representing consumers, family members, regional center employees, including recognized labor organizations, and service providers, and other interested parties.

(g) Contracts between the department and regional center shall require the regional center to have, or contract for, all of the following areas:

(1) Criminal justice expertise to assist the regional center in providing services and support to consumers involved in the criminal justice system as a victim, defendant, inmate, or parolee.

(2) Special education expertise to assist the regional center in providing advocacy and support to families seeking appropriate educational services from a school district.

(3) Family support expertise to assist the regional center in maximizing the effectiveness of support and services provided to families.

(4) Housing expertise to assist the regional center in accessing affordable housing for consumers in independent or supportive living arrangements.

(5) Community integration expertise to assist consumers and families in accessing integrated services and supports and improved opportunities to participate in community life.

(6) Quality assurance expertise, to assist the regional center to provide the necessary coordination and cooperation with the area board in conducting quality-of-life assessments and coordinating the regional center quality assurance efforts.

(7) Each regional center shall employ at least one consumer advocate who is a person with developmental disabilities.

(8) Other staffing arrangements related to the delivery of services that the department determines are necessary to ensure maximum cost-effectiveness and to ensure that the service needs of consumers and families are met.

(h) Any regional center proposing a staffing arrangement that substantially deviates from the requirements of this section shall request a waiver from the department. Prior to granting a waiver, the department shall require a detailed staffing proposal, including, but not limited to, how the proposed staffing arrangement will benefit consumers and families served, and shall demonstrate clear and convincing support for the proposed staffing arrangement from constituencies served and impacted, that include, but are not limited to, consumers, families, providers, advocates, and recognized labor organizations. In addition, the regional center shall submit to the department any written opposition to the proposal from organizations or individuals, including, but not limited to, consumers, families, providers, and advocates, including recognized labor organizations. The department may grant waivers to regional centers that sufficiently demonstrate that the proposed staffing arrangement is in the best interest of consumers and families served, complies with the requirements of this chapter, and does not violate any contractual requirements. A waiver shall be approved by the department for up to 12 months, at which time a regional center may submit a new request pursuant to this subdivision.

(i) The requirements of subdivisions (c), (f), and (h) shall not apply when a regional center is required to develop an expenditure plan pursuant to Section 4791, and when the expenditure plan addresses the specific impact of the budget reduction on staffing requirements and the expenditure plan is approved by the department.

(j) (1) Any contract between the department and a regional center entered into on and after January 1, 2003, shall require that all employment contracts entered into with regional center staff or contractors be available to the public for review, upon request. For purposes of this subdivision, an employment contract or portion thereof may not be deemed confidential nor unavailable for public review.

(2) Notwithstanding paragraph (1), the social security number of the contracting party may not be disclosed.

(3) The term of the employment contract between the regional center and an employee or contractor shall not exceed the term of the state's contract with the regional center.

(Amended by Stats. 2008, 3rd Ex. Sess., Ch. 3, Sec. 2. Effective February 16, 2008.)

4640.7. (a) It is the intent of the Legislature that regional centers assist persons with developmental disabilities and their families in securing those services and supports which maximize opportunities and choices for living, working, learning, and recreating in the community.

(b) Each regional center design shall reflect the maximum cost-effectiveness possible and shall be based on a service coordination model, in which each consumer shall have a designated service coordinator who is responsible for providing or ensuring that needed services and supports are available to the consumer. Regional centers shall examine the differing levels of coordination services needed by consumers and families in order to establish varying caseload ratios within the regional center which will best meet those needs of their consumers.

(Added by Stats. 1992, Ch. 1011, Sec. 9. Effective January 1, 1993.)

4640.8. When convening any task force or advisory group, a regional center shall make its best effort to ensure representation by consumers and family members representing the community's multicultural diversity.

(Added by Stats. 1997, Ch. 414, Sec. 16. Effective September 22, 1997.)

4641. All regional centers shall conduct casefinding activities, including notification of availability of service in English and such other languages as may be appropriate to the service area, outreach services in areas with a high incidence of developmental disabilities, and identification of persons who may need service.

(Added by Stats. 1977, Ch. 1252.)

4642. Any person believed to have a developmental disability, and any person believed to have a high risk of parenting a developmentally disabled infant shall be eligible for initial intake and assessment services in the regional centers. In addition, any infant having a high risk of becoming developmentally disabled may be eligible for initial intake and assessment services in the regional centers. For purposes of this section, ''high-risk infant'' means a child less than 36 months of age whose genetic, medical, or environmental history is predictive of a substantially greater risk for developmental disability than that for the general population. The department, in consultation with the State Department of Health Services, shall develop specific risk and service criteria for the high-risk infant program on or before July 1, 1983. These criteria may be modified in subsequent years based on analysis of actual clinical experience.

Initial intake shall be performed within 15 working days following request for assistance. Initial intake shall include, but need not be limited to, information and advice about the nature and availability of services provided by the regional center and by other agencies in the community, including guardianship, conservatorship, income maintenance, mental health, housing, education, work activity and vocational training, medical, dental, recreational, and other services or programs that may be useful to persons with developmental disabilities or their families. Intake shall also include a decision to provide assessment.

(Amended by Stats. 1982, Ch. 1242, Sec. 1.)

4643. (a) If assessment is needed, the assessment shall be performed within 120 days following initial intake. Assessment shall be performed as soon as possible and in no event more than 60 days following initial intake where any delay would expose the client to unnecessary risk to his or her health and safety or to significant further delay in mental or physical development, or the client would be at imminent risk of placement in a more restrictive environment. Assessment may include collection and review of available historical diagnostic data, provision or procurement of necessary tests and evaluations, and summarization of developmental levels and service needs and is conditional upon receipt of the release of information specified in subdivision (b).

(b) In determining if an individual meets the definition of developmental disability contained in subdivision (a) of Section 4512, the regional center may consider evaluations and tests, including, but not limited to, intelligence tests, adaptive functioning tests, neurological and neuropsychological tests, diagnostic tests performed by a physician, psychiatric tests, and other tests or evaluations that have been performed by, and are available from, other sources.

(Amended by Stats. 2008, 3rd Ex. Sess., Ch. 3, Sec. 3. Effective February 16, 2008.)

4643.3. (a) (1) On or before April 1, 2002, the department shall develop evaluation and diagnostic procedures for the diagnosis of autism disorder and other autistic spectrum disorders.

(2) The department shall publish or arrange for the publication of the evaluation and diagnostic procedures required by paragraph (1). The published evaluation and diagnostic procedures shall be available to the public.

(b) The department shall develop a training program for regional center clinical staff in the utilization of diagnostic procedures for the diagnosis of autism disorder. The training program shall be implemented on or before July 1, 2002.

(Added by Stats. 2001, Ch. 171, Sec. 26. Effective August 10, 2001.)

4643.5. (a) If a consumer is or has been determined to be eligible for services by a regional center, he or she shall also be considered eligible by any other regional center if he or she has moved to another location within the state.

(b) An individual who is determined by any regional center to have a developmental disability shall remain eligible for services from regional centers unless a regional center, following a comprehensive reassessment, concludes that the original determination that the individual has a developmental disability is clearly erroneous.

(c) Whenever a consumer transfers from one regional center catchment area to another, the level and types of services and supports specified in the consumer's individual program plan shall be authorized and secured, if available, pending the development of a new individual program plan for the consumer. If these services and supports do not exist, the regional center shall convene a meeting to develop a new individual program plan within 30 days. Prior to approval of the new individual program plan, the regional center shall provide alternative services and supports that best meet the individual program plan objectives in the least restrictive setting. The department shall develop guidelines that describe the responsibilities of regional centers in ensuring a smooth transition of services and supports from one regional center to another, including, but not limited to, pretransferring planning and a dispute resolution process to resolve disagreements between regional centers regarding their responsibilities related to the transfer of case management services.

(Amended by Stats. 1997, Ch. 294, Sec. 37. Effective August 18, 1997.)

4644. (a) In addition to any person eligible for initial intake or assessment services, regional centers may cause to be provided preventive services to any potential parent requesting these services and who is determined to be at high risk of parenting a developmentally disabled infant, or, at the request of the parent or guardian, to any infant at high risk of becoming developmentally disabled. It is the intent of the Legislature that preventive services shall be given equal priority with all other basic regional center services. These services shall, inasmuch as feasible, be provided by appropriate generic agencies, including, but not limited to, county departments of health, perinatal centers, and genetic centers. The department shall implement operating procedures to ensure that prevention activities are funded from regional center purchase of service funds only when funding for these services is unavailable from local generic agencies. In no case, shall regional center funds be used to supplant funds budgeted by any agency which has a responsibility to provide prevention services to the general public.

(b) For purposes of this section, ''generic agency'' means any agency which has a legal responsibility to serve all members of the general public and which is receiving public funds for providing such services.

(Amended by Stats. 1982, Ch. 1242, Sec. 2.)

4646. (a) It is the intent of the Legislature to ensure that the individual program plan and provision of services and supports by the regional center system is centered on the individual and the family of the individual with developmental disabilities and takes into account the needs and preferences of the individual and the family, where appropriate, as well as promoting community integration, independent, productive, and normal lives, and stable and healthy environments. It is the further intent of the Legislature to ensure that the provision of services to consumers and their families be effective in meeting the goals stated in the individual program plan, reflect the preferences and choices of the consumer, and reflect the cost-effective use of public resources.

(b) The individual program plan is developed through a process of individualized needs determination. The individual with developmental disabilities and, where appropriate, his or her parents, legal guardian or conservator, or authorized representative, shall have the opportunity to actively participate in the development of the plan.

(c) An individual program plan shall be developed for any person who, following intake and assessment, is found to be eligible for regional center services. These plans shall be completed within 60 days of the completion of the assessment. At the time of intake, the regional center shall inform the consumer and, where appropriate, his or her parents, legal guardian or conservator, or authorized representative, of the services available through the local area board and the protection and advocacy agency designated by the Governor pursuant to federal law, and shall provide the address and telephone numbers of those agencies.

(d) Individual program plans shall be prepared jointly by the planning team. Decisions concerning the consumer's goals, objectives, and services and supports that will be included in the consumer's individual program plan and purchased by the regional center or obtained from generic agencies shall be made by agreement between the regional center representative and the consumer or, where appropriate, the parents, legal guardian, conservator, or authorized representative at the program plan meeting.

(e) Regional centers shall comply with the request of a consumer, or where appropriate, the request of his or her parents, legal guardian, or conservator, that a designated representative receive written notice of all meetings to develop or revise his or her individual program plan and of all notices sent to the consumer pursuant to Section 4710. The designated representative may be a parent or family member.

(f) If a final agreement regarding the services and supports to be provided to the consumer cannot be reached at a program plan meeting, then a subsequent program plan meeting shall be convened within 15 days, or later at the request of the consumer or, when appropriate, the parents, legal guardian, conservator, or authorized representative or when agreed to by the planning team. Additional program plan meetings may be held with the agreement of the regional center representative and the consumer or, where appropriate, the parents, legal guardian, conservator, or authorized representative.

(g) An authorized representative of the regional center and the consumer or, where appropriate, his or her parents, legal guardian, or conservator, shall sign the individual program plan prior to its implementation. If the consumer or, where appropriate, his or her parents, legal guardian, or conservator, does not agree with all components of the plan, they may indicate that disagreement on the plan. Disagreement with specific plan components shall not prohibit the implementation of services and supports agreed to by the consumer or, where appropriate, his or her parents, legal guardian, or conservator. If the consumer or, where appropriate, his or her parents, legal guardian, or conservator, does not agree with the plan in whole or in part, he or she shall be sent written notice of the fair hearing rights, as required by Section 4701.

(Amended by Stats. 1998, Ch. 1043, Sec. 5. Effective January 1, 1999.)

4646.4. (a) Effective September 1, 2008, regional centers shall ensure, at the time of development, scheduled review, or modification of a consumer's individual program plan developed pursuant to Sections 4646 and 4646.5, or of an individualized family service plan pursuant to Section 95020 of the Government Code, the establishment of an internal process. This internal process shall ensure adherence with federal and state law and regulation, and when purchasing services and supports, shall ensure all of the following:

(1) Conformance with the regional center's purchase of service policies, as approved by the department pursuant to subdivision (d) of Section 4434.

(2) Utilization of generic services and supports when appropriate.

(3) Utilization of other services and sources of funding as contained in Section 4659.

(4) Consideration of the family's responsibility for providing similar services and supports for a minor child without disabilities in identifying the consumer's service and support needs as provided in the least restrictive and most appropriate setting. In this determination, regional centers shall take into account the consumer's need for extraordinary care, services, supports and supervision, and the need for timely access to this care.

(b) Final decisions regarding the consumer's individual program plan shall be made pursuant to Section 4646.

(c) Final decisions regarding the individual family support plan shall be made pursuant to Section 95020 of the Government Code.

(d) By no later than April 1, 2009, the department shall provide the fiscal and policy committees of the Legislature with a written update regarding the implementation of this section.

(Added by Stats. 2008, Ch. 758, Sec. 21.5. Effective September 30, 2008.)

4646.5. (a) The planning process for the individual program plan described in Section 4646 shall include all of the following:

(1) Gathering information and conducting assessments to determine the life goals, capabilities and strengths, preferences, barriers, and concerns or problems of the person with developmental disabilities. For children with developmental disabilities, this process should include a review of the strengths, preferences, and needs of the child and the family unit as a whole. Assessments shall be conducted by qualified individuals and performed in natural environments whenever possible. Information shall be taken from the consumer, his or her parents and other family members, his or her friends, advocates, providers of services and supports, and other agencies. The assessment

process shall reflect awareness of, and sensitivity to, the lifestyle and cultural background of the consumer and the family.

(2) A statement of goals, based on the needs, preferences, and life choices of the individual with developmental disabilities, and a statement of specific, time-limited objectives for implementing the person's goals and addressing his or her needs. These objectives shall be stated in terms that allow measurement of progress or monitoring of service delivery. These goals and objectives should maximize opportunities for the consumer to develop relationships, be part of community life in the areas of community participation, housing, work, school, and leisure, increase control over his or her life, acquire increasingly positive roles in community life, and develop competencies to help accomplish these goals.

(3) When developing individual program plans for children, regional centers shall be guided by the principles, process, and services and support parameters set forth in Section 4685.

(4) A schedule of the type and amount of services and supports to be purchased by the regional center or obtained from generic agencies or other resources in order to achieve the individual program plan goals and objectives, and identification of the provider or providers of service responsible for attaining each objective, including, but not limited to, vendors, contracted providers, generic service agencies, and natural supports. The plan shall specify the approximate scheduled start date for services and supports and shall contain timelines for actions necessary to begin services and supports, including generic services.

(5) When agreed to by the consumer, the parents or legally appointed guardian of a minor consumer, or the legally appointed conservator of an adult consumer or the authorized representative, including those appointed pursuant to subdivision (d) of Section 4548 and subdivision (e) of Section 4705, a review of the general health status of the adult or child including a medical, dental, and mental health needs shall be conducted. This review shall include a discussion of current medications, any observed side effects, and the date of last review of the medication. Service providers shall cooperate with the planning team to provide any information necessary to complete the health status review. If any concerns are noted during the review, referrals shall be made to regional center clinicians or to the consumer's physician, as appropriate. Documentation of health status and referrals shall be made in the consumer's record by the service coordinator.

(6) A schedule of regular periodic review and reevaluation to ascertain that planned services have been provided, that objectives have been fulfilled within the times specified, and that consumers and families are satisfied with the individual program plan and its implementation.

(b) For all active cases, individual program plans shall be reviewed and modified by the planning team, through the process described in Section 4646, as necessary, in response to the person's achievement or changing needs, and no less often than once every three years. If the consumer or, where appropriate, the consumer's parents, legal guardian, or conservator requests an individual program plan review, the individual program shall be reviewed within 30 days after the request is submitted.

(c) (1) The department, with the participation of representatives of a statewide consumer organization, the Association of Regional Center Agencies, an organized labor organization representing service coordination staff, and the Organization of Area Boards shall prepare training material and a standard format and instructions for

the preparation of individual program plans, which embodies an approach centered on the person and family.

(2) Each regional center shall use the training materials and format prepared by the department pursuant to paragraph (1).

(3) The department shall biennially review a random sample of individual program plans at each regional center to assure that these plans are being developed and modified in compliance with Section 4646 and this section.

(Amended by Stats. 2006, Ch. 399, Sec. 3. Effective January 1, 2007.)

4646.6. Notwithstanding Section 632 of the Penal Code, a consumer, or his or her parent, guardian, conservator, or authorized representative, shall have the right to record electronically the proceedings of the individual program plan meetings on an audiotape recorder. The consumer, or his or her parent, guardian, conservator, or authorized representative, shall notify the regional center of their intent to record a meeting at least 24 hours prior to the meeting. If the regional center initiates the notice of intent to audiotape record a meeting and the consumer, or his or her parent, guardian, conservator, or authorized representative, refuses to attend the meeting because it will be tape recorded, the meeting shall not be recorded on an audiotape recorder. However, the regional center shall have the right to electronically record the meeting when notice of intent to record has been given by the consumer or on the consumer's behalf.

(Added by Stats. 2007, Ch. 512, Sec. 1. Effective January 1, 2008.)

4647. (a) Pursuant to Section 4640.7, service coordination shall include those activities necessary to implement an individual program plan, including, but not limited to, participation in the individual program plan process; assurance that the planning team considers all appropriate options for meeting each individual program plan objective; securing, through purchasing or by obtaining from generic agencies or other resources, services and supports specified in the person's individual program plan; coordination of service and support programs; collection and dissemination of information; and monitoring implementation of the plan to ascertain that objectives have been fulfilled and to assist in revising the plan as necessary.

(b) The regional center shall assign a service coordinator who shall be responsible for implementing, overseeing, and monitoring each individual program plan. The service coordinator may be an employee of the regional center or may be a qualified individual or employee of an agency with whom the regional center has contracted to provide service coordination services, or persons described in Section 4647.2. The regional center shall provide the consumer or, where appropriate, his or her parents, legal guardian, or conservator or authorized representative, with written notification of any permanent change in the assigned service coordinator within 10 business days. No person shall continue to serve as a service coordinator for any individual program plan unless there is agreement by all parties that the person should continue to serve as service coordinator.

(c) Where appropriate, a consumer or the consumer's parents or other family members, legal guardian, or conservator, may perform all or part of the duties of the service coordinator described in this section if the regional center director agrees and it is feasible.

(d) If any person described in subdivision (c) is designated as the service coordinator, that person shall not deviate from the agreed-upon program plan and shall

provide any reasonable information and reports required by the regional center director.

(e) If any person described in subdivision (c) is designated as the service coordinator, the regional center shall provide ongoing information and support as necessary, to assist the person to perform all or part of the duties of service coordinator.

(Amended by Stats. 1999, Ch. 146, Sec. 26. Effective July 22, 1999.)

4648. In order to achieve the stated objectives of a consumer's individual program plan, the regional center shall conduct activities including, but not limited to, all of the following:

(a) Securing needed services and supports.

(1) It is the intent of the Legislature that services and supports assist individuals with developmental disabilities in achieving the greatest self-sufficiency possible and in exercising personal choices. The regional center shall secure services and supports that meet the needs of the consumer, as determined in the consumer's individual program plan, and within the context of the individual program plan, the planning team shall give highest preference to those services and supports which would allow minors with developmental disabilities to live with their families, adult persons with developmental disabilities to live as independently as possible in the community, and that allow all consumers to interact with persons without disabilities in positive, meaningful ways.

(2) In implementing individual program plans, regional centers, through the planning team, shall first consider services and supports in natural community, home, work, and recreational settings. Services and supports shall be flexible and individually tailored to the consumer and, where appropriate, his or her family.

(3) A regional center may, pursuant to vendorization or a contract, purchase services or supports for a consumer from any individual or agency which the regional center and consumer or, where appropriate, his or her parents, legal guardian, or conservator, or authorized representatives, determines will best accomplish all or any part of that consumer's program plan.

(A) Vendorization or contracting is the process for identification, selection, and utilization of service vendors or contractors, based on the qualifications and other requirements necessary in order to provide the service.

(B) A regional center may reimburse an individual or agency for services or supports provided to a regional center consumer if the individual or agency has a rate of payment for vendored or contracted services established by the department, pursuant to this division, and is providing services pursuant to an emergency vendorization or has completed the vendorization procedures or has entered into a contract with the regional center and continues to comply with the vendorization or contracting requirements. The director shall adopt regulations governing the vendorization process to be utilized by the department, regional centers, vendors and the individual or agency requesting vendorization.

(C) Regulations shall include, but not be limited to: the vendor application process, and the basis for accepting or denying an application; the qualification and requirements for each category of services that may be provided to a regional center consumer through a vendor; requirements for emergency vendorization; procedures for termination of vendorization; the procedure for an individual or an agency to appeal any vendorization decision made by the department or regional center.

(D) A regional center may vendorize a licensed facility for exclusive services to persons with developmental disabilities at a capacity equal to or less than the facility's licensed capacity. A facility already licensed on January 1, 1999, shall continue to be vendorized at their full licensed capacity until the facility agrees to vendorization at a reduced capacity.

(4) Notwithstanding subparagraph (B), a regional center may contract or issue a voucher for services and supports provided to a consumer or family at a cost not to exceed the maximum rate of payment for that service or support established by the department. If a rate has not been established by the department, the regional center may, for an interim period, contract for a specified service or support with, and establish a rate of payment for, any provider of the service or support necessary to implement a consumer's individual program plan. Contracts may be negotiated for a period of up to three years, with annual review and subject to the availability of funds.

(5) In order to ensure the maximum flexibility and availability of appropriate services and supports for persons with developmental disabilities, the department shall establish and maintain an equitable system of payment to providers of services and supports identified as necessary to the implementation of a consumers' individual program plan. The system of payment shall include provision for a rate to ensure that the provider can meet the special needs of consumers and provide quality services and supports in the least restrictive setting as required by law.

(6) The regional center and the consumer, or where appropriate, his or her parents, legal guardian, conservator, or authorized representative, including those appointed pursuant to subdivision (d) of Section 4548 or subdivision (e) of Section 4705, shall, pursuant to the individual program plan, consider all of the following when selecting a provider of consumer services and supports:

(A) A provider's ability to deliver quality services or supports which can accomplish all or part of the consumer's individual program plan.

(B) A provider's success in achieving the objectives set forth in the individual program plan.

(C) Where appropriate, the existence of licensing, accreditation, or professional certification.

(D) The cost of providing services or supports of comparable quality by different providers, if available.

(E) The consumer's or, where appropriate, the parents, legal guardian, or conservator of a consumer's choice of providers.

(7) No service or support provided by any agency or individual shall be continued unless the consumer or, where appropriate, his or her parents, legal guardian, or conservator, or authorized representative, including those appointed pursuant to subdivision (d) of Section 4548 or subdivision (e) of Section 4705, is satisfied and the regional center and the consumer or, when appropriate, the person's parents or legal guardian or conservator agree that planned services and supports have been provided, and reasonable progress toward objectives have been made.

(8) Regional center funds shall not be used to supplant the budget of any agency which has a legal responsibility to serve all members of the general public and is receiving public funds for providing those services.

(9) (A) A regional center may, directly or through an agency acting on behalf of the center, provide placement in, purchase of, or follow-along services to persons with developmental disabilities in, appropriate community living arrangements, including,

but not limited to, support service for consumers in homes they own or lease, foster family placements, health care facilities, and licensed community care facilities. In considering appropriate placement alternatives for children with developmental disabilities, approval by the child's parent or guardian shall be obtained before placement is made.

(B) Each person with developmental disabilities placed by the regional center in a community living arrangement shall have the rights specified in this division. These rights shall be brought to the person's attention by any means necessary to reasonably communicate these rights to each resident, provided that, at a minimum, the Director of Developmental Services prepare, provide, and require to be clearly posted in all residential facilities and day programs a poster using simplified language and pictures that is designed to be more understandable by persons with cognitive disabilities and that the rights information shall also be available through the regional center to each residential facility and day program in alternative formats, including, but not limited to, other languages, braille, and audio tapes, when necessary to meet the communication needs of consumers.

(C) Consumers are eligible to receive supplemental services including, but not limited to, additional staffing, pursuant to the process described in subdivision (d) of Section 4646. Necessary additional staffing that is not specifically included in the rates paid to the service provider may be purchased by the regional center if the additional staff are in excess of the amount required by regulation and the individual's planning team determines the additional services are consistent with the provisions of the individual program plan. Additional staff should be periodically reviewed by the planning team for consistency with the individual program plan objectives in order to determine if continued use of the additional staff is necessary and appropriate and if the service is producing outcomes consistent with the individual program plan. Regional centers shall monitor programs to ensure that the additional staff is being provided and utilized appropriately.

(10) Emergency and crisis intervention services including, but not limited to, mental health services and behavior modification services, may be provided, as needed, to maintain persons with developmental disabilities in the living arrangement of their own choice. Crisis services shall first be provided without disrupting a person's living arrangement. If crisis intervention services are unsuccessful, emergency housing shall be available in the person's home community. If dislocation cannot be avoided, every effort shall be made to return the person to his or her living arrangement of choice, with all necessary supports, as soon as possible.

(11) Among other service and support options, planning teams shall consider the use of paid roommates or neighbors, personal assistance, technical and financial assistance, and all other service and support options which would result in greater self-sufficiency for the consumer and cost-effectiveness to the state.

(12) When facilitation as specified in an individual program plan requires the services of an individual, the facilitator shall be of the consumer's choosing.

(13) The community support may be provided to assist individuals with developmental disabilities to fully participate in community and civic life, including, but not limited to, programs, services, work opportunities, business, and activities available to persons without disabilities. This facilitation shall include, but not be limited to, any of the following:

(A) Outreach and education to programs and services within the community.

(B) Direct support to individuals which would enable them to more fully participate in their community.

(C) Developing unpaid natural supports when possible.

(14) Other services and supports may be provided as set forth in Sections 4685, 4686, 4687, 4688, and 4689, when necessary.

(b) (1) Advocacy for, and protection of, the civil, legal, and service rights of persons with developmental disabilities as established in this division.

(2) Whenever the advocacy efforts of a regional center to secure or protect the civil, legal, or service rights of any of its consumers prove ineffective, the regional center or the person with developmental disabilities or his or her parents, legal guardian, or other representative may request the area board to initiate action under the provisions defining area board advocacy functions established in this division.

(c) The regional center may assist consumers and families directly, or through a provider, in identifying and building circles of support within the community.

(d) In order to increase the quality of community services and protect consumers, the regional center shall, when appropriate, take either of the following actions:

(1) Identify services and supports that are ineffective or of poor quality and provide or secure consultation, training, or technical assistance services for any agency or individual provider to assist that agency or individual provider in upgrading the quality of services or supports.

(2) Identify providers of services or supports that may not be in compliance with local, state, and federal statutes and regulations and notify the appropriate licensing or regulatory authority, or request the area board to investigate the possible noncompliance.

(e) When necessary to expand the availability of needed services of good quality, a regional center may take actions that include, but are not limited to, the following:

(1) Soliciting an individual or agency by requests for proposals or other means, to provide needed services or supports not presently available.

(2) Requesting funds from the Program Development Fund, pursuant to Section 4677, or community placement plan funds designated from that fund, to reimburse the startup costs needed to initiate a new program of services and supports.

(3) Using creative and innovative service delivery models, including, but not limited to, natural supports.

(f) Except in emergency situations, a regional center shall not provide direct treatment and therapeutic services, but shall utilize appropriate public and private community agencies and service providers to obtain those services for its consumers.

(g) Where there are identified gaps in the system of services and supports or where there are identified consumers for whom no provider will provide services and supports contained in his or her individual program plan, the department may provide the services and supports directly.

(Amended by Stats. 2006, Ch. 399, Sec. 4. Effective January 1, 2007.)

4648.1. (a) The State Department of Developmental Services and regional centers may monitor services and supports purchased for regional center consumers with or without prior notice. Not less than two monitoring visits to a licensed long-term health care or community care facility or family home agency home each year shall be unannounced. The department may conduct fiscal reviews and audits of the service providers' records.

(b) Department and regional center staff involved in monitoring or auditing services provided to the regional centers' consumers by a service provider shall have access to the provider's grounds, buildings, and service program, and to all related records, including books, papers, computerized data, accounting records, and related documentation. All persons connected with the service provider's program, including, but not limited to, program administrators, staff, consultants, and accountants, shall provide information and access to facilities as required by the department or regional center.

(c) The department, in cooperation with regional centers, shall ensure that all providers of services and supports purchased by regional centers for their consumers are informed of all of the following:

(1) The provisions of this section.

(2) The responsibility of providers to comply with laws and regulations governing both their service program and the provision of services and supports to people with developmental disabilities.

(3) The responsibility of providers to comply with conditions of any contract or agreement between the regional center and the provider, and between the provider and the department.

(4) The rights of providers established in regulations adopted pursuant to Sections 4648.2, 4748, and 4780.5, to appeal actions taken by regional centers or the department as a result of their monitoring and auditing findings.

(d) A regional center may terminate payments for services, and may terminate its contract or authorization for the purchase of consumer services if it determines that the provider has not complied with provisions of its contract or authorization with the regional center or with applicable state laws and regulations. When terminating payments for services or its contract or authorization for the purchase of consumer services, a regional center shall make reasonable efforts to avoid unnecessary disruptions of consumer services.

(e) A regional center or the department may recover from the provider funds paid for services when the department or the regional center determines that either of the following has occurred:

(1) The services were not provided in accordance with the regional center's contract or authorization with the provider, or with applicable state laws or regulations.

(2) The rate paid is based on inaccurate data submitted by the provider on a provider cost statement.

Any funds so recovered shall be remitted to the department.

(f) Any evidence of suspected licensing violations found by department or regional center personnel shall be reported immediately to the appropriate state licensing agency.

(g) Regional centers may establish volunteer teams, made up of consumers, parents, other family members, and advocates to conduct the monitoring activities described in this section.

(h) In meeting its responsibility to provide technical assistance to providers of community living arrangements for persons with developmental disabilities, including, but not limited to, licensed residential facilities, family home agencies, and supported or independent living arrangements, a regional center shall utilize the

''Looking at Service Quality-Provider's Handbook'' developed by the department or subsequent revisions developed by the department.

(Amended by Stats. 1998, Ch. 1043, Sec. 8. Effective January 1, 1999.)

4648.2. By September 1, 1986, the State Department of Developmental Services shall promulgate regulations which establish a process for service providers to appeal actions the department takes as a result of its auditing and monitoring activities. To the extent possible, this process shall include procedures contained in fiscal audit appeals regulations established pursuant to Section 4780.5.

(Added by Stats. 1985, Ch. 873, Sec. 2.)

4648.3. A provider of transportation services to regional center clients for the regional center shall maintain protection against liability for damages for bodily injuries or death and for damage to or destruction of property, which may be incurred by the provider in the course of providing those services. The protection shall be maintained at the level established by the regional center to which the transportation services are provided.

(Added by Stats. 1987, Ch. 492, Sec. 3. Effective September 10, 1987.)

4648.4. (a) Notwithstanding any other provision of law or regulation, commencing July 1, 2006, rates for services listed in paragraphs (1), (2), with the exception of travel reimbursement, (3) to (8), inclusive, (10), and (11) of subdivision (b), shall be increased by 3 percent, subject to funds specifically appropriated for this increase in the Budget Act of 2006. The increase shall be applied as a percentage, and the percentage shall be the same for all providers. Any subsequent change shall be governed by subdivision (b).

(b) Notwithstanding any other provision of law or regulation, except for subdivision (a), no regional center may pay any provider of the following services or supports a rate that is greater than the rate that is in effect on or after June 30, 2008, unless the increase is required by a contract between the regional center and the vendor that is in effect on June 30, 2008, or the regional center demonstrates that the approval is necessary to protect the consumer's health or safety and the department has granted prior written authorization:

(1) Supported living services.
(2) Transportation, including travel reimbursement.
(3) Socialization training programs.
(4) Behavior intervention training.
(5) Community integration training programs.
(6) Community activities support services.
(7) Mobile day programs.
(8) Creative art programs.
(9) Supplemental day services program supports.
(10) Adaptive skills trainers.
(11) Independent living specialists.

(Amended by Stats. 2008, 3rd Ex. Sess., Ch. 3, Sec. 4. Effective February 16, 2008.)

4649. Regional centers shall cooperate with area boards in joint efforts to inform the public of services available to persons with developmental disabilities and of their unmet needs, provide materials and education programs to community groups and

agencies with interest in, or responsibility for, persons with developmental disabilities, and develop resource materials, if necessary, containing information about local agencies, facilities, and service providers offering services to persons with developmental disabilities.

(Added by Stats. 1977, Ch. 1252.)

4650. Regional centers shall be responsible for developing an annual plan and program budget to be submitted to the director no later than September 1 of each fiscal year. An information copy shall be submitted to the area board and state council by the same date.

(Added by Stats. 1977, Ch. 1252.)

4651. (a) It is the intent of the Legislature that regional centers shall find innovative and economical methods of achieving the objectives contained in individual program plans of persons with developmental disabilities.

(b) The department shall encourage and assist regional centers to use innovative programs, techniques, and staffing arrangements to carry out their responsibilities.

(Amended by Stats. 1992, Ch. 1011, Sec. 18. Effective January 1, 1993.)

4652. A regional center shall investigate every appropriate and economically feasible alternative for care of a developmentally disabled person available within the region. If suitable care cannot be found within the region, services may be obtained outside of the region.

(Added by Stats. 1977, Ch. 1252.)

4653. Except for those developmentally disabled persons judicially committed to state hospitals, no developmentally disabled person shall be admitted to a state hospital except upon the referral of a regional center. Upon discharge from a state hospital, a developmentally disabled person shall be referred to an appropriate regional center.

(Added by Stats. 1977, Ch. 1252.)

4654. Before any person is examined by a regional center pursuant to Section 1370.1 of the Penal Code, the court ordering such medical examination shall transmit to the regional center a copy of the orders made pursuant to proceedings conducted under Sections 1368 and 1369 of the Penal Code. The purpose of the mental examination shall be to determine if developmental disability is the primary diagnosis.

(Added by Stats. 1977, Ch. 1252.)

4655. The director of a regional center or his designee may give consent to medical, dental, and surgical treatment of a regional center client and provide for such treatment to be given to the person under the following conditions:

(a) If the developmentally disabled person's parent, guardian, or conservator legally authorized to consent to such treatment does not respond within a reasonable time to the request of the director or his designee for the granting or denying of consent for such treatment, the director of a regional center or his designee may consent on behalf of the developmentally disabled person to such treatment and provide for such treatment to be given to such person.

(b) If the developmentally disabled person has no parent, guardian, or conservator legally authorized to consent to medical, dental, or surgical treatment on behalf of the person, the director of the regional center or his designee may consent to such treatment

on behalf of the person and provide for such treatment to be given to the person. The director of a regional center or his designee may thereupon also initiate, or cause to be initiated, proceedings for the appointment of a guardian or conservator legally authorized to consent to medical, dental, or surgical services.

(c) If the developmentally disabled person is an adult and has no conservator, consent to treatment may be given by someone other than the person on the person's behalf only if the developmentally disabled person is mentally incapable of giving his own consent.

(Amended by Stats. 1979, Ch. 730.)

4656. (a) A qualified physician and surgeon who diagnoses a developmental disability, as defined in subdivision (a) of Section 4512, of a patient who is a minor shall attempt to determine from the patient, the parents or guardian of the patient, or the regional center for the area whether the person has been previously referred to the regional center for the area. If the patient has not been previously referred to the regional center, the physician and surgeon shall inform a parent or the guardian of the patient of the existence of the regional center for the area, its address and telephone number, and shall describe to the person the services available through the regional center, and shall, upon request of the parent or guardian of the patient, refer in writing the patient through his or her parent or guardian to the regional center. Upon obtaining the consent of the patient's parent or guardian, the physician and surgeon shall notify the regional center of the referral.

For the purposes of this section, ''qualified physician and surgeon'' means those physicians and surgeons who have recognized and accredited training and a specialized pediatric practice in childhood disabilities.

(b) Each regional center shall maintain a record of every developmentally disabled person under the age of 18 years known by the regional center to have been referred to it for its services, whether or not services are actually provided.

(c) The state department shall transmit a copy of this section and of subdivision (a) of Section 4512 to every physician and surgeon licensed to practice in this state and every general acute care hospital licensed under Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code. A list of the name and address of each regional center and such other pertinent information as the state department deems appropriate shall also be transmitted, both in English and Spanish.

(d) It is not the intent of the Legislature in enacting this section to prevent any physician and surgeon subject to subdivision (a) from providing care or treatment to a developmentally disabled minor or to deprive developmentally disabled minors of adequate care provided through sources other than a regional center.

(Amended (as added by Stats. 1978, Ch. 429) by Stats. 1982, Ch. 466, Sec. 122.)

4657. The State Department of Developmental Services shall, through the regional center contract, insure that the following information is collected by each regional center for each new case and is also collected at each review of all regional center clients in out-of-home placement.

Information shall include:

(a) The social security number of the parents of the client.

(b) The birthday of the parents of the client.

(c) The disability status of the parents of the client.

(d) Whether the parents of the client are deceased or not.

(Amended by Stats. 1984, Ch. 1137, Sec. 1.)

4658. The State Department of Developmental Services shall insure that all potentially eligible clients are referred to the Social Security Administration for eligibility determination for Old Age Survivors Disability Insurance (OASDI).

(Amended by Stats. 1984, Ch. 1137, Sec. 2.)

4659. (a) Except as otherwise provided in subdivision (b) or (c), the regional center shall identify and pursue all possible sources of funding for consumers receiving regional center services. These sources shall include, but not be limited to, both of the following:

(1) Governmental or other entities or programs required to provide or pay the cost of providing services, including Medi-Cal, Medicare, the Civilian Health and Medical Program for Uniform Services, school districts, and federal supplemental security income and the state supplementary program.

(2) Private entities, to the maximum extent they are liable for the cost of services, aid, insurance, or medical assistance to the consumer.

(b) Any revenues collected by a regional center pursuant to this section shall be applied against the cost of services prior to use of regional center funds for those services. This revenue shall not result in a reduction in the regional center's purchase of services budget, except as it relates to federal supplemental security income and the state supplementary program.

(c) This section shall not be construed to impose any additional liability on the parents of children with developmental disabilities, or to restrict eligibility for, or deny services to, any individual who qualifies for regional center services but is unable to pay.

(d) In order to best utilize generic resources, federally funded programs, and private insurance programs for individuals with developmental disabilities, the department and regional centers shall engage in the following activities:

(1) Within existing resources, the department shall provide training to regional centers, no less than once every two years, in the availability and requirements of generic, federally funded and private programs available to persons with developmental disabilities, including, but not limited to, eligibility requirements, the application process and covered services, and the appeal process.

(2) Regional centers shall disseminate information and training to all service coordinators regarding the availability and requirements of generic, federally funded and private insurance programs on the local level.

(Amended by Stats. 1992, Ch. 1011, Sec. 19. Effective January 1, 1993.)

Article 3. Regional Center Board Meetings

(Article 3 added by Stats. 1986, Ch. 577, Sec. 2.)

4660. All meetings of the board of directors of each regional center shall be scheduled, open, and public, and all persons shall be permitted to attend any meeting, except as otherwise provided in this section. Regional center board meetings shall be held in accordance with all of the following provisions:

(a) Each regional center shall provide a copy of this article to each member of the regional center governing board upon his or her assumption of board membership.

(b) As used in this article, board meetings include meetings conducted by any committee of the governing board which exercises authority delegated to it by that governing board. However, board meetings shall not be deemed to include board retreats planned solely for educational purposes.

(c) At each regional center board meeting, time shall be allowed for public input on all properly noticed agenda items prior to board action on that item. Time shall be allowed for public input on any issue not included on the agenda.

(d) Any person attending an open and public meeting of a regional center shall have the right to record the proceedings on a tape recorder, video recorder, or other sound, visual, or written transcription recording device, in the absence of a reasonable finding of the regional center governing board that such recording constitutes, or would constitute, a disruption of the proceedings.

(Amended by Stats. 1997, Ch. 414, Sec. 21. Effective September 22, 1997.)

4661. (a) Regional centers shall mail notice of their meetings to any person who requests notice in writing. Notice shall be mailed at least seven days in advance of each meeting. The notice shall include the date, time, and location of, and a specific agenda for, the meeting, which shall include an identification of all substantive topic areas to be discussed, and no item shall be added to the agenda subsequent to the provision of this notice. The notice requirement shall not preclude the regional center board from taking action on any urgent request made by the department, not related to purchase of service reductions, for which the board makes a specific finding that notice could not have been provided at least seven days before the meeting, or on new items brought before the board at meetings by members of the public.

(b) The regional center shall maintain all recordings and written comments submitted as testimony on agenda items for no less than two years. These materials shall be made available for review by any person, upon request.

(c) Any action taken by a board that is found by a court of competent jurisdiction to have substantially violated any provision of this article shall be deemed null and void.

(Amended by Stats. 1997, Ch. 414, Sec. 22. Effective September 22, 1997.)

4662. In the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of regional center services, an emergency meeting may be called without complying with the advanced notice requirement of Section 4661. For the purposes of this article, ''emergency situation'' means any activity which severely impairs public health, safety, or both, as determined by a majority of the members of the regional center board. In these situations, advance notice shall be provided if practicable. In addition, the area board shall be notified by telephone of each emergency meeting. The minutes of an emergency meeting, including a description of any actions taken at the meeting, shall be mailed immediately to those persons described in Section 4661.

(Added by Stats. 1986, Ch. 577, Sec. 2.)

4663. (a) The governing board of a regional center may hold a closed meeting to discuss or consider one or more of the following:

(1) Real estate negotiations.

(2) The appointment, employment, evaluation of performance, or dismissal of a regional center employee.

(3) Employee salaries and benefits.

(4) Labor contract negotiations.

(5) Pending litigation.

(b) Any matter specifically dealing with a particular regional center client must be conducted in a closed session, except where it is requested that the issue be discussed publicly by the client, the client's conservator, or the client's parent or guardian where the client is a minor. Minutes of closed sessions shall be kept by a designated officer or employee of the regional center, but these minutes shall not be considered public records. Prior to and directly after holding any closed session, the regional center board shall state the specific reason or reasons for the closed session. In the closed session, the board may consider only those matters covered in its statement.

(Added by Stats. 1986, Ch. 577, Sec. 2.)

4664. The governing board of a regional center may hold a closed session regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the regional center in the litigation. Litigation shall be considered pending when any of the following circumstances exist:

(a) An adjudicatory proceeding to which the regional center is a party has been initiated formally.

(b) A point has been reached where, based upon existing facts and circumstances and the advice of legal counsel, it is determined that there is a significant exposure to litigation against the regional center.

(c) Based on existing facts and circumstances, the regional center has decided to initiate or is deciding whether to initiate litigation.

Prior to holding a closed session pursuant to this section, the regional center governing board shall state publicly to which subdivision it is pursuant.

(Amended by Stats. 1997, Ch. 414, Sec. 23. Effective September 22, 1997.)

4665. Agendas and other writings or materials distributed prior to or during a regional center board meeting for discussion or action at the meeting shall be considered public records, except those materials distributed during, and directly related to, a closed session authorized under Section 4663. Writings which are distributed prior to commencement of a board meeting shall be made available for public inspection upon request prior to commencement of the meeting. Writings which are distributed during a board meeting shall be made available for public inspection at the time of their discussion at the meeting. A reasonable fee may be charged for a copy of a public record distributed pursuant to this section.

(Added by Stats. 1986, Ch. 577, Sec. 2.)

4666. No regional center shall conduct any meeting, conference, or other function in any facility that prohibits the admittance of any person, or persons, on the basis of ancestry or any characteristic listed or defined in Section 11135 of the Government Code.

(Amended by Stats. 2007, Ch. 568, Sec. 48. Effective January 1, 2008.)

4667. All regional center board meetings shall be held in facilities accessible to persons with physical disabilities.

(Added by Stats. 1986, Ch. 577, Sec. 2.)

4668. (a) Any action taken by a regional center governing board in violation of this article is null and void. Any interested person may commence an action by mandamus,

injunction, or declaratory relief for the purpose of obtaining a judicial declaration that an action taken in violation of this article is null and void.

(b) A court may award court costs and reasonable attorney's fees to the plaintiff in an action brought pursuant to this section where it is found that a regional center board has violated the provisions of this article.

(c) This section does not prevent a regional center governing board from curing or correcting an action challenged pursuant to this section.

(Added by Stats. 1986, Ch. 577, Sec. 2.)

4669. The provisions of this article shall not apply to the corporate affairs of the governing board of a regional center which have no relationship to the role and responsibility of a regional center set forth in this chapter.

(Added by Stats. 1986, Ch. 577, Sec. 2.)

Article 4. Regional Center Alternatives for Service Delivery

(Article 4 added by Stats. 1993, Ch. 623, Sec. 2. Effective January 1, 1994. Note: Former termination clause was deleted by Stats. 1999, Ch. 369.)

4669.2. (a) Notwithstanding any other provision of law, and provided that there shall be no reduction in direct service to persons eligible for services under this article, a regional center, with the approval of the State Department of Developmental Services, and in consultation with the local area boards, consumer and vendor advisory committees, and local advocacy organizations, may explore and implement any regional center service delivery alternative included in this section for consumers living in the community, as follows:

(1) Alternative service coordination for consumers.

(2) Technical and financial support to consumers, and where appropriate, their families, to provide or secure their own services in lieu of services that regional centers would otherwise provide, purchase, or secure. These programs shall be cost-effective in the aggregate, and shall be limited to consumers who are at imminent risk of moving to a more restrictive setting.

(3) Procedures whereby regional centers may negotiate levels of payment with providers for delivery of specific services to a group of consumers through a mutually agreed upon contract with a specific term and a guaranteed reimbursement amount. Contracted services may be for any specific service or combination of services across vendor categories.

(4) Procedures whereby consumers, regional center representatives, area board representatives, and local service providers may jointly examine and make recommendations to the department for reduced reporting and recording requirements of regional centers. The recommendations shall be made available upon request.

(5) Proposals to reduce reporting and recordkeeping requirements at a regional center.

(6) Procedures whereby a regional center may lease a facility and contract for the provision of services in that facility for regional center clients.

(7) Procedures that encourage innovative approaches to the sharing of administrative resources between regional centers and other public and private agencies serving persons with developmental disabilities.

(8) Proposals for a regional center to purchase a facility for its own office space if it can be shown to be cost-effective. No funds from a regional center's purchase of services budget shall be used for this purchase.

(b) Consultation pursuant to subdivision (a) shall occur during the development of the proposal prior to the public hearing conducted in accordance with Section 4669.75 and after the completion of the public hearing.

(c) The regional center shall annually submit to the State Department of Developmental Services a report on the implementation of the service delivery options approved by the department under this section. The report shall review the effects of the proposal, if applicable, upon the regional center purchase of service budget and the state budget, the impact on other regional center services, and the impact on consumers served under the proposal. This report shall be completed within 90 days of the end of each fiscal year.

(Amended by Stats. 1997, Ch. 474, Sec. 1. Effective January 1, 1998.)

4669.75. (a) Any proposal approved by the department pursuant to this article may be implemented immediately upon approval. Prior to submitting a proposal to the department, the regional center shall conduct a public hearing to receive comments on the proposal. Notice of the public hearing shall be given at least 10 business days in advance of the hearing. The public hearing shall be conducted in accordance with this section.

(b) Notice shall include a summary of the proposal, analysis of the effect of the proposal upon the regional center budget and the state budget, the impact on regional center services, and the impact on consumers served under the proposal, and a list of the statutes and regulations that will be waived under the proposal. No proposal approved under this article shall authorize a regional center to implement proposals that have not met all the requirements of this article. The department may not delegate its authority to review and approve proposals in accordance with this article.

(c) Each written comment submitted prior to the close of the final public hearing, and a summary of verbal testimony received, shall be considered by the regional center, and a summary of the responses to all comments shall be submitted as part of the proposal to the department. These comments and responses shall be made available, along with the proposal, for public review.

(d) A service delivery alternative shall be required to be implemented within the existing regional center funding allocation and shall be cost-effective to the state. No additional allocation shall be made to permit a regional center to implement a service delivery alternative. No proposal approved under this article shall authorize or give authority to a regional center to go forward with any other specific action or proposal that has not met all of the requirements of this article. The department may not delegate its authority to review and approve proposals in accordance with this article to a regional center or any other entity.

(e) Proposals approved by the department shall meet freedom of choice requirements pursuant to the assurances required in the home- and community-based services waiver under Section 1396n of Title 42 of the United States Code.

(Amended by Stats. 2001, Ch. 745, Sec. 235. Effective October 12, 2001.)

Chapter 6. Development and Support of Community Facilities and Programs

(Chapter 6 added by Stats. 1977, Ch. 1252.)

Article 1. General

(Article 1 added by Stats. 1977, Ch. 1252.)

4670. The Legislature finds that there is a shortage of programs and facilities to provide a comprehensive network of habilitation services to persons with developmental disabilities throughout the state.

In order to assure the development and necessary support for a comprehensive network of programs of good quality, in every area of the state, in an orderly and economic manner, the following procedures are established.

(Added by Stats. 1977, Ch. 1252.)

Article 2. Planning and Developing New and Expanded Programs and Facilities

(Article 2 added by Stats. 1977, Ch. 1252.)

4675. On and after January 1, 1978, the state plan established in this division shall be the primary method used for determining, in an orderly way, the programs and facilities that shall be developed, expanded, terminated, or reduced. The state plan shall also state the objectives of such programs, amounts and sources of required funding, priorities for development, timing, agencies responsible for implementation, and procedures for evaluation.

(Added by Stats. 1977, Ch. 1252.)

4676. Prior to making an appropriation or allocating any state or federal funds for new or major expansions of programs or facilities for persons with developmental disabilities, the state plan shall be reviewed to determine if the proposed expenditure is consistent with the priorities approved in the plan.

If any expenditure of such funds for new or major expansions of programs or facilities is proposed by any agency that does not conform to the priorities approved in the state plan, the state council shall review and publicly comment on such proposed expenditure.

(Added by Stats. 1977, Ch. 1252.)

4677. (a) All parental fees collected by or for regional centers shall be remitted to the State Treasury to be deposited in the Developmental Disabilities Program Development Fund, which is hereby created and hereinafter called the Program Development Fund. The purpose of the Program Development Fund shall be to provide resources needed to initiate new programs, and to expand or convert existing programs. Within the context of, and consistent with, approved priorities for program development in the state plan, program development funds shall promote integrated residential, work, instructional, social, civic, volunteer, and recreational services and supports that increase opportunities for self-determination and maximum independence of persons with developmental disabilities.

In no event shall an allocation from the Program Development Fund be granted for more than 24 months.

(b) (1) The State Council on Developmental Disabilities shall, at least once every five years, request from all regional centers information on the types and amounts of services and supports needed, but currently unavailable.

(2) The state council shall work collaboratively with the department and the Association of Regional Center Agencies to develop standardized forms and protocols that shall be used by all regional centers and area boards in collecting and reporting this information. In addition to identifying services and supports that are needed, but currently unavailable, the forms and protocols shall also solicit input and suggestions on alternative and innovative service delivery models that would address consumer needs.

(3) In addition to the information provided pursuant to paragraph (2), the state council may utilize information from other sources, including, but not limited to, public hearings, life quality assessments conducted pursuant to Section 4570, the annual report regarding persons moving from developmental centers produced pursuant to Section 4418.1, the annual report regarding community-based vendor services produced pursuant to Section 4637.5, regional center reports on alternative service delivery submitted to the department pursuant to Section 4669.2, and the annual report on self-directed services produced pursuant to Section 4685.7.

(4) The department shall provide additional information, as requested by the state council.

(5) Based on the information provided by the regional centers and other agencies, the state council shall develop an assessment of the need for new, expanded, or converted community services and support, and make that assessment available to the public. The assessment shall include a discussion of the type and amount of services and supports necessary but currently unavailable including the impact on consumers with common characteristics, including, but not limited to, disability, specified geographic regions, age, and ethnicity, face distinct challenges. The assessment shall highlight alternative and innovative service delivery models identified through their assessment process.

(6) This needs assessment shall be conducted at least once every five years and updated annually. The assessment shall be included in the state plan and shall be provided to the department and to the appropriate committees of the Legislature. The assessment and annual updates shall be made available to the public. The State Council on Developmental Disabilities, in consultation with the department, shall make a recommendation to the Department of Finance as to the level of funding for program development to be included in the Governor's Budget, based upon this needs assessment.

(c) Parental fee schedules shall be evaluated pursuant to Section 4784 and adjusted annually by the department, with the approval of the state council. Fees for out-of-home care shall bear an equitable relationship to the cost of the care and the ability of the family to pay.

(d) In addition to parental fees and General Fund appropriations, the Program Development Fund may be augmented by federal funds available to the state for program development purposes, when these funds are allotted to the Program Development Fund in the state plan. The Program Development Fund is hereby appropriated to the department, and subject to any allocations that may be made in the annual Budget Act. In no event shall any of these funds revert to the General Fund.

(e) The department may allocate funds from the Program Development Fund for any legal purpose, provided that requests for proposals and allocations are approved by the state council in consultation with the department, and are consistent with the

priorities for program development in the state plan. Allocations from the Program Development Fund shall take into consideration the following factors:

(1) The future fiscal impact of the allocations on other state supported services and supports for persons with developmental disabilities.

(2) The information on priority services and supports needed, but currently unavailable, submitted by the regional centers.

Consistent with the level of need as determined in the state plan, excess parental fees may be used for purposes other than programs specified in subdivision (a) only when specifically appropriated to the State Department of Developmental Services for those purposes.

(f) Under no circumstances shall the deposit of federal moneys into the Program Development Fund be construed as requiring the State Department of Developmental Services to comply with a definition of ''developmental disabilities'' and ''services for persons with developmental disabilities'' other than as specified in subdivisions (a) and (b) of Section 4512 for the purposes of determining eligibility for developmental services or for allocating parental fees and state general funds deposited in the Program Development Fund.

(Amended by Stats. 2006, Ch. 399, Sec. 5.5. Effective January 1, 2007.)

4678. (a) The State Council on Developmental Disabilities, in implementing subdivision (b) of Section 4677, and with the support of the State Department of Developmental Services, shall convene a stakeholder workgroup on alternative and expanded options for nonresidential services and supports. The workgroup shall include persons with developmental disabilities, family members, providers, and other system stakeholders. The workgroup shall develop recommendations on how to best achieve all of the following:

(1) The development and expansion of community-based models that provide an array of nonresidential options, including, but not limited to, participation in integrated instructive, social, civic, volunteer, and recreational activities.

(2) The development and expansion of community-based work activities, including, but not limited to, customized employment development, integrated job training, and employer-provided job coaching.

(3) The expansion of work opportunities in the public sector.

(4) The increased utilization of existing models, including, but not limited to, self-directed services, vouchers, family teaching models, existing habilitation, and supported work vendors to facilitate access to nontraditional community-based nonresidential activities.

(5) Strategies to promote and duplicate successful and innovative models developed in California and in other states.

(6) The identification of, and strategies to address, statutory, regulatory, licensing, vendor-related, funding and other types of barriers to achieving the goals identified in this act, including strategies to improve individualization of services and supports by increased flexibility in design, staffing, and compensation.

(b) By May 1, 2007, the State Council on Developmental Disabilities shall submit recommendations from the workgroup to the Governor and appropriate committees of the Legislature and may, thereafter, incorporate subsequent recommendations into its state plan developed pursuant to Section 4561.

(Added by Stats. 2006, Ch. 397, Sec. 5. Effective January 1, 2007.)

Article 3. Rates of Payment for Community Living Facilities

(Article 3 added by Stats. 1977, Ch. 1252.)

4680. In order to assure the availability of a continuum of community living facilities of good quality for persons with developmental disabilities, and to ensure that persons placed out of home are in the most appropriate, least restrictive living arrangement, the department shall establish and maintain an equitable system of payment to providers of such services. The system of payment shall include provision for a rate to ensure that the provider can meet the special needs of persons with developmental disabilities and provide quality programs required by this article.

(Amended by Stats. 1984, Ch. 800, Sec. 1. Effective August 29, 1984.)

4681. By July 1, 1977, and each year thereafter, the department shall establish rates, which shall be reviewed by the state council. Such rates shall annually be proposed to the Legislature by March 1 and shall be operative on July 1 of each year, subject to the appropriation of sufficient funds for such purpose in the Budget Act. In reviewing the sufficiency of these rates that is required by March 1, 1985, the department shall take into account the findings and recommendations of the study conducted by the State Council on Developmental Disabilities pursuant to Section 4541.

In establishing rates to be paid for out-of-home care, the department shall include each of the cost elements in this section as follows:

(a) Rates established for all facilities shall include an adequate amount to care for ''basic living needs'' of a person with developmental disabilities. ''Basic living needs'' are defined to include housing (shelter, utilities, and furnishings), food, and personal care. The amount required for basic living needs shall be calculated each year as the average cost of an additional normal child, of the ages of 12 to 17, inclusive, living at home. The amount for basic living needs shall be adjusted depending on the size of the out-of-home facility. These amounts shall be adjusted annually to reflect cost-of-living changes. A redetermination of basic living costs shall be undertaken every three years by the State Department of Developmental Services, using the best available estimating methods.

(b) Rates established for all facilities that provide direct supervision for persons with developmental disabilities shall include an amount for ''direct supervision.'' The cost of ''direct supervision'' shall reflect the ability of the persons in the facility to function with minimal, moderate, or intensive supervision. Minimal supervision means that a developmentally disabled person needs the assistance of other persons with certain daily activities. Moderate supervision means that a developmentally disabled person needs the assistance of other persons with daily activities most of the time. Intensive supervision means that all the personal and physical needs of a developmentally disabled person are provided by other persons. The individual program plan developed pursuant to Section 4646 shall determine the amount of ''direct supervision'' required for each individual. The cost of ''direct supervision'' is calculated as the wage costs of care-giving staff depending on the needs of the person with developmental disabilities. These rates shall be adjusted annually to reflect wage changes and shall comply with all federal regulations for hospitals and residential-care establishments under provisions of the federal Fair Labor Standards Act.

(c) Rates established for all facilities that provide ''special services'' for persons with developmental disabilities shall include an amount to pay for these ''special

services'' for each person receiving special services. ''Special services'' include medical and dental care and therapeutic, educational, training, or other services required in the individual program plan of each person. Facilities shall be paid for providing special services for each individual to the extent that such services are specified in the person's individual program plan and the facility is designated provider of such special services. Rates of payment for special services shall be the same as prevailing rates paid for similar services in the area.

(d) To the extent applicable, rates established for facilities shall include a reasonable amount for ''unallocated services.'' Such costs shall be determined using generally accepted accounting principles. ''Unallocated services'' means the indirect costs of managing a facility and includes costs of managerial personnel, facility operation, maintenance and repair, employee benefits, taxes, interest, insurance, depreciation, and general and administrative support. If a facility serves other persons in addition to developmentally disabled persons, unallocated services expenses shall be reimbursed under the provision of this section, only for the proportion of the costs associated with the care of developmentally disabled persons.

(e) Rates established for facilities shall include an amount to reimburse facilities for the depreciation of "mandated capital improvements and equipment'' as established in the state's uniform accounting manual. For purposes of this section, "mandated capital improvements and equipment'' are only those remodeling and equipment costs incurred by a facility because an agency of government has required such remodeling or equipment as a condition for the use of the facility as a provider of out-of-home care to persons with developmental disabilities.

(f) When applicable, rates established for proprietary facilities shall include a reasonable ''proprietary fee.''

(g) Rates established for all facilities shall include as a "factor'' an amount to reflect differences in the cost of living for different geographic areas in the state.

(h) Rates established for developmentally disabled persons who are also mentally disordered may be fixed at a higher rate. The State Department of Mental Health shall establish criteria upon which higher rates may be fixed pursuant to this subdivision. The higher rate for developmentally disabled persons who are also mentally disordered may be paid when requested by the director of the regional center and approved by the Director of Developmental Services.

This section shall apply to rates for facilities not participating in the alternative residential care rate model originally authorized in Item 4300-101-001 of the Budget Act of 1985, and as identified in the department's report of April 1987 entitled Alternative Residential Model (ARM).

(i) Except as provided in subdivision (j), this section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1991, deletes or extends that date.

(j) This section shall not be repealed until the State Department of Developmental Services achieves statewide implementation of the Alternative Residential Model.

(Amended by Stats. 1988, Ch. 85, Sec. 1. Effective April 22, 1988. Repealed on or after January 1, 1991, as provided in subds. (i) and (j).)

4681.1. (a) The department shall adopt regulations that specify rates for community care facilities serving persons with developmental disabilities. The implementation of the regulations shall be contingent upon an appropriation in the

annual Budget Act for this purpose. These rates shall be calculated on the basis of a cost model designed by the department which ensures that aggregate facility payments support the provision of services to each person in accordance with his or her individual program plan and applicable program requirements. The cost model shall reflect cost elements that shall include, but are not limited to, all of the following:

(1) ''Basic living needs'' include utilities, furnishings, food, supplies, incidental transportation, housekeeping, personal care items, and other items necessary to ensure a quality environment for persons with developmental disabilities. The amount identified for the basic living needs element of the rate shall be calculated as the average projected cost of these items in an economically and efficiently operated community care facility.

(2) ''Direct care'' includes salaries, wages, benefits, and other expenses necessary to supervise or support the person's functioning in the areas of self-care and daily living skills, physical coordination mobility, and behavioral self-control, choice making, and integration. The amount identified for direct care shall be calculated as the average projected cost of providing the level of service required to meet each person's functional needs in an economically and efficiently operated community care facility. The direct care portion of the rate shall reflect specific service levels defined by the department on the basis of relative resident need and the individual program plan.

(3) ''Special services'' include specialized training, treatment, supervision, or other services which a person's individual program plan requires to be provided by the residential facility in addition to the direct care provided under paragraph (2). The amount identified for special services shall be calculated for each individual based on the additional services specified in the person's individual program plan and the prevailing rates paid for similar services in the area. The special services portion of the rate shall reflect a negotiated agreement between the facility and the regional center in accordance with Section 4648.

(4) ''Indirect costs'' include managerial personnel, facility operation, maintenance and repair, other nondirect care, employee benefits, contracts, training, travel, licenses, taxes, interest, insurance, depreciation, and general administrative expenses. The amount identified for indirect costs shall be calculated as the average projected cost for these expenses in an economically and efficiently operated community care facility.

(5) ''Property costs'' include mortgages, leases, rent, taxes, capital or leasehold improvements, depreciation, and other expenses related to the physical structure. The amount identified for property costs shall be based on the fair rental value of a model facility which is adequately designed, constructed, and maintained to meet the needs of persons with developmental disabilities. The amount identified for property costs shall be calculated as the average projected fair rental value of an economically and efficiently operated community care facility.

(b) The cost model shall take into account factors which include, but are not limited to, all of the following:

(1) Facility size, as defined by the department on the basis of the number of facility beds licensed by the State Department of Social Services and vendorized by the regional center.

(2) Specific geographic areas, as defined by the department on the basis of cost of living and other pertinent economic indicators.

(3) Common levels of direct care, as defined by the department on the basis of services specific to an identifiable group of persons as determined through the individual program plan.

(4) Positive outcomes, as defined by the department on the basis of increased integration, independence, and productivity at the aggregate facility and individual consumer level.

(5) Owner-operated and staff-operated reimbursement which shall, not differ for facilities that are required to comply with the same program requirements.

(c) The rates established for individual community care facilities serving persons with developmental disabilities shall reflect all of the model cost elements and rate development factors described in this section. The cost model design shall include a process for updating the cost model elements that address variables, including, but not limited to, all of the following:

(1) Economic trends in California.

(2) New state or federal program requirements.

(3) Changes in the state or federal minimum wage.

(4) Increases in fees, taxes, or other business costs.

(5) Increases in federal supplemental security income/state supplementary program for the aged, blind, and disabled payments.

(d) Rates established for developmentally disabled persons who are also dually diagnosed with a mental disorder may be fixed at a higher rate. The department shall work with the State Department of Mental Health to establish criteria upon which higher rates may be fixed pursuant to this subdivision. The higher rate for developmentally disabled persons who are also dually diagnosed with a mental disorder may be paid when requested by the director of the regional center and approved by the Director of Developmental Services.

(e) By January 1, 2001, the department shall prepare proposed regulations to implement the changes outlined in this section. The department may use a private firm to assist in the development of these changes and shall confer with consumers, providers, and other interested parties concerning the proposed regulations. By May 15, 2001, and each year thereafter, the department shall provide the Legislature with annual community care facility rates, including any draft amendments to the regulations as required. By July 1, 2001, and each year thereafter, contingent upon an appropriation in the annual Budget Act for this purpose, the department shall adopt emergency regulations which establish the annual rates for community care facilities serving persons with developmental disabilities for each fiscal year.

(f) During the first year of operation under the revised rate model, individual facilities shall be held harmless for any reduction in aggregate facility payments caused solely by the change in reimbursement methodology.

(Amended by Stats. 1998, Ch. 1043, Sec. 10. Effective January 1, 1999.)

4681.3. (a) Notwithstanding any other provision of this article, for the 1996–97 fiscal year, the rate schedule authorized by the department in operation June 30, 1996, shall be increased based upon the amount appropriated in the Budget Act of 1996 for that purpose. The increase shall be applied as a percentage, and the percentage shall be the same for all providers.

(b) Notwithstanding any other provision of this article, for the 1997 –98 fiscal year, the rate schedule authorized by the department in operation on June 30, 1997, shall be

increased based upon the amount appropriated in the Budget Act of 1997 for that purpose. The increase shall be applied as a percentage, and the percentage shall be the same for all providers.

(c) Notwithstanding any other provision of this article, for the 1998 –99 fiscal year, the rate schedule authorized by the department in operation on June 30, 1998, shall be increased commencing July 1, 1998, based upon the amount appropriated in the Budget Act of 1998 for that purpose. The increase shall be applied as a percentage, and the percentage shall be the same for all providers.

(d) Notwithstanding any other provision of this article, for the 1998 –99 fiscal year, the rate schedule authorized by the department in operation on December 31, 1998, shall be increased January 1, 1999, based upon the cost-of-living adjustments in the Supplemental Security Income/State Supplementary Program for the Aged, Blind, and Disabled appropriated in the Budget Act of 1998 for that purpose. The increase shall be applied as a percentage and the percentage shall be the same for all providers.

(e) Notwithstanding any other provision of this article, for the 1999 –2000 fiscal year, the rate schedule authorized by the department in operation on June 30, 1999, shall be increased July 1, 1999, based upon the amount appropriated in the Budget Act of 1999 for that purpose. The increase shall be applied as a percentage and the percentage shall be the same for all providers.

(f) In addition, commencing January 1, 2000, any funds available from cost-of-living adjustments in the Supplemental Security Income/State Supplementary Payment (SSI/SSP) for the 1999–2000 fiscal year shall be used to further increase the community care facility rate. The increase shall be applied as a percentage, and the percentage shall be the same for all providers.

(g) Notwithstanding any other provision of law or regulation, for the 2006–07 fiscal year, the rate schedule in effect on June 30, 2006, shall be increased on July 1, 2006, by 3 percent, subject to funds specifically appropriated for this increase in the Budget Act of 2006. The increase shall be applied as a percentage and the percentage shall be the same for all providers. Any subsequent increase shall be governed by Sections 4681.5 and 4681.6.

(Amended by Stats. 2008, 3rd Ex. Sess., Ch. 3, Sec. 5. Effective February 16, 2008.)

4681.4. (a) Notwithstanding any other provision of this article, for the 1998–99 fiscal year, the rate schedule increased pursuant to subdivision (d) of Section 4681.3 shall be increased by an additional amount on January 1, 1999, based upon the amount appropriated in the Budget Act of 1998 for that purpose. The rate increase permitted by this section shall be applied as a percentage, and the percentage shall be the same for all providers.

(b) Notwithstanding any other provision of this article, for the 1999–2000 fiscal year, the rate schedule authorized by the department in operation on December 31, 1999, shall be increased on January 1, 2000, based upon the amount appropriated in the Budget Act of 1999 for that purpose. The rate increase permitted by this section shall be applied as a percentage and the percentage shall be the same for all providers.

(c) In order to help reduce direct care staff turnover and improve overall quality of care in Alternative Residential Model (ARM) facilities, funds appropriated by the Budget Act of 1998 and the Budget Act of 1999 to increase facility rates effective January 1, 1999, excluding any additional funds appropriated due to increases in benefits under Article 5 (commencing with Section 12200) of Chapter 3 of Part 3 of

Division 9, and January 1, 2000, respectively, shall be used only for any of the following:

(1) Increasing direct care staff salaries, wages, and benefits.

(2) Providing coverage while direct care staff are in training classes or taking a training or competency test pursuant to Section 4681.5.

(3) Other purposes approved by the director.

(d) ARM providers shall report to regional centers, in a format and frequency determined by the department, information necessary for the department to determine, through the regional center, compliance with subdivision (c), including, but not limited to, direct care staff salaries, wages, benefits, and staff turnover.

(e) The department shall adopt emergency regulations in order to implement this section, which shall include, but are not limited to, the following:

(1) A process for enforcing the requirements of subdivisions (c) and (d).

(2) Consequences to an ARM provider for failing to comply with the requirements of subdivisions (c) and (d), including a process for obtaining approval from the director for the expenditure of funds for other purposes, as permitted by paragraph (3) of subdivision (c).

(3) A process for adjudicating provider appeals.

(Added by Stats. 1998, Ch. 310, Sec. 39. Effective August 19, 1998.)

4681.5. Notwithstanding any other provision of law or regulation, no regional center may approve any service level for a residential service provider, as defined in Section 56005 of Title 17 of the California Code of Regulations, if the approval would result in an increase in the rate to be paid to the provider that is greater than the rate that is in effect on June 30, 2008, unless the regional center demonstrates to the department that the approval is necessary to protect the consumer's health or safety and the department has granted prior written authorization.

(Amended by Stats. 2008, 3rd Ex. Sess., Ch. 3, Sec. 6. Effective February 16, 2008.)

4681.6. Notwithstanding any other provision of law or regulation, commencing July 1, 2008:

(a) No regional center may pay an existing residential service provider, for services where rates are determined through a negotiation between the regional center and the provider, a rate higher than the rate in effect on June 30, 2008, unless the increase is required by a contract between the regional center and the vendor that is in effect on June 30, 2008, or the regional center demonstrates that the approval is necessary to protect the consumer's health or safety and the department has granted prior written authorization.

(b) No regional center may negotiate a rate with a new residential service provider, for services where rates are determined through a negotiation between the regional center and the provider, that is higher than the regional center's median rate for the same service code and unit of service, or the statewide median rate for the same service code and unit of service, whichever is lower. The unit of service designation must conform with an existing regional center designation or, if none exists, a designation used to calculate the statewide median rate for the same service. The regional center shall annually certify to the department its median rate for each negotiated rate service code, by designated unit of service. This certification will be subject to verification through the department's biennial fiscal audit of the regional center.

(c) For purposes of this section, ''residential service provider'' includes Adult Residential Facilities for Persons with Special Health Care Needs, as described in Section 4684.50.

(d) This section shall not apply to those services for which rates are determined by the State Department of Health Care Services, or the State Department of Developmental Services, or are usual and customary.

(Added by Stats. 2008, 3rd Ex. Sess., Ch. 3, Sec. 7. Effective February 16, 2008.)

4682. Under no circumstances shall the rate of state payment to any provider of out-of-home care exceed the average amount charged to private clients residing in the same facility, nor shall the monthly rate of state payment to any such facility, with the exception of a licensed acute care or emergency hospital, exceed the average monthly cost of services for all persons with developmental disabilities who reside in state hospitals.

(Added by Stats. 1977, Ch. 1252.)

4683. It is the intent of the Legislature that rates of payment for out-of-home care shall be established in such ways as to assure the maximum utilization of all federal and other sources of funding, to which persons with developmental disabilities are legally entitled, prior to the commitment of state funds for such purposes.

(Added by Stats. 1977, Ch. 1252.)

4684. (a) Notwithstanding any other provision of law, the cost of providing 24-hour out-of-home nonmedical care and supervision in community care facilities licensed or approved pursuant to Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code shall be funded by the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program pursuant to Section 11464, for children who are both AFDC-FC recipients and regional center consumers.

(b) The cost of providing adoption assistance benefits, shall be funded by the Adoption Assistance Program (AAP) under Section 16121, for children who are both AAP recipients and regional center consumers.

(c) (1) For regional center consumers who are recipients of AFDC-FC benefits, regional centers shall purchase or secure the services that are contained in the child's Individualized Family Service Plan (IFSP) or Individual Program Plan (IPP), but which are not allowable under federal or state AFDC-FC provisions.

(2) For regional center consumers who are recipients of AAP benefits, regional centers shall purchase or secure the services that are contained in the child's IFSP or IPP.

(3) For regional center consumers receiving services under paragraph (1) or (2), these services shall be separately purchased or secured by the regional center, pursuant to Sections 4646 to 4648, inclusive, and Section 4685, and pursuant to Sections 95018 and 95020 of the Government Code. AFDC-FC and AAP benefits shall not be counted toward the gross income calculated for the purposes of the Family Cost Participation Program pursuant to Section 4783. Recipients of AFDC-FC benefits shall not be subject to the Family Cost Participation Program requirements.

(4) Regional centers shall accept referrals for evaluations of AFDC-FC-eligible children and children receiving AAP benefits for the purpose of determining eligibility for regional center services, pursuant to Section 4642. Regional centers shall assist county welfare and probation departments in identifying appropriate placement

resources for children who are recipients of AFDC-FC and who are eligible for regional center services.

(d) (1) For purposes of this section, children who are recipients of AFDC-FC and regional center services who are residing with a relative or nonrelative extended family member pursuant to paragraph (2) of subdivision (f) of Section 319 or Section 362.7, or a facility defined in paragraph (5) or (6) of subdivision (a) of Section 1502 of the Health and Safety Code that is not vendored by the regional center as a residential facility, shall not be prohibited from receiving services defined in paragraph (38) of subdivision (a) of Section 54302 of Title 22 of the California Code of Regulations.

(2) AFDC-FC and AAP benefits shall be for care and supervision, as defined in subdivision (b) of Section 11460, and the regional centers shall separately purchase or secure other services contained in the child's IFSP or IPP pursuant to Section 4646 to 4648, inclusive, Section 4685, and Sections 95018 and 95020 of the Government Code. Notwithstanding any other provision of law or regulation, the receipt of AFDC-FC or AAP benefits shall not be cause to deny any other services that a child or family for which the child or family is otherwise eligible pursuant to this division.

(e) This section shall apply to all recipients of AFDC-FC and AAP benefits, including those with rates established prior to the effective date of the act that adds this subdivision, pursuant to Sections 11464 and 16121.

(f) Regulations adopted by the department pursuant to this section shall be adopted as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for the purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare.

(Amended by Stats. 2007, Ch. 177, Sec. 15.5. Effective August 24, 2007.)

Article 3.5. Adult Residential Facilities for Persons with Special Health Care Needs: Pilot Program

(Article 3.5 added by Stats. 2005, Ch. 558, Sec. 8. Effective January 1, 2006. Repealed as of January 1, 2010, pursuant to Section 4684.75.)

4684.50. (a) (1) ''Adult Residential Facility for Persons with Special Health Care Needs (ARFPSHN)'' means any adult residential facility that provides 24-hour health care and intensive support services in a homelike setting that is licensed to serve up to five adults with developmental disabilities as defined in Section 4512.

(2) For purposes of this article, an ARFPSHN may be established in a facility financed pursuant to Section 4688.5.

(b) ''Consultant'' means a person professionally qualified by training and experience to give expert advice, information, training, or to provide health-related assessments and interventions specified in a consumer's individual health care plan.

(c) ''Direct care personnel'' means all personnel who directly provide program or nursing services to consumers. Administrative and licensed personnel shall be considered direct care personnel when directly providing program or nursing services to clients. Consultants shall not be considered direct care personnel.

(d) ''Individual health care plan'' means the plan that identifies and documents the health care and intensive support service needs of a consumer.

(e) ''Individual health care plan team'' means those individuals who develop, monitor, and revise the individual health care plan for consumers residing in an Adult Residential Facility for Persons with Special Health Care Needs. The team shall, at a minimum, be composed of all of the following individuals:

(1) Regional center service coordinator and other regional center representative, as necessary.

(2) Consumer, and, where appropriate, his or her parents, legal guardian or conservator, or authorized representative.

(3) Consumer's primary care physician, or other physician as designated by the regional center.

(4) ARFPSHN administrator.

(5) ARFPSHN registered nurse.

(6) Others deemed necessary for developing a comprehensive and effective plan.

(f) ''Intensive support needs'' means the consumer requires physical assistance in performing four or more of the following activities of daily living:

(1) Eating.

(2) Dressing.

(3) Bathing.

(4) Transferring.

(5) Toileting.

(6) Continence.

(g) ''Special health care needs'' means the consumer has health conditions that are predictable and stable, as determined by the individual health care plan team, and for which the individual requires nursing supports for any of the following types of care:

(1) Nutrition support, including total parenteral feeding and gastrostomy feeding, and hydration.

(2) Cardiorespiratory monitoring.

(3) Oxygen support, including continuous positive airway pressure and bilevel positive airway pressure, and use of other inhalation-assistive devices.

(4) Nursing interventions for tracheostomy care and suctioning.

(5) Nursing interventions for colostomy, ileostomy, or other medical or surgical procedures.

(6) Special medication regimes including injection and intravenous medications.

(7) Management of insulin-dependent diabetes.

(8) Manual fecal impaction, removal, enemas, or suppositories.

(9) Indwelling urinary catheter/catheter procedure.

(10) Treatment for staphylococcus infection.

(11) Treatment for wounds or pressure ulcers (stages 1 and 2).

(12) Postoperative care and rehabilitation.

(13) Pain management and palliative care.

(14) Renal dialysis.

(Added by Stats. 2005, Ch. 558, Sec. 8. Effective January 1, 2006. Repealed as of January 1, 2010, pursuant to Section 4684.75.)

4684.53. (a) The State Department of Developmental Services and the State Department of Social Services shall jointly implement a pilot project to test the effectiveness of providing special health care and intensive support services to adults in homelike community settings.

(b) The pilot project shall be implemented through the following regional centers only:

(1) The San Andreas Regional Center.

(2) The Regional Center of the East Bay.

(3) The Golden Gate Regional Center.

(c) The regional centers participating in this pilot project may contract for an aggregate total of services for no more than 120 persons in an ARFPSHN.

(d) Each ARFPSHN shall possess a community care facility license issued pursuant to Article 9 (commencing with Section 1567.50) of Chapter 3 of Division 2 of the Health and Safety Code, and shall be subject to the requirements of Chapter 1 (commencing with Section 80000) of Division 6 of Title 22 of the California Code of Regulations, except for Article 8 (commencing with Section 80090).

(e) For purposes of this article, a health facility licensed pursuant to subdivision (e) or (h) of Section 1250 may place its licensed bed capacity in voluntary suspension for the purpose of using the facility to operate an ARFPSHN if the facility is selected to participate in the pilot project pursuant to Section 4684.58. Consistent with subdivision (a) of Section 4684.50, any facility selected to participate in the program shall be licensed to serve up to five adults. A facility's bed capacity shall not be placed in voluntary suspension until all consumers residing in the facility under the license to be suspended have been relocated. No consumer may be relocated unless it is reflected in the consumer's individual program plan developed pursuant to Sections 4646 and 4646.5.

(f) Each ARFPSHN shall be subject to the requirements of Subchapters 5 through 9 of Chapter 1 of, and Subchapters 2 and 4 of Chapter 3 of, Division 2 of Title 17 of the California Code of Regulations.

(g) Each ARFPSHN shall ensure that an operable automatic fire sprinkler system is installed and maintained.

(h) Each ARFPSHN shall have an operable automatic fire sprinkler system that is approved by the State Fire Marshal and that meets the National Fire Protection Association (NFPA) 13D standard for the installation of sprinkler systems in single- and two-family dwellings and manufactured homes. A local jurisdiction shall not require a sprinkler system exceeding this standard by amending the standard or by applying standards other than NFPA 13D. A public water agency shall not interpret this section as changing the status of a facility from a residence entitled to residential water rates, nor shall a new meter or larger connection pipe be required of the facility.

(i) Each ARFPSHN shall provide an alternative power source to operate all functions of the facility for a minimum of six hours in the event the primary power source is interrupted. The alternative power source shall comply with Section 517-50 of the California Electric Code. The alternative power source shall be maintained in safe operating condition, and shall be tested every 14 days under the full load condition for a minimum of 10 minutes. Written records of inspection, performance, exercising period, and repair of the alternative power source shall be regularly maintained on the premises and available for inspection by the State Department of Developmental Services.

(Added by Stats. 2005, Ch. 558, Sec. 8. Effective January 1, 2006. Repealed as of January 1, 2010, pursuant to Section 4684.75.)

4684.55. (a) No regional center may pay a rate to any ARFPSHN for any consumer that exceeds the average annual cost of serving a consumer at Agnews Developmental Center, as determined by the State Department of Developmental Services.

(b) The payment rate for ARFPSHN services shall be negotiated between the regional center and the ARFPSHN, and shall be paid by the regional center under the service code ''Specialized Residential Facility (Habilitation).''

(c) The established rate for a full month of service shall be made by the regional center when a consumer is temporarily absent from the ARFPSHN 14 days or less per month. When the consumer's temporary absence is due to the need for inpatient care in a health facility, as defined in subdivision (a), (b), or (c) of Section 1250 of the Health and Safety Code, the regional center shall continue to pay the established rate as long as no other consumer occupies the vacancy created by the consumer's temporary absence, or until the individual health care plan team has determined that the consumer will not return to the facility. In all other cases, the established rate shall be prorated for a partial month of service by dividing the established rate by 30.44 then by multiplying the quotient by the number of days the consumer resided in the facility.

(Added by Stats. 2005, Ch. 558, Sec. 8. Effective January 1, 2006. Repealed as of January 1, 2010, pursuant to Section 4684.75.)

4684.58. The regional center may recommend for participation, the State Department of Developmental Services, an applicant for this pilot project when the applicant meets all of the following requirements and has been selected through a request for proposals process issued by one or more of the three participating regional centers:

(a) The applicant employs or contracts with a program administrator who has a successful record of administering residential services for at least two years, as evidenced by substantial compliance with the applicable state licensing requirements.

(b) The applicant prepares and submits, to the regional center, a complete facility program plan that includes, but is not limited to, all of the following:

(1) The total number of the consumers to be served.

(2) A profile of the consumer population to be served, including their health care and intensive support needs.

(3) A description of the program components, including a description of the health care and intensive support services to be provided.

(4) A week's program schedule, including proposed consumer day and community integration activities.

(5) A week's proposed program staffing pattern, including licensed, unlicensed, and support personnel and the number and distribution of hours for such personnel.

(6) An organizational chart, including identification of lead and supervisory personnel.

(7) The consultants to be utilized, including their professional disciplines and hours to be worked per week or month, as appropriate.

(8) The plan for accessing and retaining consultant and health care services, including assessments, in the areas of physical therapy, occupational therapy, respiratory therapy, speech pathology, audiology, pharmacy, dietary/nutrition, dental, and other areas required for meeting the needs identified in consumers' individual health care plans.

(9) A description, including the size, layout, location, and condition of the proposed home.

(10) A description of the equipment and supplies available, or to be obtained, for programming and care.

(11) The type, location, and response time of emergency medical service personnel.

(12) The in-service training program plan for at least the next 12 months.

(13) The plan for ensuring that outside services are coordinated, integrated, and consistent with those provided by the ARFPSHN.

(14) Written certification that an alternative power system required by subdivision (i) of Section 4684.53 meets the manufacturer's recommendations for installation and operation.

(c) Submits a proposed budget itemizing direct and indirect costs, total costs, and the rate for services.

(d) Certifies, in writing, that the applicant has the ability to comply with all of the requirements of Section 1520 of the Health and Safety Code.

(e) The regional center shall provide all documentation specified in subdivisions (b) to (d), inclusive, of Section 4684.58 and a letter recommending program certification to the State Department of Developmental Services.

(f) The State Department of Developmental Services shall either approve or deny the recommendation and transmit its written decision to the regional center and to the State Department of Social Services within 30 days of its decision. The decision of the State Department of Developmental Services not to approve an application for program certification shall be the final administrative decision.

(g) Any change in the ARFPSHN operation that alters the contents of the approved program plan shall be reported to the State Department of Developmental Services and the contracting regional center, and approved by both agencies, prior to implementation.

(Added by Stats. 2005, Ch. 558, Sec. 8. Effective January 1, 2006. Repealed as of January 1, 2010, pursuant to Section 4684.75.)

4684.60. The vendoring regional center shall, before placing any consumer into an ARFPSHN, ensure that the ARFPSHN has a license issued by the State Department of Social Services for not more than five adults and a contract with the regional center that includes, at a minimum, all of the following:

(a) The names of the regional center and the licensee.

(b) The purpose of the pilot project.

(c) A requirement that the contractor shall comply with all applicable statutes and regulations, including Section 4681.1.

(d) The effective date and termination date of the contract.

(e) A requirement that, under no circumstances, shall the contract extend beyond the stated termination date, which shall not be longer than the pilot legislation end date of January 1, 2010.

(f) The definition of terms.

(g) A requirement that the execution of any amendment or modification to the contract be in accordance with all applicable federal and state statutes and regulations and be by mutual agreement of both parties.

(h) A requirement that the licensee and the agents and employees of the licensee, in the performance of the contract, shall act in an independent capacity, and not as officers or employees or agents of the regional center.

(i) A requirement that the assignment of the contract for consumer services shall not be allowed.

(j) The rate of payment per consumer.

(k) Incorporation, by reference, of the ARFPSHN's approved program plan.

(*l*) A requirement that the contractor verify, and maintain for the duration of the project, possession of commercial general liability insurance in the amount of at least one million dollars ($1,000,000) per occurrence.

(m) Contractor performance criteria.

(n) An agreement to provide, to the evaluation contractor engaged pursuant to subdivision (a) of Section 4684.74, all information necessary for evaluating the project.

(Added by Stats. 2005, Ch. 558, Sec. 8. Effective January 1, 2006. Repealed as of January 1, 2010, pursuant to Section 4684.75.)

4684.63. (a) Each ARFPSHN shall do all of the following:

(1) Meet the minimum requirements for a Residential Facility Service Level 4-i pursuant to Sections 56004 and 56013 of Title 17 of the California Code of Regulations, and ensure that all of the following conditions are met:

(A) That a licensed registered nurse, licensed vocational nurse, or licensed psychiatric technician, is awake and on duty 24-hours per day, seven days per week.

(B) That a licensed registered nurse is awake and on duty at least eight hours per person, per week.

(C) That at least two staff on the premises are awake and on duty when providing care to four or more consumers.

(2) Ensure the consumer remains under the care of a physician at all times and is examined by the primary care physician at least once every 60 days, or more often if required by the consumer's individual health care plan.

(3) Ensure that an administrator is on duty at least 20 hours per week to ensure the effective operation of the ARFPSHN.

(4) The administrator shall have at least one year of administrative and supervisory experience in a licensed residential program for persons with developmental disabilities and shall meet one or more of the following qualifications:

(A) Be a licensed registered nurse.

(B) Be a licensed nursing home administrator.

(C) Be a licensed psychiatric technician with at least five years of experience serving individuals with developmental disabilities.

(D) Be an individual with a bachelors degree in the health or human services field and two years experience working in a licensed residential program for persons with developmental disabilities and special health care needs.

(b) The regional center may require an ARFPSHN to provide additional professional, administrative, or supportive personnel whenever the regional center determines, in consultation with the individual health care plan team, that additional personnel are needed to provide for the health and safety of consumers.

(c) ARFPSHNs may utilize appropriate staff from Agnews Developmental Center.

(d) All direct care personnel shall be subject to the training requirements specified in Section 4695.2.

(Added by Stats. 2005, Ch. 558, Sec. 8. Effective January 1, 2006. Repealed as of January 1, 2010, pursuant to Section 4684.75.)

4684.65. (a) A regional center shall not place, or fund the placement for, any consumer in an ARFPSHN until the individual health care plan team has prepared a written individual health care plan that can be fully and immediately implemented upon the consumer's placement.

(b) (1) An ARFPSHN shall only accept, for initial admission, consumers who meet the following requirements:

(A) Reside at Agnews Developmental Center at the time of the proposed placement.

(B) Have an individual program plan that specifies placement in an ARFPSHN.

(C) Have special health care and intensive support needs.

(2) Except as provided in paragraph (3), when a vacancy in an ARFPSHN occurs due to the permanent relocation or death of a resident, the vacancy may only be filled by a consumer who meets the requirements of paragraph (1).

(3) If there is no resident residing at Agnews Developmental Center who meets the requirements of subparagraphs (B) and (C) of paragraph (1), a vacancy may be filled by a consumer who is residing at another developmental center or who is at risk of placement into a developmental center, as determined by the regional center, and who meets the requirements of subparagraphs (B) and (C) of paragraph (1).

(c) The ARFPSHN shall not admit a consumer if the individual health care plan team determines that the consumer is likely to exhibit behaviors posing a threat of substantial harm to others, or has a serious health condition that is unpredictable or unstable. A determination that the individual is a threat to others may only be based on objective evidence or recent behavior and a determination that the threat cannot be mitigated by reasonable interventions.

(Added by Stats. 2005, Ch. 558, Sec. 8. Effective January 1, 2006. Repealed as of January 1, 2010, pursuant to Section 4684.75.)

4684.68. (a) The individual health care plan shall include, at a minimum, all of the following:

(1) An evaluation of the consumer's current health.

(2) A description of the consumer's ability to perform the activities of daily living.

(3) A list of all current prescription and nonprescription medications the consumer is using.

(4) A list of all health care and intensive support services the consumer is currently receiving or may need upon placement in the ARFPSHN.

(5) A written statement from the consumer's primary care physician familiar with the health care needs of the consumer, or other physician as designated by the regional center, that the consumer's medical condition is predictable and stable, and that the consumer's level of care is appropriate for the ARFPSHN.

(6) Provision for the consumer to be examined by his or her primary care physician at least once every 60 days, or more frequently if indicated.

(7) A list of the appropriate professionals assigned to provide the health care as described in the plan.

(8) A description of, and plan for providing, any training required for all direct care personnel to meet individuals' needs.

(9) The name of the individual health care plan team member, and an alternate designee, who is responsible for day-to-day monitoring of the consumer's health care plan and ensuring its implementation as written.

(10) Identification of the legally authorized representative to make health care decisions on the consumer's behalf, if the consumer lacks the capacity to give informed consent.

(11) The name and telephone number of the person or persons to notify in case of an emergency.

(12) The next meeting date of the individual health care plan team, which shall be at least every six months, to evaluate and update the individual health care plan.

(b) In addition to Section 80075 of Title 22 of the California Code of Regulations, the ARFPSHN shall comply with all of the following requirements:

(1) Medications shall be given only on the order of a person lawfully authorized to prescribe.

(2) Medications shall be administered as prescribed and shall be recorded in the consumer record. The name and title of the person administering the medication or treatment, and the date, time, and dosage of the medication administered shall be recorded. Initials may be used provided the signature of the person administering the medication or treatment is recorded on the medication or treatment record.

(3) Preparation of dosages for more than one scheduled administration time shall not be permitted.

(4) Persons administering medications shall confirm each consumer's identity prior to the administration.

(5) Medications shall be administered within two hours after dosages are prepared and shall be administered by the same person who prepared the dosages. Dosages shall be administered within one hour of the prescribed time unless otherwise indicated by the prescriber.

(6) All medications shall be administered only by those persons specifically authorized to do so by their respective scope of practice.

(7) No medication shall be administered to or used by any consumer other than the consumer for whom the medication was prescribed.

(8) Medication errors and adverse drug reactions shall be recorded and reported immediately to the practitioner who ordered the drug or another practitioner responsible for the medical care of the consumer. Minor adverse reactions which are identified in the literature accompanying the product as a usual or common side effect, need not be reported to the practitioner immediately, but in all cases shall be recorded in the consumer's record. Medication errors include, but are not limited to, the failure to administer a drug ordered by a prescriber within one hour of the time prescribed, administration of any drugs other than prescribed or the administration of a dose not prescribed.

(Added by Stats. 2005, Ch. 558, Sec. 8. Effective January 1, 2006. Repealed as of January 1, 2010, pursuant to Section 4684.75.)

4684.70. (a) The State Department of Social Services, in administering the licensing program, shall not have any responsibility for evaluating consumers' level of care or health care provided by ARFPSHN. Any suspected deficiencies in a consumer's level of care or health care identified by the State Department of Social

Services' personnel shall be reported immediately to the appropriate regional center and the State Department of Developmental Services for investigation.

(b) The regional center shall have responsibility for monitoring and evaluating the implementation of the consumer's individual plan objectives, including, but not limited to, the health care and intensive support service needs identified in the consumer's individual health care plan and the consumer's integration and participation in community life.

(c) For each consumer placed in an ARFPSHN, the regional center shall assign a service coordinator pursuant to subdivision (b) of Section 4647.

(d) A regional center licensed registered nurse shall visit, with or without prior notice, the consumer, in person, at least monthly in the ARFPSHN, or more frequently if specified in the consumer's individual health care plan. At least four of these visits, annually, shall be unannounced.

(e) The State Department of Developmental Services shall monitor and ensure the regional centers' compliance with the requirements of this article. The monitoring shall include onsite visits to all the ARFPSHNs at least every six months for the duration of the pilot project.

(Added by Stats. 2005, Ch. 558, Sec. 8. Effective January 1, 2006. Repealed as of January 1, 2010, pursuant to Section 4684.75.)

4684.73. (a) In addition to any other contract termination provisions, a regional center may terminate its contract with an ARFPSHN when the regional center determines that the ARFPSHN is unable to maintain substantial compliance with state laws, regulations, or its contract with the regional center, or the ARFPSHN demonstrates an inability to ensure the health and safety of the consumers.

(b) The ARFPSHN may appeal a regional center's decision to terminate its contract by sending, to the executive director of the contracting regional center, a detailed statement containing the reasons and facts demonstrating why the termination is inappropriate. The appeal must be received by the regional center within 10 working days from the date of the letter terminating the contract. The executive director shall respond with his or her decision within 10 working days of the date of receipt of the appeal from the ARFPSHN. The executive director shall submit his or her decision to the State Department of Developmental Services on the same date that it is signed. The decision of the executive director shall be the final administrative decision.

(c) The Director of Developmental Services may rescind an ARFPSHN's program certification when, in his or her sole discretion, an ARFPSHN does not maintain substantial compliance with an applicable statute, regulation, or ordinance, or cannot ensure the health and safety of the consumers. The decision of the Director of Developmental Services shall be the final administrative decision. The Director of Developmental Services shall transmit his or her decision rescinding an ARFPSHN's program certification to the State Department of Social Services and the regional center with his or her recommendation as to whether to revoke the ARFPSHN's license.

(d) In addition to complying with Section 1524.1 of the Health and Safety Code, any ARFPSHN licensee that is unable to continue to provide services to consumers in the facility shall, upon the date on which a new ARFPSHN license is issued pursuant to Sections 1520 and 1525 of the Health and Safety Code, arrange with the regional center or department the transfer of all information, property, and documents related to the operation of the facility and the provision of services to the consumers. The department

or the regional center shall take all steps permitted by this article to ensure that at all times the consumers who are residing in the facility receive services set forth in their individual health care plans.

(Added by Stats. 2005, Ch. 558, Sec. 8. Effective January 1, 2006. Repealed as of January 1, 2010, pursuant to Section 4684.75.)

4684.74. (a) By July 1, 2006, the State Department of Developmental Services shall contract with an independent agency or organization to evaluate the pilot project and prepare a written report of its findings. The scope of services for the contractor shall be jointly prepared by the State Department of Developmental Services, the State Department of Social Services, and the State Department of Health Services and, at a minimum, shall address all of the following:

(1) The number, business status, and location of all the ARFPSHNs.

(2) The number and characteristics of the consumers served.

(3) The effectiveness of the pilot project in addressing consumers' health care and intensive support needs.

(4) The extent of consumers' community integration and satisfaction.

(5) The consumers' access to, and quality of, community-based health care and dental services.

(6) The types, amounts, qualifications, and sufficiency of staffing.

(7) The overall impressions, problems encountered, and satisfaction with the ARFPSHN service model by ARFPSHN employees, regional center participants, state licensing and monitoring personnel, and consumers and families.

(8) The costs of all direct, indirect, and ancillary services.

(9) An analysis and summary findings of all ARFPSHN consumer special incident reports and unusual occurrences reported during the evaluation period.

(10) The recommendations for improving the ARFPSHN service model.

(11) The cost-effectiveness of the ARFPSHN model of care compared with other existing public and private models of care serving similar consumers.

(b) The contractor's written report shall be submitted to the State Department of Developmental Services, the State Department of Social Services, the State Department of Health Services. The State Department of Developmental Services shall submit the report to the appropriate fiscal and policy committees of the Legislature by January 1, 2009.

(Added by Stats. 2005, Ch. 558, Sec. 8. Effective January 1, 2006. Repealed as of January 1, 2010, pursuant to Section 4684.75.)

4684.75. (a) The State Department of Developmental Services may adopt emergency regulations to implement this article. The adoption, amendment, repeal, or readoption of a regulation authorized by this section is deemed to be necessary for the immediate preservation of the public peace, health and safety, or general welfare, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the State Department of Developmental Services is hereby exempted from the requirement that it describe specific facts showing the need for immediate action. A certificate of compliance for these implementing regulations shall be filed within 24 months following the adoption of the first emergency regulations filed pursuant to this section.

(b) This article shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute extends or deletes that date.

(c) This article shall only be implemented to the extent that funds are made available through an appropriation in the annual Budget Act.

(Added by Stats. 2005, Ch. 558, Sec. 8. Effective January 1, 2006. Repealed as of January 1, 2010, by its own provisions. Note: Repeal affects Article 3.5, commencing with Section 4684.50.)

Article 4. Services and Supports for Persons Living in the Community

(Heading of Article 4 amended by Stats. 1992, Ch. 1011, Sec. 20. Effective January 1, 1993.)

4685. (a) Consistent with state and federal law, the Legislature finds and declares that children with developmental disabilities most often have greater opportunities for educational and social growth when they live with their families. The Legislature further finds and declares that the cost of providing necessary services and supports which enable a child with developmental disabilities to live at home is typically equal to or lower than the cost of providing out-of-home placement. The Legislature places a high priority on providing opportunities for children with developmental disabilities to live with their families, when living at home is the preferred objective in the child's individual program plan.

(b) It is the intent of the Legislature that regional centers provide or secure family support services that do all of the following:

(1) Respect and support the decisionmaking authority of the family.

(2) Be flexible and creative in meeting the unique and individual needs of families as they evolve over time.

(3) Recognize and build on family strengths, natural supports, and existing community resources.

(4) Be designed to meet the cultural preferences, values, and lifestyles of families.

(5) Focus on the entire family and promote the inclusion of children with disabilities in all aspects of school and community.

(c) In order to provide opportunities for children to live with their families, the following procedures shall be adopted:

(1) The department and regional centers shall give a very high priority to the development and expansion of services and supports designed to assist families that are caring for their children at home, when that is the preferred objective in the individual program plan. This assistance may include, but is not limited to specialized medical and dental care, special training for parents, infant stimulation programs, respite for parents, homemaker services, camping, day care, short-term out-of-home care, child care, counseling, mental health services, behavior modification programs, special adaptive equipment such as wheelchairs, hospital beds, communication devices, and other necessary appliances and supplies, and advocacy to assist persons in securing income maintenance, educational services, and other benefits to which they are entitled.

(2) When children with developmental disabilities live with their families, the individual program plan shall include a family plan component which describes those services and supports necessary to successfully maintain the child at home. Regional centers shall consider every possible way to assist families in maintaining their children at home, when living at home will be in the best interest of the child, before considering out-of-home placement alternatives. When the regional center first becomes aware that a family may consider an out-of-home placement, or is in need of additional specialized services to assist in caring for the child in the home, the regional center shall meet with the family to discuss the situation and the family's current needs,

solicit from the family what supports would be necessary to maintain the child in the home, and utilize creative and innovative ways of meeting the family's needs and providing adequate supports to keep the family together, if possible.

(3) To ensure that these services and supports are provided in the most cost-effective and beneficial manner, regional centers may utilize innovative service-delivery mechanisms, including, but not limited to, vouchers; alternative respite options such as foster families, vacant community facility beds, crisis child care facilities; and alternative child care options such as supplemental support to generic child care facilities and parent child care cooperatives.

(4) If the parent of any child receiving services and supports from a regional center believes that the regional center is not offering adequate assistance to enable the family to keep the child at home, the parent may initiate a request for fair hearing as established in this division. A family shall not be required to start a placement process or to commit to placing a child in order to receive requested services.

(5) Nothing in this section shall be construed to encourage the continued residency of adult children in the home of their parents when that residency is not in the best interests of the person.

(6) When purchasing or providing a voucher for day care services for parents who are caring for children at home, the regional center may pay only the cost of the day care service that exceeds the cost of providing day care services to a child without disabilities. The regional center may pay in excess of this amount when a family can demonstrate a financial need and when doing so will enable the child to remain in the family home.

(7) A regional center may purchase or provide a voucher for diapers for children three years of age or older. A regional center may purchase or provide vouchers for diapers under three years of age when a family can demonstrate a financial need and when doing so will enable the child to remain in the family home.

(Amended by Stats. 1998, Ch. 1043, Sec. 11. Effective January 1, 1999.)

4685.1. (a) When a minor child requires a living arrangement outside of the family home, as determined in the individual program plan developed pursuant to Section 4646 and Section 4648, the regional center shall make every effort to secure a living arrangement, consistent with the individual program plan, in reasonably close proximity to the family home.

(b) When the parents or guardian of a minor child requests that an out-of-home living arrangement for a minor child be in close proximity to the family home, and when such a living arrangement cannot be secured by the regional center, the regional center shall include with the individual program plan a written statement of its efforts to locate, develop, or adapt appropriate services and supports in a living arrangement within close proximity to the family home and what steps will be taken by the regional center to develop the services and supports necessary to return the child to the family home or within close proximity of the family home. This statement shall be updated every six months, or as agreed to by the parents or guardians, and a copy shall be forwarded to the parents or guardians of the minor and to the director of the department.

(c) This section shall not be construed to impede the movement of consumers to other geographic areas or the preference of the parent or guardian for the placement of their minor child.

(Added by Stats. 1998, Ch. 1043, Sec. 12. Effective January 1, 1999.)

4685.7. (a) Contingent upon approval of a federal waiver, the Self-Directed Services Program (SDS Program) is hereby established and shall be available in every regional center catchment area to provide participants, within an individual budget, greater control over needed services and supports. The Self-Directed Services Program shall be consistent with the requirements set forth in this section. In order to provide opportunities to participate in the program, the department shall adopt regulations, consistent with federal law, to implement the procedures set forth in this section.

(b) For purposes of this section, the following definitions shall apply:

(1) ''Financial management services'' means a service or function that assists the participant to manage and direct the distribution of funds contained in the individual budget. This may include, but is not limited to, bill paying services and activities that facilitate the employment of service workers by the participant, including, but not limited to, federal, state, and local tax withholding payments, unemployment compensation fees, setting of wages and benefits, wage settlements, fiscal accounting, and expenditure reports. The department shall establish specific qualifications which shall be required of a financial management services provider.

(2) ''Supports brokerage'' means a service or function that assists participants in making informed decisions about the individual budget, and assists in locating, accessing and coordinating services consistent with and reflecting a participant's needs and preferences. The service is available to assist in identifying immediate and long-term needs, developing options to meet those needs, participating in the person-centered planning process and development of the individual program plan, and obtaining identified supports and services.

(3) ''Supports broker'' means a person, selected and directed by the participant, who fulfills the supports brokerage service or function and assists the participant in the SDS Program. Specific qualifications shall be established by the department and required of a supports broker provider.

(4) ''Waiver'' means a waiver of federal law pursuant to Section 1396n of Title 42 of the United States Code.

(5) ''Independence Plus Self-Directed (IPSD) Waiver Program'' or ''Self-Directed Waiver Program'' means a federal waiver to the state's Medicaid plan to allow a person with developmental disabilities who needs or requires long-term supports and services, and when appropriate, the person's family, greater opportunity to control his or her own health and well-being by utilization of self-directed services.

(6) ''Self-directed services'' or ''SDS'' means a voluntary delivery system consisting of a defined and comprehensive mix of services and supports, selected and directed by a participant, in order to meet all or some of the objectives in his or her individual program plan. Self-directed services are designed to assist the participant to achieve personally defined outcomes in inclusive community settings.

Self-directed services shall include, but are not limited to, all of the following:

(A) Home health aide services.

(B) Supported employment and prevocational services.

(C) Respite services.

(D) Supports broker functions and services.

(E) Financial management services and functions.

(F) Environmental accessibility adaptations.

(G) Skilled nursing.

(H) Transportation.

(I) Specialized medical equipment and supplies.
(J) Personal emergency response system.
(K) Integrative therapies.
(L) Vehicle adaptations.
(M) Communication support.
(N) Crises intervention.
(O) Nutritional consultation.
(P) Behavior intervention services.
(Q) Specialized therapeutic services.
(R) Family assistance and support.
(S) Housing access supports.
(T) Community living supports, including, but not limited to, socialization, personal skill development, community participation, recreation, leisure, home and personal care.
(U) Advocacy services.
(V) Individual training and education.
(W) Participant-designated goods and services.
(X) Training and education transition services.

The department shall include all of the services and supports listed in this paragraph in the IPSD Waiver Program application. Notwithstanding this paragraph, only services and supports included in an approved IPSD Waiver shall be funded through the SDS Program.

(7) ''Advocacy services'' means services and supports that facilitate the participant in exercising his or her legal, civil and service rights to gain access to generic services and benefits that the participant is entitled to receive. Advocacy services shall only be provided when other sources of similar assistance are not available to the participant, and when advocacy is directed towards obtaining generic services.

(8) ''Individual budget'' means the amount of funding available to the participant for the purchase of services and supports necessary to implement an individual program plan. The individual budget shall be constructed using a fair, equitable, and transparent methodology.

(9) ''Risk pool'' means an account that is available for use in addressing the unanticipated needs of participants in the SDS Program.

(10) ''Participant'' means an individual, and when appropriate, his or her parents, legal guardian or conservator, or authorized representative, who have been deemed eligible for, and have voluntarily agreed to participate in, the SDS Program.

(c) Participation in the SDS Program is fully voluntary. A participant may choose to participate in, and may choose to leave, the SDS Program at any time. A regional center may not require participation in the SDS Program as a condition of eligibility for, or the delivery of, services and supports otherwise available under this Division.

(d) The department shall develop informational materials about the SDS Program. The department shall ensure that regional centers are trained in the principles of SDS, the mechanics of the SDS Program and the rights of consumers and families as candidates for, and participants, in the SDS Program. Regional centers shall conduct local meetings or forums to provide regional center consumers and families with information about the SDS Program. All consumers and families who express an interest in participating in the SDS program shall receive an in-depth orientation, conducted by the regional center, prior to enrollment in the program.

(e) Prior to enrollment in the SDS Program, and based on the methodologies described below, an individual, and when appropriate, his or her parents, legal guardian or conservator, or authorized representative, shall be provided in writing two individual budget amounts. If the individual, and when appropriate his parents, legal guardian or conservator, or authorized representative, elects to become a participant in the SDS Program, he or she shall choose which of the two budget amounts provided will be used to implement their individual program plan.

(1) The methodologies and formulae for determining the two individual budget amounts shall be detailed in departmental regulations, as follows:

(A) One individual budget amount shall equal 90 percent of the annual purchase of services costs for the individual. The annual costs shall reflect the average annual costs for the previous two fiscal years for the individual.

(B) One individual budget amount shall equal 90 percent of the annual per capita purchase of service costs for the previous two fiscal years for consumers with similar characteristics, who do not receive services through the SDS Program, based on factors including, but not limited to, age, type of residence, type of disability and ability, functional skills, and whether the individual is in transition. This budget methodology shall be constructed using data available on the State Department of Developmental Services information system.

(2) Once a participant has selected an individual budget amount, that individual budget amount shall be available to the participant each year for the purchase of self-directed services until a new individual budget amount has been determined. An individual budget amount shall be calculated no more than once in a 12-month period.

(3) As determined by the participant, the individual budget shall be distributed among the following budget categories in order to implement the IPP:

(A) Community Living.

(B) Health and Clinical Services.

(C) Employment.

(D) Training and Education.

(E) Environment and Medical Supports.

(F) Transportation.

(4) Annually, participants may transfer up to 10 percent of the funds originally distributed to any budget category set forth in paragraph (3), to another budget category or categories. Transfers in excess of 10 percent of the original amount allocated to any budget category may be made upon the approval of the regional center. Regional centers may only deny a transfer if necessary to protect the health and safety of the participant.

(5) The regional center shall annually ascertain from the participant whether there are any circumstances that require a change to the annual individual budget amount. The department shall detail in regulations the process by which this annual review shall be achieved.

(6) A regional center's calculation of an individual budget amount may be appealed to the executive director of the regional center, or his or her designee, within 30 days after receipt of the budget amount. The executive director shall issue a written decision within 10 working days. The decision of the executive director may be appealed to the Director of Developmental Services, or his or her designee, within 15 days of receipt of the written decision. The decision of the department is final.

(f) The department shall establish a risk pool fund to meet the unanticipated needs of participants in the SDS Program. The fund shall be administered by the department. Notwithstanding Section 13340 of the Government Code, all moneys in the fund shall be continuously appropriated to the department, without regard to fiscal years, for the purpose of funding services and supports pursuant to this subdivision.

(1) The risk pool shall be funded at the equivalent of 5 percent of the historic annual purchase of service costs for consumers participating in the SDS Program.

(2) The risk pool shall be allocated by the department to regional centers through a process specified by the department.

(3) The risk pool may be used only in the event of substantial change in a participant's service and support needs that were not known at the time the individual budget was set, including an urgent need to relocate a residence, and catastrophic injury or illness.

(4) The risk pool may be accessed by a participant more than once in a lifetime.

(g) In the first year of the SDS Program, the department shall provide for establishment of savings to the General Fund equivalent to 5 percent of the historic annual purchase of service costs for SDS program participants. In subsequent fiscal years, the department shall annually provide for establishment of savings to the General Fund equivalent to 5 percent of the annual purchase of services costs for SDS Program participants, averaged over the prior two fiscal years.

(h) A regional center may advance funds to a financial management services entity pursuant to SDS Program regulations to facilitate development of a participant's individual budget and transition into the SDS Program.

(i) Participation in the SDS Program shall be available to any regional center consumer who meets the following eligibility requirements.

(1) The participant is three years of age or older.

(2) The participant has a developmental disability, as defined in Section 4512.

(3) The participant does not live in a licensed long-term health care facility, as defined in paragraph (44) of subdivision (a) of Section 54302 of Title 17 of the California Code of Regulations, or a residential facility, as defined in paragraph (55) of subdivision (a) of Section 54302 of Title 17 of the California Code of Regulations, or receive day program or habilitation services, as defined in paragraph (16) or (34) of subdivision (a) of Section 54302 of Title 17 of the California Code of Regulations, respectively. An individual, and when appropriate, his or her parent, legal guardian or conservator, or authorized representative, who is not eligible to participate in the SDS Program pursuant to this paragraph, may request that the regional center provide person-centered planning services in order to make arrangements for transition to the SDS Program. In that case, the regional center shall initiate person-centered planning services within 60 days of a request.

(4) The participant agrees to all of the following terms and conditions:

(A) The participant shall undergo an in-depth orientation to the SDS Program prior to enrollment.

(B) The participant shall agree to utilize the services and supports available within the SDS Program only when generic services cannot be accessed, and except for Medi-Cal state plan benefits when applicable.

(C) The participant shall consent to use only services necessary to implement his or her individual program plan as described in the IPSD Waiver Program, and as defined in paragraph (6) of subdivision (b), as an available service in the SDS Program, and

shall agree to comply with any and all other terms and conditions for participation in the SDS Program described in this section.

(D) The participant shall manage self-directed services within the individual budget amount, chosen pursuant to subdivision (e).

(E) The participant shall utilize the services of a financial management services entity of his or her own choosing. A financial management services provider may either be hired or designated by the participant. A designated financial management services provider shall perform services on a nonpaid basis. An individual or a parent of an individual in the SDS Program shall provide financial management services only as a designated provider and only if the capacity to fulfill the roles and responsibilities as described in the financial management services provider qualifications can be demonstrated to the regional center.

(F) The participant shall utilize the services of a supports broker of his or her own choosing for the purpose of providing services and functions as described in paragraphs (2) and (3) of subdivision (b). A supports broker may either be hired or designated by the participant. A designated supports broker shall perform support brokerage services on a nonpaid basis. An individual or a parent of an individual in the SDS Program shall provide supports brokerage services or his or her designated representative shall provide the services only as a designated provider and only if the capacity to fulfill the role and responsibilities as described in the supports broker provider qualifications can be demonstrated to the financial management services entity.

(j) A participant who is not Medi-Cal eligible may participate in the SDS Program without IPSD Waiver Program enrollment and receive self-directed services if all other IPSD Waiver Program eligibility requirements are met.

(k) The planning team, established pursuant to subdivision (j) of Section 4512, shall utilize the person-centered planning process to develop the Individual Program Plan (IPP) for an SDS participant. The IPP shall detail the goals and objectives of the participant that are to be met through the purchase of participant selected services and supports.

(l) The participant shall implement his or her IPP, including choosing the services and supports allowable under this section necessary to implement the plan. A regional center may not prohibit the purchase of any service or support that is otherwise allowable under this section.

(m) An adult may designate an authorized representative to effect the implementation. The representative shall meet all of the following requirements:

(1) He or she shall demonstrate knowledge and understanding of the participant's needs and preferences.

(2) He or she shall be willing and able to comply with SDS Program requirements.

(3) He or she shall be at least 18 years of age.

(4) He or she shall be approved by the participant to act in the capacity of a representative.

(n) The participant, or his or her authorized representative and the regional center case manager shall receive a monthly budget statement that describes the amount of funds allocated by budget category, the amount spent in the previous 30-day period, and the amount of funding that remains available under the participant's individual budget.

(o) If at any time during participation in the SDS Program a regional center determines that an individual is no longer eligible to continue based on the criteria described in subdivision (i), or a participant voluntarily chooses to exit the SDS Program, the regional center shall provide for the participant's transition from the SDS Program to other services and supports. This shall include the development of a new individual program plan that reflects the services and supports necessary to meet the individual's needs. The regional center shall ensure that there is no gap in services and supports during the transition period.

(1) Upon determination of ineligibility pursuant to this subdivision, the regional center shall inform the participant in writing of his or her ineligibility, the reason for the determination of ineligibility and shall provide a written notice of the fair hearing rights, as required by Section 4701.

(2) An individual determined ineligible, or who voluntarily exits the SDS Program, shall be permitted to return to the SDS Program upon meeting all applicable eligibility criteria and after a minimum of 12 months time has elapsed.

(p) A participant in the SDS Program shall have all the rights established in Chapter 7 (commencing with Section 4700), except as provided under paragraph (6) of subdivision (e).

(q) Only a financial management services provider is required to apply for vendorization in accordance with Subchapter 2 (commencing with Section 54300) of Chapter 3 of Title 17 of the California Code of Regulations, for the SDS Program. All other service providers shall have applicable state licenses, certifications, or other state required documentation, but are exempt from the vendorization requirements set forth in Title 17 of the California Code of Regulations. The financial management services entity shall ensure and document that all service providers meet specified requirements for any service that may be delivered to the participant.

(r) A participant in the SDS Program may request, at no charge to the participant or the regional center, criminal history background checks for persons seeking employment as a service provider and providing direct care services to the participant.

(1) Criminal history records checks pursuant to this subdivision shall be performed and administered as described in subdivision (b) and subdivisions (d) to (h), inclusive, of Section 4689.2, and Sections 4689.4 to 4689.6, inclusive, and shall apply to vendorization of providers and hiring of employees to provide services for family home agencies and family homes.

(2) The department may enter into a written agreement with the Department of Justice to implement this subdivision.

(s) A participant enrolled in the SDS Program pursuant to this section and utilizing an individual budget for services and supports is exempt from Section 4783 and from the Family Cost Participation Program.

(t) Notwithstanding any provision of law, an individual receiving services and supports under the self-determination projects established pursuant to Section 4685.5 may elect to continue to receive self-determination services within his or her current scope and existing procedures and parameters. Participation in a self-determination project pursuant to Section 4685.5 may only be terminated upon a participant's voluntary election and qualification to receive services under another delivery system.

(u) Each regional center shall be responsible for implementing an SDS Program as a term of its contract under Section 4629.

(v) Commencing January 10, 2008, the department shall annually provide the following information to the policy and fiscal committees of the Legislature:

(1) Number and characteristics of participants, by regional center.

(2) Types and ranking of services and supports purchased under the SDS Program, by regional center.

(3) Range and average of individual budgets, by regional center.

(4) Utilization of the risk pool, including range and average individual budget augmentations and type of service, by regional centers.

(5) Information regarding consumer satisfaction under the SDS Program and, when data is available, the traditional service delivery system, by regional center.

(6) The proportion of participants who report that their choices and decisions are respected and supported.

(7) The proportion of participants who report they are able to recruit and hire qualified service providers.

(8) The number and outcome of individual budget appeals, by regional center.

(9) The number and outcome of fair hearing appeals, by regional center.

(10) The number of participants who voluntarily withdraw from participation in the SDS Program and a summary of the reasons why, by regional center.

(11) The number of participants who are subsequently determined to no longer be eligible for the SDS Program and a summary of the reasons why, by regional center.

(12) Identification of barriers to participation and recommendations for program improvements.

(13) A comparison of average annual expenditures for individuals with similar characteristics not participating in the SDS Program.

(Added by Stats. 2005, Ch. 80, Sec. 15.5. Effective July 19, 2005.)

4686. (a) Notwithstanding any other provision of law, an in-home respite worker may perform gastrostomy care and feeding of clients of regional centers, after successful completion of training as provided in this section.

(b) In order to be eligible to receive training for purposes of this section, an in-home respite worker shall submit to the trainer proof of successful completion of a first aid course and successful completion of a cardiopulmonary resuscitation course within the preceding year.

(c) The training in gastrostomy care and feeding required under this section shall be provided by physicians or registered nurses through a gastroenterology or surgical center in an acute care hospital, as defined in subdivision (a) of Section 1250 of the Health and Safety Code, which meets California Children Services' Program standards for centers for children with congenital gastrointestinal disorders, or comparable standards for adults, or by a physician or registered nurse who has been certified to provide training by the center.

(d) The gastroenterology or surgical center providing the training shall develop a training protocol which shall be submitted for approval to the State Department of Developmental Services. The department shall approve those protocols which specifically address all of the following:

(1) Care of the gastrostomy site.

(2) Performance of gastrostomy tube feeding.

(3) Identification of, and appropriate response to, problems and complications associated with gastrostomy care and feeding.

(4) Continuing education requirements.

(e) Training by the gastroenterology or surgical center, or the certified physician or registered nurse, shall be done in accordance with the approved training protocol. Training of in-home respite workers shall be specific to the individual needs of the developmentally disabled regional center client receiving the gastrostomy feeding and shall be in accordance with orders from the client's treating physician or surgeon.

(f) The primary care physician shall give assurances to the regional center that the patient's condition is stable prior to the regional center's purchasing in-home gastrostomy care for the client through an appropriately trained respite worker.

(g) Prior to the purchase of in-home gastrostomy care through a trained respite worker, the regional center shall do all of the following:

(1) Ensure that a nursing assessment of the client, performed by a registered nurse, is conducted to determine whether an in-home respite worker, licensed vocational nurse, or registered nurse may perform the services.

(2) Ensure that a nursing assessment of the home has been conducted to determine whether gastrostomy care and feeding can appropriately be provided in that setting.

(h) The agency providing in-home respite services shall do all of the following:

(1) Ensure adequate training of the in-home respite worker.

(2) Ensure that telephone backup and emergency consultation by a registered nurse or physician is available.

(3) Develop a plan for care of the gastrostomy site and for gastrostomy tube feeding to be carried out by the respite worker.

(4) Ensure that the in-home respite worker and the gastrostomy services provided by the respite worker are adequately supervised by a registered nurse.

(i) For purposes of this section, ''in-home respite worker'' means an individual employed by an agency which is vendored by a regional center to provide in-home respite services. These agencies include, but are not limited to, in-home respite services agencies, home health agencies, or other agencies providing these services.

(Amended by Stats. 1993, Ch. 829, Sec. 1. Effective January 1, 1994.)

4687. Consistent with state and federal law, the Legislature recognizes the rights of persons with disabilities to have relationships, marry, be a part of a family, and to parent if they so choose. The Legislature further recognizes that individuals with developmental disabilities may need support and counseling in order to make informed decisions in these areas. In order to achieve these goals, the following services may be made available to persons with developmental disabilities:

(a) Sexuality training.

(b) Parenting skills training.

(c) Supported living arrangements for parents with developmental disabilities and their children.

(d) Advocacy assistance to deal with agencies, including, but not limited to, child protective services, and assistance in reunification planning.

(e) Family counseling services.

(f) Other services and supports listed in Section 4685 when needed to maintain and strengthen the family unit, where one or both of the parents is an individual with developmental disabilities.

(Added by Stats. 1992, Ch. 1011, Sec. 22. Effective January 1, 1993.)

4688. (a) Consistent with state and federal law, the Legislature places a high priority on providing opportunities for individuals with developmental disabilities to be integrated into the mainstream life of their natural communities. In order to ensure that opportunities for integration are maximized, the procedure described in subdivision (b) shall be adopted.

(b) Regional centers shall be responsible for expanding opportunities for the full and equal participation of persons with developmental disabilities in their local communities through, activities, that may include, but shall not be limited to, the following:

(1) Outreach to, and training and education of, representatives of community service agencies and programs, businesses, and community activity providers regarding the provision and expansion of opportunities for participation by regional center consumers.

(2) Developing a community resources list.

(3) Providing assistance to case managers and family members on expanding community integration options for consumers in the areas of work, recreation, social, community service, education, and public services.

(4) Developing and facilitating the use of innovative methods of contracting with community members to provide support in natural environments to regional center consumers.

(5) Development and facilitating the use of natural supports to enhance community participation.

(6) Providing technical assistance to, and coordinating with, community support facilitators who will be used to provide supports to individual consumers for community participation, as needed.

(7) Providing sources of information relevant to individuals in making informed choices about employment options. This information may include, but need not be limited to, work incentive programs for persons with developmental disabilities, access and retention of needed benefits, interactions of earned income, asset building, or other financial changes on benefits, employment programs and protections, taxpayer requirements and responsibilities, training opportunities, and information and services available through other agencies, organizations, or on the Internet.

(Amended by Stats. 2006, Ch. 397, Sec. 6. Effective January 1, 2007.)

4688.5. (a) Notwithstanding any other provision of law to the contrary, the department may approve a proposal or proposals by Golden Gate Regional Center, Regional Center of the East Bay, and San Andreas Regional Center to provide for, secure, and assure the full payment of a lease or leases on housing, developed pursuant to this section, based on the availability for occupancy in each home, if all of the following conditions are met:

(1) The acquired or developed real property is available for occupancy by individuals eligible for regional center services and is integrated with housing for people without disabilities.

(2) The regional center has approved the proposed ownership entity, management entity, and developer or development entity for each project, and, prior to granting the approval, has consulted with the department and has provided to the department a proposal that includes the credentials of the proposed entities.

(3) The costs associated with the proposal are reasonable.

(4) The proposal includes a plan for a transfer at a time certain of the real property's ownership to a nonprofit entity to be approved by the regional center.

(b) Prior to approving a regional center proposal pursuant to subdivision (a), the department, in consultation with the California Housing Finance Agency and the Department of Housing and Community Development shall review all of the following:

(1) The terms and conditions of the financing structure for acquisition and/or development of the real property.

(2) Any and all agreements that govern the real property's ownership, occupancy, maintenance, management, and operation, to ensure that the use of the property is maintained for the benefit of persons with developmental disabilities.

(c) No sale encumbrance, hypothecation, assignment, refinancing, pledge, conveyance, exchange or transfer in any other form of the real property, or of any of its interest therein, shall occur without the prior written approval of the department and the Health and Human Services Agency.

(d) Notice of the restrictions pursuant to this section shall be recorded against the acquired or developed real property subject to this section.

(e) At least 45 days prior to granting approval under subdivision (c), the department shall provide notice to the chairs and vice chairs of the fiscal committees of the Assembly and the Senate, the Secretary of the Health and Human Services Agency, and the Director of Finance.

(f) The regional center shall not be eligible to acquire or develop real property for the purpose of residential housing.

(Amended by Stats. 2005, Ch. 551, Sec. 1. Effective January 1, 2006.)

4688.6. (a) Notwithstanding any other provision of law to the contrary, the department may receive and approve a proposal or proposals by any regional center to provide for, secure, or assure the full payment of a lease or leases on housing based on the availability for occupancy in each home. These proposals shall not include an adult residential facility for persons with special health care needs, as defined in Section 1567.50 of the Health and Safety Code. Proposals submitted by regional centers shall meet all of the following conditions:

(1) The acquired or developed real property is available for occupancy by individuals eligible for regional center services and is integrated with other housing in the community for people without disabilities.

(2) The regional center has submitted documents demonstrating the appropriate credentials and terms of the project and has approved the proposed nonprofit ownership entity, management entity, and developer or development entity for each project.

(3) The costs associated with the proposal are reasonable and maximize the receipt of federal Medicaid funding. The department shall only approve proposals that include a process for the regional center to review recent sales of comparable properties to ensure the purchase price is within the range of fair market value and, if significant renovations of a home will be undertaken after the home is purchased, competing bids for that renovation work to ensure that the cost of the work is reasonable. For purposes of this subdivision, ''significant renovations'' means renovations that exceed 5 percent of the purchase price of the home.

(4) The proposal includes a plan for a transfer at a time certain of the real property's ownership to a nonprofit entity to be approved by the regional center.

(5) The regional center has submitted, with the proposal, the nonrefundable developer fee established in subdivision (d).

(b) Prior to approving a regional center proposal pursuant to subdivision (a), the department may contract or consult with a public or private sector entity that has appropriate experience in structuring complex real estate financial transactions, but is not otherwise involved in any lending related to the project to review any of the following:

(1) The terms and conditions of the financing structure for acquisition or development of the real property.

(2) Any and all agreements that govern the real property's ownership, occupancy, maintenance, management, and operation, to ensure that the use of the property is maintained for the benefit of persons with developmental disabilities.

(c) The department may impose a limit on the number of proposals considered pursuant to subdivision (a). If a limit is imposed, the department shall notify the Association of Regional Center Agencies.

(d) (1) The department shall charge the developer of the housing described in the regional center proposal a reasonable, nonrefundable fee for each proposal submitted. The fee shall be for the purpose of reimbursing the department's costs associated with conducting the review and approval required by subdivision (b). The fee shall be set by the department within 30 days of the effective date of the act that added this section, and shall be adjusted annually, as necessary, to ensure the payment of the costs incurred by the department.

(2) Fees collected shall be deposited in the Developmental Disabilities Services Account established pursuant to Section 14672.9 of the Government Code and shall be used solely for the purpose of conducting the review and approval required by subdivision (b), upon appropriation by the Legislature. Interest and dividends on moneys collected pursuant to this section shall, notwithstanding Section 16305.7 of the Government Code, be retained in the account for purposes of this section. Moneys deposited in the Developmental Disabilities Services Account pursuant to this subdivision shall not be subject to the requirements of subdivision (i) of Section 14672.9 of the Government Code.

(3) Notwithstanding paragraph (2), for the 2008–09 fiscal year, the Director of Finance may approve an expenditure of up to seventy-five thousand dollars ($75,000) by the department from moneys deposited in the account for the purposes specified in subdivision (b). In the 2009–10 fiscal year and each fiscal year thereafter, moneys shall be available to the department upon appropriation by the Legislature.

(e) No sale, encumbrance, hypothecation, assignment, refinancing, pledge, conveyance, exchange, or transfer in any other form of the real property, or of any of its interest therein, shall occur without the prior written approval of the department and the regional center.

(f) Notice of the restrictions pursuant to this section shall be recorded against the acquired or developed real property subject to this section.

(g) At least 30 days prior to granting approval under subdivision (e), the department shall provide notice to the chairs and vice chairs of the fiscal committees of the Assembly and the Senate and the Director of Finance.

(h) The regional center shall not be eligible to acquire or develop real property for the purpose of residential housing.

(i) Unless otherwise authorized by law, a regional center shall not use purchase of service funds to implement this section.

(j) With the exception of funds authorized in paragraph (3) of subdivision (d), this section shall be implemented within the department's annual budget. This subdivision shall not preclude the receipt or use of federal, state non-General Fund, or private funds to implement this section.

(k) The department shall establish guidelines and procedures for the administration of this section.

(Added by Stats. 2008, Ch. 617, Sec. 2. Effective January 1, 2009.)

4689. Consistent with state and federal law, the Legislature places a high priority on providing opportunities for adults with developmental disabilities, regardless of the degree of disability, to live in homes that they own or lease with support available as often and for as long as it is needed, when that is the preferred objective in the individual program plan. In order to provide opportunities for adults to live in their own homes, the following procedures shall be adopted:

(a) The department and regional centers shall ensure that supported living arrangements adhere to the following principles:

(1) Consumers shall be supported in living arrangements which are typical of those in which persons without disabilities reside.

(2) The services or supports that a consumer receives shall change as his or her needs change without the consumer having to move elsewhere.

(3) The consumer's preference shall guide decisions concerning where and with whom he or she lives.

(4) Consumers shall have control over the environment within their own home.

(5) The purpose of furnishing services and supports to a consumer shall be to assist that individual to exercise choice in his or her life while building critical and durable relationships with other individuals.

(6) The services or supports shall be flexible and tailored to a consumer's needs and preferences.

(7) Services and supports are most effective when furnished where a person lives and within the context of his or her day-to-day activities.

(8) Consumers shall not be excluded from supported living arrangements based solely on the nature and severity of their disabilities.

(b) Regional centers may contract with agencies or individuals to assist consumers in securing their own homes and to provide consumers with the supports needed to live in their own homes.

(c) The range of supported living services and supports available include, but are not limited to, assessment of consumer needs; assistance in finding, modifying and maintaining a home; facilitating circles of support to encourage the development of unpaid and natural supports in the community; advocacy and self-advocacy facilitation; development of employment goals; social, behavioral, and daily living skills training and support; development and provision of 24-hour emergency response systems; securing and maintaining adaptive equipment and supplies; recruiting, training, and hiring individuals to provide personal care and other assistance, including in-home supportive services workers, paid neighbors, and paid roommates; providing

respite and emergency relief for personal care attendants; and facilitating community participation. Assessment of consumer needs may begin before 18 years of age to enable the consumer to move to his or her own home when he or she reaches 18 years of age.

(d) Regional centers shall provide information and education to consumers and their families about supported living principles and services.

(e) Regional centers shall monitor and ensure the quality of services and supports provided to individuals living in homes that they own or lease. Monitoring shall take into account all of the following:

(1) Adherence to the principles set forth in this section.

(2) Whether the services and supports outlined in the consumer's individual program plan are congruent with the choices and needs of the individual.

(3) Whether services and supports described in the consumer's individual program plan are being delivered.

(4) Whether services and supports are having the desired effects.

(5) Whether the consumer is satisfied with the services and supports.

(Amended by Stats. 1998, Ch. 1043, Sec. 14. Effective January 1, 1999.)

4689.1. (a) The Legislature declares that it places a high priority on providing opportunities for adults with developmental disabilities to live with families approved by family home agencies and to receive services and supports in those settings as determined by the individual program plan. Family home agencies may offer services and supports in family homes or family teaching homes. All requirements of this section and Sections 4689.2 to 4689.6, inclusive, shall apply to a family home and a family teaching home.

(b) For purposes of this section, ''family home'' means a home that is owned, leased, or rented by, and is the family residence of, the family home provider or providers, and in which services and supports are provided to a maximum of two adults with developmental disabilities regardless of their degree of disability, and who do not require continuous skilled nursing care.

(c) For purposes of this section, ''family teaching home'' means a home that is owned, leased, or rented by the family home agency wherein the family home provider and the individual have independent residences, either contiguous or attached, and in which services and supports are provided to a maximum of three adults with developmental disabilities regardless of their degree of disability, and who do not require continuous skilled nursing care.

(d) For purposes of this section, ''family home agency'' means a private not-for-profit agency that is vendored to do all of the following:

(1) Recruit, approve, train, and monitor family home providers.

(2) Provide social services and in-home support to family home providers.

(3) Assist adults with developmental disabilities in moving into approved family homes.

(e) For purposes of ensuring that regional centers may secure high quality services that provide supports in natural settings and promote inclusion and meaningful participation in community life for adults with developmental disabilities, the department shall promulgate regulations for family home agencies, family teaching homes, and family homes that shall include, but not be limited to, standards and requirements related to all of the following:

(1) Selection criteria for regional centers to apply in vendoring family home agencies, including, but not limited to, all of the following:

(A) The need for service.

(B) The experience of the agency or key personnel in providing the same or comparable services.

(C) The reasonableness of the agency's overhead.

(D) The capability of the regional center to monitor and evaluate the vendor.

(2) Vendorization.

(3) Operation of family home agencies, including, but not limited to, all of the following:

(A) Recruitment.

(B) Approval of family homes.

(C) Qualifications, training, and monitoring of family home providers.

(D) Assistance to consumers in moving into approved family homes.

(E) The range of services and supports to be provided.

(F) Family home agency staffing levels, qualifications, and training.

(4) Program design.

(5) Program and consumer records.

(6) Family homes.

(7) (A) Rates of payment for family home agencies and approved family home providers. In developing the rates pursuant to regulation, the department may require family home agencies and family homes to submit program cost or other information, as determined by the department.

(B) Regional center reimbursement to family home agencies for services in a family home shall not exceed rates for similar individuals when residing in other types of out-of-home care established pursuant to Section 4681.1.

(8) The department and regional center's monitoring and evaluation of the family home agency and approved homes, which shall be designed to ensure that services do all of the following:

(A) Conform to applicable laws and regulations and provide for the consumer's health and well-being.

(B) Assist the consumer in understanding and exercising his or her individual rights.

(C) Are consistent with the family home agency's program design and the consumer's individual program plan.

(D) Maximize the consumer's opportunities to have choices in where he or she lives, works, and socializes.

(E) Provide a supportive family home environment, available to the consumer 24 hours a day, that is clean, comfortable, and accommodating to the consumer's cultural preferences, values, and lifestyle.

(F) Are satisfactory to the consumer, as indicated by the consumer's quality of life as assessed by the consumer, his or her family, and if appointed, conservator, or significant others, or all of these, as well as by evaluation of outcomes relative to individual program plan objectives.

(9) Monthly monitoring visits by family home agency social service staff to approved family homes and family teaching homes.

(10) Procedures whereby the regional center and the department may enforce applicable provisions of law and regulation, investigate allegations of abuse or neglect,

and impose sanctions on family home agencies and approved family homes and family teaching homes, including, but not limited to, all of the following:

(A) Requiring movement of a consumer from a family home under specified circumstances.

(B) Termination of approval of a family home or family teaching home.

(C) Termination of the family home agency's vendorization.

(11) Appeal procedures.

(f) Each adult with developmental disabilities placed in a family home or family teaching home shall have the rights specified in this division, including, but not limited to, the rights specified in Section 4503.

(g) Prior to placement in a family home of an adult with developmental disabilities who has a conservator, consent of the conservator shall be obtained.

(h) The adoption of any emergency regulations to implement this section that are filed with the Office of Administrative Law within one year of the date on which the act that added this section took effect shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.

(Amended (as amended by Stats. 2004, Ch. 193) by Stats. 2004, Ch. 831, Sec. 4. Effective January 1, 2005.)

4689.2. (a) It is the intent of the Legislature in enacting this section to require the filing of fingerprints of those individuals whose contact with consumers receiving services and supports from family home agencies, as defined in subdivision (c) of Section 4689.1, and family homes, as defined in subdivision (b) of Section 4689.1, may pose a risk to the consumers' health and safety.

(b) As part of the vendor approval process for family home agencies and family homes, the State Department of Developmental Services shall secure from the Department of Justice and, if applicable, the Federal Bureau of Investigation, a full criminal history to determine whether the applicant or any other person specified in subdivision (c) has ever been convicted of, or arrested for, a crime other than a minor traffic violation. If it is found that the applicant, or any other person specified in subdivision (c), has been convicted of, or is awaiting trial for, a crime other than a minor traffic violation, the vendor application shall be denied, unless the director grants an exemption pursuant to subdivision (f). If no criminal record information has been recorded, the Department of Justice shall provide the applicant and the State Department of Developmental Services with a statement of that fact.

(c) In addition to the applicant, this section shall be applicable to criminal convictions of the following persons:

(1) Adults responsible for administration or direct supervision of staff.

(2) Any adult other than a consumer residing in the family home.

(3) Any adult who provides assistance to the consumer in dressing, grooming, bathing, or personal hygiene.

(4) Any staff person, employee, consultant, or volunteer who has frequent and routine contact with the consumer. In determining who has frequent contact, any consultant or volunteer shall be exempt unless the volunteer is used to replace or supplement staff or family home personnel in providing services or supports, or both, to consumers. In determining who has routine contact, staff and employees under direct onsite supervision of the family home agency and who are not providing direct services

and supports or who have only occasional or intermittent contact with consumers shall be exempt.

(5) The executive director of the entity applying for vendorization or other person serving in like capacity.

(6) Officers of the governing body of the applicant, or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the operation of the family home agency or family home.

(d) (1) Subsequent to vendorization, any person specified in subdivision (c) and not exempted from fingerprinting shall, as a condition to employment, residence, or presence in a family home agency or a family home, be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal convictions. The vendor shall submit these fingerprints to the Department of Justice not later than four calendar days following employment, residence, or initial presence in the family home agency or family home. These fingerprints shall be on a card provided by the State Department of Developmental Services for the purpose of obtaining a permanent set of fingerprints. If fingerprints are not submitted to the Department of Justice, as required in this section, that failure shall result in a sanction and the fingerprints shall then be submitted to the State Department of Developmental Services for processing. Upon request of the vendor, who shall enclose a self-addressed stamped postcard for this purpose, the Department of Justice shall verify receipt of the fingerprints.

(2) Within 30 calendar days of the receipt of the fingerprints, the Department of Justice shall notify the State Department of Developmental Services of the criminal record information, as provided in subdivision (b). If no criminal record information has been recorded, the Department of Justice shall provide the vendor and the State Department of Developmental Services with a statement of that fact within 15 calendar days of receipt of the fingerprints. If new fingerprints are required for processing, the Department of Justice shall, within 15 calendar days from the date of receipt of the fingerprints, notify the vendor that the fingerprints were illegible.

(3) (A) Except for persons specified in paragraph (2) of subdivision (c), the vendor shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision. If it is determined by the State Department of Developmental Services, on the basis of the fingerprints submitted to the Department of Justice, that the person has been convicted of, or is awaiting trial for, a sex offense against a minor, or has been convicted for an offense specified in Section 243.4, 273a, 273d, or subdivision (a) or (b) of Section 368 of the Penal Code, or has been convicted of a felony, the State Department of Developmental Services shall notify the vendor to act immediately to terminate the person's employment, remove the person from the family home, or bar the person from entering the family home. The State Department of Developmental Services may subsequently grant an exemption pursuant to subdivision (f).

(B) If the conviction or arrest was for another crime, except a minor traffic violation, the vendor shall, upon notification by the State Department of Developmental Services, act immediately to do either of the following:

(i) Terminate the person's employment, remove the person from the family home, or bar the person from entering the family home.

(ii) Seek an exemption pursuant to subdivision (f). The State Department of Developmental Services shall determine if the person shall be permitted to remain in the family home until a decision on the exemption is rendered.

(e) For purposes of this section or any other provision of this chapter, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that the State Department of Developmental Services is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, notwithstanding a subsequent order pursuant to Sections 1203.4 and 1203.4a of the Penal Code permitting the person to withdraw his or her plea of guilty, or dismissing the accusation, information, or indictment. For purposes of this section or any other provision of this chapter, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction. For purposes of this section or any other provision of this chapter, the arrest disposition report certified by the Department of Justice and, if applicable, the Federal Bureau of Investigation, or documents admissible in a criminal action pursuant to Section 969b of the Penal Code, shall be prima facie evidence of the conviction, notwithstanding any other provision of law prohibiting the admission of these documents in a civil or administrative action.

(f) After review of the record, the Director of Developmental Services may grant an exemption from denial of vendor approval pursuant to subdivision (b), or for employment in a family home agency or family home of residence or presence in a family home as specified in subdivision (c), if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of such good character as to justify vendor approval or granting an exemption for purposes of subdivision (c). Except as otherwise provided in this subdivision, no exemption shall be granted if the conviction was for an offense specified in Section 220, 243.4, 264.1, paragraph (1) of subdivision (a) of Section 273a, Section 273d, 288, 289, or subdivision (a) or (b) of Section 368 of the Penal Code, or for another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code. The director may grant an exemption if the employee, prospective employee, or other person identified in subdivision (c) who was convicted of a crime against an individual in paragraph (1), (2), (7), or (8) of subdivision (c) of Section 667.5 of the Penal Code, has been rehabilitated as provided in Section 4852.03 of the Penal Code and has maintained the conduct required in Section 4852.05 of the Penal Code for at least 10 years and has the recommendation of the district attorney representing the employee's county of residence, or if the employee, prospective employee, or other persons identified in subdivision (c) has received a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code.

(g) For purposes of compliance with this section, the department may permit an individual to transfer a current criminal record clearance, as described in subdivision (b), from one family home agency or family home to another, as long as the criminal record clearance has been processed through the State Department of Developmental Services.

(h) If a family home agency or a family home is required by law to deny employment or to terminate employment of any employee based on written

notification from the state department pursuant to subdivision (c) the family home agency or the family home shall not incur civil liability or unemployment insurance liability as a result of that denial or termination.

(Amended by Stats. 1995, Ch. 546, Sec. 1. Effective January 1, 1996.)

4689.3. (a) A family home agency shall not place an adult with developmental disabilities in a family home until the family home agency has received a criminal record clearance from the State Department of Developmental Services pursuant to Section 4689.2, except as provided in subdivisions (b) and (c).

(b) Any peace officer, or other category of person approved by the department subject to criminal record clearance as a condition of employment, and who has submitted fingerprints and executed a declaration regarding criminal convictions, may receive an adult with developmental disabilities in placement pending the receipt of a criminal record clearance when the family home has met all other requirements for vendor approval.

(c) Any person currently approved as a vendor pursuant to this chapter by the department when the family home has met all other requirements, and who has submitted fingerprints and executed a declaration regarding criminal convictions, may receive, or continue, an adult with developmental disabilities in placement pending the receipt of a criminal record clearance.

(Added by Stats. 1994, Ch. 1095, Sec. 9. Effective September 29, 1994.)

4689.4. The State Department of Developmental Services may deny an application for vendorization or terminate vendorization as a family home agency or family home upon the grounds that the applicant for vendorization, the vendor, or any other person mentioned in Section 4689.2 has been convicted at any time of a crime, except a minor traffic violation.

(Added by Stats. 1994, Ch. 1095, Sec. 10. Effective September 29, 1994.)

4689.5. (a) Proceeding for the termination, or denial of vendorization as a family home agency or family home pursuant to Section 4689.4 shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the State Department of Developmental Services shall have all the powers granted by Chapter 5. In the event of conflict between this section and Chapter 5, Chapter 5 shall prevail.

(b) In all proceedings conducted in accordance with this section, the standard of proof to be applied shall be a preponderance of the evidence.

(c) The hearing shall be held within 90 calendar days after receipt of the notice of defense, unless a continuance of the hearing is granted by the department or the administrative law judge. When the matter has been set for hearing, only the administrative law judge may grant a continuance of the hearing. The administrative law judge may grant a continuance of the hearing, but only upon finding the existence of one or more of the following:

(1) The death or incapacitating illness of a party, a representative or attorney of a party, a witness to an essential fact, or of the parent, child, or member of the household of that person, when it is not feasible to substitute another representative, attorney, or witness because of the proximity of the hearing date.

(2) Lack of notice of hearing as provided in Section 11509 of the Government Code.

(3) A material change in the status of the case where a change in the parties or pleadings requires postponement, or an executed settlement or stipulated findings of fact obviate the need for hearing. A partial amendment of the pleadings shall not be good cause for continuance to the extent that the unamended portion of the pleadings is ready to be heard.

(4) A stipulation for continuance signed by all parties or their authorized representatives that is communicated with the request for continuance to the administrative law judge no later than 25 business days before the hearing.

(5) The substitution of the representative or attorney of a party upon showing that the substitution is required.

(6) The unavailability of a party, representative, or attorney of a party, or witness to an essential fact due to a conflicting and required appearance in a judicial matter if when the hearing date was set, the person did not know and could neither anticipate nor at any time avoid the conflict, and the conflict with request for continuance is immediately communicated to the administrative law judge.

(7) The unavailability of a party, a representative or attorney of a party, or a material witness due to an unavoidable emergency.

(8) Failure by a party to comply with a timely discovery request if the continuance request is made by the party who requested the discovery.

(d) In addition to the witness fees and mileage provided by Section 11450.40 of the Government Code, the department may pay actual, necessary, and reasonable expenses in an amount not to exceed the per diem allowance payable to a nonrepresented state employee on travel status. The department may pay witness expenses in advance of the hearing.

(Amended by Stats. 1995, Ch. 938, Sec. 94. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938.)

4689.6. (a) The State Department of Developmental Services may prohibit a vendor from employing, or continuing the employment of, or allowing in a family home, or allowing contact with any adult with a developmental disability placed in a family home by, any employee or prospective employee, who has been denied an exemption to work or to be present in a facility, when that person has been convicted of a crime, except a minor traffic violation.

(b) The employee or prospective employee, and the vendor shall be given written notice of the basis of the department's action and of the employee's or prospective employee's right to a hearing. The notice shall be served either by personal service or by registered mail. Within 15 days after the department serves the notice, the employee or prospective employee may file with the department a written request for a hearing. If the employee or prospective employee fails to file a written request for a hearing within the prescribed time, the department's action shall be final.

(c) (1) The department may require the immediate exclusion of an employee or prospective employee from a family home agency or family home pending a final decision of the matter, when, in the opinion of the director, the action is necessary to protect any adult with a developmental disability placed in the family home from physical or mental abuse, abandonment, or any other substantial threat to his or her health and safety.

(2) If the department requires the immediate exclusion of an employee or prospective employee from a family home agency or family home, the department shall

serve an order of immediate exclusion upon the employee or prospective employee that shall notify the employee or prospective employee of the basis of the department's action and of the employee's or prospective employee's right to a hearing.

(3) Within 15 days after the department serves an order of immediate exclusion, the employee or prospective employee may file a written request for a hearing with the department. The department's action shall be final if the employee or prospective employee does not file a request for a hearing within the prescribed time. The department shall do the following upon receipt of a written request for a hearing:

(A) Within 80 days of receipt of the request for a hearing, serve an accusation upon the employee or prospective employee.

(B) Within 60 days of receipt of a notice of defense by the employee or prospective employee pursuant to Section 11506 of the Government Code, conduct a hearing on the statement of issues.

(4) An order of immediate exclusion of the employee or prospective employee from the family home agency or family home shall remain in effect until the hearing is completed and the director has made a final determination on the merits. However, the order of immediate exclusion shall be deemed vacated if the director fails to make a final determination on the merits within 60 days after the original hearing has been completed.

(d) An employee or prospective employee who files a written request for a hearing with the department pursuant to this section shall, as part of the written request, provide his or her current mailing address. The employee or prospective employee shall subsequently notify the department in writing of any change in mailing address, until the hearing process has been completed or terminated.

(e) Hearings held pursuant to this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The standard of proof shall be the preponderance of the evidence and the burden of proof shall be on the department.

(f) The department may institute or continue a disciplinary proceeding against an employee or prospective employee upon any ground provided by this section, or enter an order prohibiting the employee's or prospective employee's employment or presence in the family home agency or family home or otherwise take disciplinary action against the employee or prospective employee, notwithstanding any resignation, withdrawal of employment application, or change of duties by the employee or prospective employee, or any discharge, failure to hire, or reassignment of the employee or prospective employee by the vendor.

(g) A vendor's failure to comply with the department's prohibition of employment or presence in the family home agency or family home shall be grounds for disciplining the vendor pursuant to Section 4689.4.

(Added by Stats. 1994, Ch. 1095, Sec. 12. Effective September 29, 1994.)

4689.7. (a) For the 1998–99 fiscal year, levels of payment for supported living service providers that are vendored pursuant to Section 4689 shall be increased based on the amount appropriated in this section for the purpose of increasing the salary, wage, and benefits for direct care workers providing supported living services.

(b) The sum of five million fifty-seven thousand dollars ($5,057,000) is hereby appropriated in augmentation of the appropriations made in the Budget Act of 1998 to implement this section as follows:

(1) The sum of two million four hundred five thousand dollars ($2,405,000) is hereby appropriated from the General Fund to the State Department of Health Services in augmentation of the appropriation made in Item 4260-101-0001.

(2) The sum of two million five hundred fifty-one thousand dollars ($2,551,000) is hereby appropriated from the Federal Trust Fund to the State Department of Health Services in augmentation of the appropriation made in Item 4260-101-0890.

(3) The sum of one hundred one thousand dollars ($101,000) is hereby appropriated from the General Fund to the Department of Developmental Services in augmentation of the appropriation made in Item 4300-101-0001, scheduled as follows:

10.10--Regional Centers	
(b) 10.10.020 Purchase of Services	$5,057,000
(e) Reimbursements	-$4,956,000

(c) By July 1, 2002, in consultation with stakeholder organizations, the department shall establish by regulation, an equitable and cost-effective methodology for the determination of supported living costs and a methodology of payment for providers of supported living services. The methodology shall consider the special needs of persons with developmental disabilities and the quality of services to be provided.

(Amended by Stats. 2000, Ch. 93, Sec. 48. Effective July 7, 2000.)

4689.8. Notwithstanding any other provision of law or regulation, commencing July 1, 2008:

(a) No regional center may pay an existing supported living service provider, for services where rates are determined through a negotiation between the regional center and the provider, a rate higher than the rate in effect on June 30, 2008, unless the increase is required by a contract between the regional center and the vendor that is in effect on June 30, 2008, or the regional center demonstrates that the approval is necessary to protect the consumer's health or safety and the department has granted prior written authorization.

(b) No regional center may negotiate a rate with a new supported living service provider, for services where rates are determined through a negotiation between the regional center and the provider, that is higher than the regional center's median rate for the same service code and unit of service, or the statewide median rate for the same service code and unit of service, whichever is lower. The unit of service designation shall conform with an existing regional center designation or, if none exists, a designation used to calculate the statewide median rate for the same service. The regional center shall annually certify to the State Department of Developmental Services its median rate for each negotiated rate service code, by designated unit of service. This certification shall be subject to verification through the department's biennial fiscal audit of the regional center.

(Added by Stats. 2008, 3rd Ex. Sess., Ch. 3, Sec. 8. Effective February 16, 2008.)

Article 5. Regional Center Rates for Nonresidential Services

(Article 5 added by Stats. 1977, Ch. 1252.)

4690. The Director of Developmental Services shall establish, maintain, and revise, as necessary, an equitable process for setting rates of state payment for nonresidential

services purchased by regional centers, and may promulgate regulations establishing program standards, or the process to be used for setting these rates, or both, in order to assure that regional centers may secure high-quality services for developmentally disabled persons from individuals or agencies vendored to provide these services. In developing the rates pursuant to regulation, the director may require vendors to submit program, cost, or other information, as necessary. The director shall take into account the rates paid by other agencies and jurisdictions for comparable services in order to assure that regional center rates are at competitive levels. In no event shall rates established pursuant to this article be any less than those established for comparable services under the Medi-Cal program.

(Amended by Stats. 1989, Ch. 1396, Sec. 2. Effective October 2, 1989.)

4690.1. (a) By March 1, 1986, the department, in consultation with representatives of regional centers and providers of transportation services to regional center clients, shall develop a cost statement to be used in setting rates for providers of transportation services.

(b) Notwithstanding subdivision (a), the department may develop alternative procedures for establishing rates for providers of transportation services, including, but not limited to, a noncompetitive process and a competitive process for use by regional centers in which rates of reimbursement are established based on contract bids or proposals.

(Amended by Stats. 1989, Ch. 973, Sec. 1. Effective September 29, 1989.)

4690.2. (a) The Director of Developmental Services shall develop program standards and establish, maintain, and revise, as necessary, an equitable process for setting rates of state payment, based upon those standards, for in-home respite services purchased by regional centers from agencies vendored to provide these services. The Director of Developmental Services may promulgate regulations establishing these standards and the process to be used for setting rates. ''In-home respite services'' means intermittent or regularly scheduled temporary nonmedical care and supervision provided in the client's own home, for a regional center client who resides with a family member. These services are designed to do all of the following:

(1) Assist family members in maintaining the client at home.

(2) Provide appropriate care and supervision to ensure the client's safety in the absence of family members.

(3) Relieve family members from the constantly demanding responsibility of caring for the client.

(4) Attend to the client's basic self-help needs and other activities of daily living including interaction, socialization, and continuation of usual daily routines which would ordinarily be performed by the family members.

(b) The provisions of subdivisions (b) to (f), inclusive, of Section 4691 and subdivisions (a) to (f), inclusive, and subdivision (h) of Section 4691.5 applicable to community-based day programs, shall also apply to in-home respite service vendors for the purpose of establishing standards and an equitable process for setting rates, except:

(1) The process specified in paragraph (4) of subdivision (a) of Section 4691.5 for increasing rates for fiscal year 1990–91 shall apply only to the administrative portion of the rate for eligible in-home respite service vendors, and the amount of funds available for this increase shall not exceed three hundred thousand dollars ($300,000) of the total

amount appropriated for rate increases. The administrative portion of the rate shall consist of the in-home respite service vendor's allowable costs, other than those for respite worker's salary, wage, benefits, and travel. Vendors eligible for this rate increase shall include only those in-home respite service vendors which received a deficiency adjustment in their permanent or provisional rate for fiscal year 1989–90, as specified in paragraph (4) of subdivision (a) of Section 4691.5.

(2) In addition, a rate increase shall also be provided for fiscal year 1990–91, for the salary, wage, and benefit portion of the rate for in-home respite service vendors eligible for the increase. The amount of funds available for this rate increase is limited to the remaining funds appropriated for this paragraph and paragraph (1) for fiscal year 1990–91. The amount of increase which each eligible in-home respite service vendor shall receive shall be limited to the amount necessary to increase the salary, wage, and benefit portion of the rate for respite workers to five dollars and six cents ($5.06) per hour in salary and wages plus ninety-five cents ($0.95) in benefits. Vendors eligible for this increase shall include only those in-home respite service vendors whose salary, wage, and benefit portion of their existing provisional or permanent rate, as established by the department for respite workers is below the amounts specified in this paragraph, and the vendor agrees to reimburse its respite workers at no less than these amounts during fiscal year 1990–91 and thereafter. In order to establish rates pursuant to this paragraph, existing programs receiving a permanent or provisional rate shall submit to the department, the program, cost, and other information specified by the department for either the 1988 calendar year, or for the 1988–89 fiscal year. The specified information shall be submitted on forms developed by the department, not later than 45 days following receipt of the required forms from the department, after the effective date of this section. Programs which fail to submit the required information within the time specified shall have payment of their permanent or provisional rate suspended until the required information has been submitted.

(3) Effective July 1, 1990, and pursuant to the rate methodology developed by the department, the administrative portion and the salary, wage, and benefit portion of the rates for in-home respite service vendors currently receiving a provisional or permanent rate shall be combined and paid as a single rate.

(4) Rate increases for fiscal year 1990–91 shall be limited to those specified in paragraphs (1) and (2). For fiscal year 1991–92 and all succeeding fiscal years, the provisions of subdivision (c) of Section 4691, which specify that any rate increases shall be subject to the appropriation of sufficient funds in the Budget Act, shall also apply to rates for in-home respite service vendors.

(5) For the 1998–99 fiscal year, an in-home respite service vendor shall receive rate increases pursuant to subdivision (e) of Section 4691.5. Any rate increase shall be subject to the appropriation of funds pursuant to the Budget Act.

(6) The rate methodology developed by the department may include a supplemental amount of reimbursement for travel costs of respite workers using their private vehicles to and from and between respite sites. The supplemental amount shall be the minimum rate for travel reimbursement for state employees.

(Amended by Stats. 1998, Ch. 310, Sec. 41. Effective August 19, 1998.)

4690.3. (a) For the 1998–99 fiscal year, rates for in-home respite services agencies that are vendored pursuant to Section 4690.2 and the department's regulations to provide in-home respite services shall be increased based on the amount

appropriated in the Budget Act of 1998 for the purpose of increasing the salary, wage, and benefit portion of the rate for in-home respite services workers. Agencies shall reimburse their respite workers at no less than the increased amount in their rate for the 1998–99 fiscal year and thereafter.

(b) For the 1998–99 fiscal years an individual who provides in-home respite services, pursuant to vendorization pursuant to the department's regulations, shall also receive a rate increase pursuant to subdivision (a).

(Added by Stats. 1998, Ch. 310, Sec. 42. Effective August 19, 1998.)

4690.4. (a) Sections 4690.2, 4691, and 4691.5, which relate to in-home respite service agencies and community-based day programs, shall apply in the 1998–99 fiscal year with the following exceptions:

(1) The 1997–98 fiscal year allowable costs and consumer attendance data submitted to the department by September 30, 1998, shall not be utilized by the department to determine a new mean rate and allowable range of rates, pursuant to regulations, but may be used only in developing a new rate system.

(2) The allowable range of rates and mean rate established for the 1997–98 fiscal year shall be continued.

(3) The rate for new programs shall be the mean rate determined for the same type of program and staff-to-consumer ratio for the 1997–98 fiscal year.

(b) The department shall, in consultation with stakeholder organizations, develop performance based consumer outcome rate systems for community-based day programs and in-home respite services. If rates for community-based day programs are increased in the 1998–99 fiscal year pursuant to paragraphs (1) to (3), inclusive, of subdivision (e) of Section 4691.5, and rates for in-home respite services are increased in the 1998–99 fiscal year pursuant to paragraph (5) of subdivision (b) of Section 4690.2, as added by the act adding this section to the Welfare and Institutions Code, then effective September 1, 1998, and until such time as the new rate systems are implemented, or unless funds are otherwise appropriated for rate adjustments, rates shall be frozen.

(Added by Stats. 1998, Ch. 310, Sec. 43. Effective August 19, 1998.)

4690.5. Notwithstanding any other provision of law or regulation, commencing July 1, 2006, the rate for family member-provided respite services authorized by the department and in operation June 30, 2006, shall be increased by 3 percent, subject to funds specifically appropriated for this increase in the Budget Act of 2006. The increase shall be applied as a percentage, and the percentage shall be the same for all providers.

(Added by Stats. 2006, Ch. 74, Sec. 53. Effective July 12, 2006.)

4691. (a) The Legislature reaffirms its intent that community-based day programs be planned and provided as part of a continuum of services to enable persons with developmental disabilities to approximate the pattern of everyday living available to people of the same age without disabilities. The Legislature further intends that standards be developed to ensure high quality services, and that equitable ratesetting procedures based upon those standards be established, maintained, and revised, as necessary. The Legislature intends that ratesetting procedures be developed for all community-based day programs, which include adult development centers, activity

centers, infant day programs, behavior management programs, social recreational programs, and independent living programs.

(b) For the purpose of ensuring that regional centers may secure high quality services for persons with developmental disabilities, the State Department of Departmental Services shall promulgate regulations establishing program standards and an equitable process for setting rates of state payment for community-based day programs. These regulations shall include, but are not limited to:

(1) The standards and requirements related to the operation of the program including, but not limited to, staff qualifications, staff-to-client ratios, client entrance and exit criteria, program design, program evaluation, program and client records and documentation, client placement, and personnel requirements and functions.

(2) The allowable cost components of the program including salary and wages, staff benefits, operating expenses, and management organization costs where two or more programs are operated by a separate and distinct corporation or entity.

(3) The rate determination processes for establishing rates, based on the allowable costs of the allowable cost components. Different rate determination processes may be developed for establishing rates for new and existing programs, and for the initial and subsequent years of implementation of the regulations. The processes shall include, but are not limited to:

(A) The procedure for identification and grouping of programs by type of day program and approved staff-to-client ratio.

(B) The requirements for an identification of the program, cost, and other information, if any, which the program is required to submit to the department or the regional center, the consequences, if any, for failure to do so, and the timeframes and format for submission and review.

(C) The ratesetting methodology.

(D) A procedure for adjusting rates as a result of anticipated and unanticipated program changes and fiscal audits of the program and a procedure for appealing rates, including the timeframes for the program to request an adjustment or appeal, and for the department to respond.

(E) A procedure for increasing established rates and the allowable range of rates due to cost-of-living adjustments.

(F) A procedure for increasing established rates as a result of Budget Act appropriations made pursuant to the ratesetting methodology established pursuant to Section 4691.5 and subdivision (c).

The department shall develop these regulations in consultation with representatives from organizations representing the developmental services system as determined by the department. The State Council on Developmental Disabilities, and other organizations representing regional centers, providers, and clients shall have an opportunity to review and comment upon the proposed regulations prior to their promulgation. The department shall promulgate these regulations for all community-based day programs by July 1, 1990.

(c) Upon the promulgation of regulations pursuant to subdivision (b), and pursuant to Section 4691.5, and by September 1 of each year thereafter, the department shall establish rates pursuant to the regulations. Rate increases during fiscal years 1990–91 and 1991–92 shall be limited to those specified in subdivision (b). For fiscal year 1992–93 and all succeeding fiscal years, any increases proposed during those years in the rates of reimbursement established pursuant to the regulations, except for rate

increases due to rate appeals and rate adjustments based on unanticipated program changes, shall be subject to the appropriation of sufficient funds in the Budget Act, for those purposes, to fully provide the proposed increase to all eligible programs for the entire fiscal year. If the funds appropriated in the Budget Act are not sufficient to fully provide for the proposed increase in the rates of reimbursement for all eligible programs for the entire fiscal year, the proposed increase shall be limited to the level of funds appropriated. The increases proposed in the rates of reimbursement shall be reduced equitably among all eligible providers in accordance with funds appropriated and the eligible programs shall be reimbursed at the reduced amount for the entire fiscal year.

(d) Using the reported costs of day programs reimbursed at a permanent rate and the standards and ratesetting processes promulgated pursuant to subdivision (b) as a basis, the department shall report to the Legislature as follows:

(1) By April 15, 1993, and every odd year thereafter, the difference between permanent rates for existing programs and the rates of those programs based upon their allowable costs and client attendance, submitted pursuant to the regulations specified in subdivision (b). In reporting the difference, the department shall also identify the amount of the difference associated with programs whose rates are above the allowable range of rates, which is available for increasing the rates of programs whose rates are below the allowable range, to within the allowable range, and any other pertinent cost or rate information which the department deems necessary.

(2) By April 15, 1994, and every even year thereafter, the level of funding, if any, which was not appropriated to reimburse providers at the proposed rates reported the prior fiscal year pursuant to paragraph (1), and any other pertinent cost or rate information which the department deems necessary.

(3) The April 15, 1996, report pursuant to paragraph (2) shall be prepared jointly by the department and organizations representing community-based day program providers, as determined by the department. That report shall also include a review of the ratesetting process and recommendations, if any, for its modification.

(e) Rates established by the department pursuant to subdivision (b) are exempt from the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(f) The department shall ensure that the regional centers monitor compliance with program standards.

(Amended by Stats. 2002, Ch. 676, Sec. 36. Effective January 1, 2003.)

4691.5. The ratesetting methodology, to be established pursuant to subparagraph (C) of paragraph (3) of subdivision (b) of Section 4691 shall include, but need not be limited to, all of the following:

(a) A process for establishing rates during fiscal year 1990–91 for new programs and existing programs receiving a provisional or permanent rate.

(1) The rate for new programs shall be the mean rate determined for the same type of day program and staff-to-client ratio. This rate shall be a temporary rate. Determination of the mean rate for new programs shall be based on the program, cost, and other information of existing programs receiving a permanent rate, using allowable costs and client attendance information of those existing programs. In order to establish rates pursuant to this paragraph existing programs receiving a permanent rate shall submit to the department, the program, cost, and other information specified by the department

for either calendar year 1988 or fiscal year 1988–89. The specified information shall be submitted on forms developed by the department, not later than 45 days following receipt of the required forms from the department, after the effective date of this section. Programs which fail to submit the required information within the time specified shall have payment of their permanent rate suspended until the required information has been submitted.

(2) Except as provided in paragraph (4) the rate for existing programs receiving a provisional rate, whose rate would otherwise expire during fiscal year 1990–91, shall be extended at the provisional rate until September 1, 1991.

(3) Except as provided in paragraph (4) below, the rate for existing programs receiving a permanent rate shall be reestablished at the permanent rate until June 30, 1991.

(4) The rate for existing programs receiving a provisional or permanent rate as specified in paragraph (2) and paragraph (3) shall be increased for all programs eligible for the increase. Eligible programs shall include only those programs which received a deficiency adjustment in their permanent or provisional rate for fiscal year 1989–90, based on calendar year 1988 program and cost information submitted to the department, pursuant to the stipulated order in the case of California Association of Rehabilitation Facilities et al. v. State of California, Sacramento County Superior Court Case No. 355326, and the adjustment was insufficient to fund the entire deficiency. The amount of funds available for the increase is limited to the one million dollars ($1,000,000) appropriated for that purpose for fiscal year 1990–91, and it shall be distributed proportionately among all eligible programs. The amount of increase which each eligible program shall receive toward its remaining deficiency, based on calendar year 1988 program and cost information, shall be equal to the percentage that one million dollars ($1,000,000) represents of the total deficiency, based on calendar year 1988 program and cost information, for all eligible programs.

(b) A process for establishing rates during fiscal year 1991–92 for new programs and existing programs receiving a temporary, provisional, or permanent rate.

(1) The rate for existing programs receiving a permanent rate, shall be determined based on fiscal year 1989–90 program, cost, and other information submitted to the department and regional center. The ratesetting process shall include, but shall not be limited to, all of the following:

(A) A process for determination of a mean rate and an allowable range of rates for the same type of day program and staff-to-client ratio. The mean rate shall be determined using those programs' allowable costs and client attendance and the allowable range of rates shall be defined as the rates of those programs included between the 10th and 90th percentiles.

(B) The rates for existing programs receiving a permanent rate shall be increased or decreased to their allowable costs for fiscal year 1991–92, as follows:

(i) The rate shall be decreased if the program's allowable costs and client attendance, for fiscal year 1989–90, determined pursuant to the regulations, would result in a rate that is lower than its existing permanent rate.

(ii) The rate shall be increased if the program's allowable costs and client attendance for fiscal year 1989–90, determined pursuant to the regulations, would result in a rate that is higher than its existing permanent rate and its existing permanent rate is below or within the allowable range of rates.

(iii) No rate increase shall be provided that would result in the rate exceeding the allowable range of rates. No increase shall be provided for programs whose existing permanent rate is above the allowable range of rates. The amount of funds appropriated for that purpose for fiscal year 1991–92 shall be distributed only to those programs eligible for the increase.

(C) A process for the reduction or increase in the rate of any program whose existing permanent rate is not within the allowable range of rates. This process shall be based upon all of the following:

(i) For programs whose existing permanent rates are above the allowable range of rates, their existing permanent rate shall be reduced by 5 percent or to the allowable range, whichever is less.

(ii) For programs whose existing permanent rates are below the allowable range of rates, after the increase specified in clause (ii) of subparagraph (B) their rate shall be increased, up to the allowable range, in proportion to the amount of funds obtained from reducing the rate of programs whose rates are above the range.

(2) The rate for new programs shall be the mean rate determined pursuant to the process in paragraph (1) for the same type of day program and staff-to-client ratio using the program, cost, and other information submitted by providers receiving a permanent rate.

(3) The rate for existing programs receiving a provisional rate, whose rate expired during fiscal year 1990–91 and was extended until September 1, 1991, shall be determined pursuant to the process specified in paragraph (1) for permanent rates, except that the determination shall be based upon 12 consecutive months of representative costs incurred by the program during the period it was receiving its provisional rate. The program shall submit these costs and other program information, designated by the department, to the department within the time frames specified in the regulations. If the program has not incurred or cannot provide 12 consecutive months of representative costs, the department may determine the rate based on less than 12 consecutive months of representative costs.

(4) The rate for existing programs receiving a provisional rate, whose rate will expire in July or August of 1991, shall be extended until September 1, 1991, and then determined pursuant to the process specified in paragraph (3).

(c) A process for establishing rates during fiscal year 1992–93 for new programs and existing programs receiving a temporary or permanent rate:

(1) The rate for new programs shall be the mean rate, determined pursuant to the process in paragraph (2) of subdivision (b) for fiscal year 1991–92, for the same type of day program and staff-to-client ratio.

(2) The rate for existing programs receiving a temporary rate shall be continued at the rate established for fiscal year 1991–92, until the rate expires or a permanent rate is established pursuant to the process in paragraph (4) of subdivision (b) for fiscal year 1991–92.

(3) The rate for existing programs receiving a permanent rate shall be reestablished at the rate established for fiscal year 1991–92, except for programs whose rates are not within the allowable range of rates. For those programs whose rates are not within the allowable range, their rates shall be reduced or increased pursuant to the process in subparagraph (C) of paragraph (1) of subdivision (b) for fiscal year 1991–92.

(d) A process for establishing rates during fiscal year 1993–94 for new programs and existing programs receiving a temporary or permanent rate:

(1) The rate for existing programs receiving a permanent rate shall be determined based on fiscal year 1991–92 program, cost, and other information submitted to the department and regional center. The ratesetting process shall include the process specified in paragraph (1) of subdivision (b) for fiscal year 1991–92, except that the allowable range of rates shall be determined by computing 50 percent of the mean rate for fiscal year 1993–94 and converting that amount into a range of rates, distributed equally above and below the mean. This process shall compare the range of rates computed for fiscal year 1993–94 with the range of rates calculated for fiscal year 1991–92 based on 80 percent of the programs, and shall use the lesser of the two ranges in the comparison as the allowable range of rates. Once established, this range shall be permanent.

(2) The rate for new programs shall be the mean rate determined pursuant to the process in paragraph (1) for the same type of day program and staff-to-client ratio using the program, cost, and other information submitted by providers receiving a permanent rate.

(3) The rate for existing programs receiving a temporary rate shall be continued at the established rate until the program has incurred 12 consecutive months of representative costs within the timeframes specified in the regulations. Once the representative costs have been incurred, the rate shall be determined pursuant to the process specified in paragraph (1) for permanent rates.

(e) A process for establishing rates, during fiscal year 1994–95 and each alternative fiscal year thereafter, for new programs and existing programs receiving a temporary or permanent rate. The process shall be the same as that specified in subdivision (c) for determining, continuing, and reestablishing rates, but shall be based on the program, cost, and other information submitted to the department and regional center for establishment of rates for fiscal year 1993–94 and each alternative fiscal year thereafter, except for the following:

(1) For the 1998–99 fiscal year, the rates for existing community-based day programs receiving a permanent rate shall be increased if the program's allowable costs and client attendance, for the 1995–96 fiscal year, determined pursuant to the regulations, would result in a rate that is higher than its existing permanent rate and its existing permanent rate is below or within the allowable range of rates. The rate shall not be decreased if the program's allowable costs and client attendance for the 1995–96 fiscal year, determined pursuant to the regulations, would result in a rate that is lower than its existing permanent rate.

(2) For the 1998–99 fiscal year, existing community-based day programs receiving a permanent rate, and whose permanent rate is still below the lower limit of the allowable range of rates for like programs after receiving an increase pursuant to paragraph (1), shall receive an increase in their permanent rate up to the lower limit of the allowable range of rates.

(3) The requirements of subdivision (c) of Section 4691, which specify that any rate increases shall be subject to the appropriation of sufficient funds in the Budget Act, shall also apply to rates governed by paragraphs (1) and (2).

(f) A process for establishing rates, during fiscal year 1995–96 and each alternative fiscal year thereafter, for new programs and existing programs receiving a temporary or permanent rate. The process shall be the same as that specified in subdivision (d) except for the following:

(1) The rate for programs receiving a permanent rate shall be based on program, cost, and other information submitted to the department and regional center for fiscal year 1993–94 and each alternative fiscal year thereafter.

(2) The allowable range of rates, permanently established during fiscal year 1993–94, shall be applied to the mean rate determined for fiscal year 1995–96 and each alternative fiscal year thereafter.

(3) Existing programs receiving a permanent rate whose rates are not within the allowable range of rates shall, by September 1, 1995, have their rates reduced or increased as follows:

(A) For programs whose existing permanent rates are above the allowable range of rates, their rate shall be reduced to the allowable range.

(B) For programs whose existing rates are below the allowable range of rates, their rate shall be increased up to the allowable range in proportion to the amount of funds obtained from reducing the rate of programs whose rates are above the range.

(g) A process for establishing a uniform supplemental rate of reimbursement for programs serving nonambulatory clients, as determined by the department.

(h) A process for notifying the program of the established rate.

(Amended by Stats. 1998, Ch. 310, Sec. 44. Effective August 19, 1998.)

4691.6. (a) Notwithstanding any other provision of law or regulation, commencing July 1, 2006, the community-based day program, work activity program, and in-home respite service agency rate schedules authorized by the department and in operation June 30, 2006, shall be increased by 3 percent, subject to funds specifically appropriated for this increase in the Budget Act of 2006. The increase shall be applied as a percentage, and the percentage shall be the same for all providers. Any subsequent increase shall be governed by subdivisions (b), (c), (d), and (e) and Section 4691.9.

(b) Notwithstanding any other provision of law or regulation, the department may not establish any permanent payment rate for a community-based day program or in-home respite service agency provider that has a temporary payment rate in effect on June 30, 2008, if the permanent payment rate would be greater than the temporary payment rate in effect on or after June 30, 2008, unless the regional center demonstrates to the department that the permanent payment rate is necessary to protect the consumers' health or safety.

(c) Notwithstanding any other provision of law or regulation, neither the department nor any regional center may approve any program design modification or revendorization for a community-based day program or in-home respite service agency provider that would result in an increase in the rate to be paid to the vendor from the rate that is in effect on or after June 30, 2008, unless the regional center demonstrates that the program design modification or revendorization is necessary to protect the consumers' health or safety and the department has granted prior written authorization.

(d) Notwithstanding any other provision of law or regulation, the department may not approve an anticipated rate adjustment for a community-based day program or in-home respite service agency provider that would result in an increase in the rate to be paid to the vendor from the rate that is in effect on or after June 30, 2008, unless the regional center demonstrates that the anticipated rate adjustment is necessary to protect the consumers' health or safety.

(e) Notwithstanding any other provision of law or regulation, the department may not approve any rate adjustment for a work activity program that would result in an increase in the rate to be paid to the vendor from the rate that is in effect on or after June 30, 2008, unless the regional center demonstrates that the rate adjustment is necessary to protect the consumers' health and safety and the department has granted prior written authorization.

(Amended by Stats. 2008, 3rd Ex. Sess., Ch. 3, Sec. 9. Effective February 16, 2008.)

4691.8. (a) Notwithstanding any other provision of law or regulation, and to the extent funds are appropriated in the annual Budget Act for this purpose, the department may provide a rate increase for the purpose of enhancing wages for direct care staff in day programs and in work activity programs, as defined in subdivision (e) of Section 4851, and in look-alike programs, that meet any of the following criteria:

(1) Provide a majority of their services and supports in integrated community settings.

(2) Are day programs that are converting to integrated community settings.

(3) Are work activity programs that are converting to supported work programs.

(b) The department may approve a temporary rate increase for a program that is converting pursuant to paragraph (2) or (3) of subdivision (a). A program shall not be eligible for a permanent rate increase pursuant to this section unless it meets the criteria established in paragraph (1) of subdivision (a).

(c) A rate increase provided pursuant to paragraph (1) of subdivision (a) to existing programs shall be effective not more than 60 days following the adoption of the Budget Act that appropriates the necessary funding.

(d) Prior to implementation of this section, the department shall consult with stakeholders, including various provider organizations, the regional centers, and all other interested parties.

(e) The department shall provide the Legislature, by April 1, 2007, with a description of how this section has been implemented, along with the following information:

(1) The number of day programs and work activity centers receiving an enhanced rate, by regional center.

(2) The number of program conversions, by regional center.

(3) The percentage of rate increase provided to programs.

(4) The effect of the rate increase on direct care staff wages.

(Added by Stats. 2006, Ch. 74, Sec. 55. Effective July 12, 2006.)

4691.9. Notwithstanding any other provision of law or regulation, commencing July 1, 2008:

(a) No regional center shall pay an existing service provider, for services where rates are determined through a negotiation between the regional center and the provider, a rate higher than the rate in effect on June 30, 2008, unless the increase is required by a contract between the regional center and the vendor that is in effect on June 30, 2008, or the regional center demonstrates that the approval is necessary to protect the consumer's health or safety and the department has granted prior written authorization.

(b) No regional center may negotiate a rate with a new service provider, for services where rates are determined through a negotiation between the regional center and the provider, that is higher than the regional center's median rate for the same service code

and unit of service, or the statewide median rate for the same service code and unit of service, whichever is lower. The unit of service designation must conform with an existing regional center designation or, if none exists, a designation used to calculate the statewide median rate for the same service. The regional center shall annually certify to the State Department of Developmental Services its median rate for each negotiated rate service code, by designated unit of service. This certification will be subject to verification through the department's biennial fiscal audit of the regional center.

(c) This section shall not apply to those services for which rates are determined by the State Department of Health Care Services, or the State Department of Developmental Services, or are usual and customary.

(Added by Stats. 2008, 3rd Ex. Sess., Ch. 3, Sec. 10. Effective February 16, 2008.)

4693. For the purposes of this article, ''infant day program'' means a day training and activity program where infants and their families are provided training individually and in groups for a day or less, and are provided an organized program of activity. These programs are designed to encourage the development and adjustment of the infants in the community and their homes, and to prepare the infants for entrance into classes of local schools or other appropriate facilities.

(Added by Stats. 1982, Ch. 168, Sec. 3. Effective April 24, 1982.)

4694. Commencing July 1, 2006, all regional center vendors who are qualified providers under Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.) and are serving individuals enrolled under the Home- and Community-based Services Waiver program for persons with developmental disabilities, shall ensure that billing information provided to regional centers identifies each individual consumer and, for each consumer, the specific dates of service, location of service, service unit, unit costs, and other information necessary to support billing under the home- and community-based services waiver. Regional centers shall also ensure that their contractual and other billing and payment arrangements with providers require the provision of any information necessary to support billing under the Home- and Community-based Services Waiver program. Resources provided to regional centers, pursuant to the Budget Act of 2006 and following budgets, to implement this provision shall be allocated to the regional centers only until implementation of a statewide electronic data system that collects the billing information necessary to support billing under the Home- and Community-based Services Waiver program.

(Added by Stats. 2006, Ch. 74, Sec. 56. Effective July 12, 2006.)

Article 6. Residential Facility Staff Training

(Article 6 added by Stats. 1983, Ch. 735, Sec. 1.)

4695. The State Department of Developmental Services shall offer, through the regional centers, in conjunction with community colleges which elect to participate, a uniform statewide training program for directors or licensees of residential facilities serving persons with developmental disabilities. The training program shall be at the college level, and shall be given for college credits.

(Added by Stats. 1983, Ch. 735, Sec. 1.)

4695.2. (a) Each direct care staff person employed in a licensed community care facility that receives regional center funding shall be required to satisfactorily complete

two 35-hour competency-based training courses approved, after consultation with the Community Care Facility Direct Care Training Work Group, by the department or pass a department-approved competency test for each of the 35-hour training segments. Each direct care staff person to whom this subdivision applies shall demonstrate satisfactory completion of the competency-based training by passing a competency test applicable to that training segment.

(b) Each direct care staff person employed prior to January 1, 2001, in a licensed community care facility that receives regional center funding shall satisfactorily complete the first required competency-based training course or pass a department-approved competency test applicable to that training segment by January 1, 2002, and satisfactorily complete the second competency-based training course or pass a department-approved competency test applicable to that training segment by January 1, 2003.

(c) Each direct care staff person whose employment in a licensed community care facility that receives regional center funding commences on or after January 1, 2001, shall satisfactorily complete the first required competency-based training course or pass a department-approved competency test applicable to that training segment within one year from the date the staff person was hired, and satisfactorily complete the second competency-based training course or pass a department-approved competency test applicable to that training segment within two years from the date the person was hired.

(d) A direct care staff person who does not comply with the requirements of this section may not continue to provide direct care to consumers in a licensed community care facility that receives regional center funding, unless otherwise approved by the department pursuant to conditions for a waiver specified in regulations adopted pursuant to subdivision (e).

(e) The department shall adopt emergency regulations in order to implement this section. These regulations may include, but are not limited to, all of the following:

(1) Requirements for satisfactory completion of the 70 hours of direct care staff training.

(2) Provisions for enforcement of training requirements.

(3) Continuing education requirements beyond the initial 70 hours of required training.

(4) Provisions for waiving staff training and competency testing requirements, provided that waivers shall not adversely impact the health and safety of consumers living in licensed community care facilities that receive regional center funding.

(f) The emergency regulations adopted by the department pursuant to subdivision (e) shall be in accordance with the Administrative Procedures Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The initial adoption of emergency regulations and one readoption of the initial regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Initial emergency regulations and the first readoption of those regulations shall be exempt from review by the Office of Administrative Law. The emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and publication in the California Code of Regulations and shall remain in effect for no more than 180 days.

(Added by Stats. 2001, Ch. 188, Sec. 3. Effective January 1, 2002.)

Article 7. Regional Center Clients Requiring Mental Health Services

(Article 7 added by Stats. 1986, Ch. 36, Sec. 1. Effective March 31, 1986.)

4696. The Legislature places a high priority on ensuring that regional center clients and their families can avail themselves of mental health services which are appropriate to meet their needs. The purpose of this article is to determine methods of identifying these clients as well as the type and extent of services which should be available.

(Added by Stats. 1986, Ch. 36, Sec. 1. Effective March 31, 1986.)

4696.1. (a) The Legislature finds and declares that improved cooperative efforts between regional centers and county mental health agencies are necessary in order to achieve each of the following:

(1) Increased leadership, communication, and organizational effectiveness between regional centers and county mental health agencies.

(2) Decreased costs and minimized fiscal risk in serving persons who are dually diagnosed with mental illness and developmental disabilities.

(3) Continuity of services.

(4) Improved quality of mental health outcomes for persons who are dually diagnosed.

(5) Optimized utilization of agency resources by building on the strengths of each organization.

(6) Timely resolution of conflicts.

(b) In order to achieve the outcomes specified in subdivision (a), by July 1, 1999, each regional center and county mental health agency shall develop a memorandum of understanding to do all of the following:

(1) Identify staff who will be responsible for all of the following:

(A) Coordinate service activity between the two agencies.

(B) Identify dually diagnosed consumers of mutual concern.

(C) Conduct problem resolution for those consumers serviced by both systems.

(2) Develop a general plan for crisis intervention for persons served by both systems. The plan shall include after-hours emergency response systems, interagency notification guidelines, and followup protocols.

(3) Develop a procedure by which each dually diagnosed consumer shall be the subject of a case conference conducted jointly by both regional center staff and county mental health as soon as possible after admission into a county operated or contracted acute, inpatient mental health facility. The case conference shall confirm the diagnosis and the treatment plan.

(4) Develop a procedure by which planning for dually diagnosed consumers admitted to a mental health inpatient facility shall be conducted collaboratively by both the regional center and the local mental health agency and shall commence as soon as possible or as deemed appropriate by the treatment staff. The discharge plan shall include subsequent treatment needs and the agency responsible for those services.

(5) Develop a procedure by which regional center staff and county mental health staff shall collaborate to plan and provide training to community service providers, including day programs, residential facilities, and intermediate care facilities, regarding effective services to persons who are dually diagnosed. This training shall include crisis prevention with a focus on proactively recognizing crisis and intervening effectively with consumers who are dually diagnosed.

(6) Develop a procedure by which the regional center and the county mental health agency shall work toward agreement on a consumer-by-consumer basis on the presenting diagnosis and medical necessity, as defined by regulations of the State Department of Mental Health.

(c) The department and the State Department of Mental Health shall collaborate to provide a statewide perspective and technical assistance to local service regions when local problem resolution mechanisms have been exhausted and state level participation has been requested by both local agencies.

(d) The director of the local regional center and the director of the county mental health agency or their designees shall meet as needed but no less than annually to do all of the following:

(1) Review the effectiveness of the interagency collaboration.

(2) Address any outstanding policy issues between the two agencies.

(3) Establish the direction and priorities for ongoing collaboration efforts between the two agencies.

(e) Copies of each memorandum of understanding shall be forwarded to the State Department of Developmental Services upon completion or whenever amended. The department shall make copies of the memorandum of understanding available to the public upon request.

(f) By May 15 of each year, the department shall provide all of the following information to the Legislature:

(1) The status of the memorandums of understanding developed jointly by each regional center and the county mental health agency and identify any barriers to meeting the outcomes specified in this section.

(2) The availability of mobile crisis intervention services, including generic services, by regional center catchment area, including the names of vendors and rates paid.

(3) A description of each regional center's funded emergency housing options, including the names and types of vendors, the number of beds and rates, including, but not limited to, crisis emergency group homes, crisis beds in a regular group home, crisis foster homes, motel or hotel or psychiatric facility beds, and whether each emergency housing option serves minors or adults and whether it is physically accessible.

(Repealed and added by Stats. 1998, Ch. 1043, Sec. 17. Effective January 1, 1999.)

4697. (a) The Legislature finds and declares all of the following:

(1) The methods of establishing rates of payment for providers of services and supports to persons with developmental disabilities in the community should reflect the actual costs of ensuring high quality and stable services.

(2) State law and regulations should reflect the type and design of community-based services and supports necessary to best meet the needs and choices of individuals with developmental disabilities and their families.

(3) The licensing, vendoring, and monitoring of service and support providers is necessary to ensure the safety and satisfaction of consumers and should be achieved in a manner that is respectful of consumer privacy and choices, responsive to consumers and families, minimizes complexity and duplication, fosters partnership between state agencies and regional centers and provider in the delivery of high-quality services and supports, and respond swiftly to protect the rights and health of consumers.

(4) System stakeholders must work collaboratively and continuously to ensure that the design, funding methodology, and monitoring of the service and support delivery system reflects the values and goals of those served.

(b) It is the intent of the Legislature that the State Department of Developmental Services facilitate joint meetings between system stakeholders, as appropriate, to review the service delivery system and make recommendations for change when desirable. The efforts may include, but are not limited to:

(1) The process by which regional centers vendor providers of services and supports and make recommendations for changes to improve the quality of services and supports and choices of consumers and families in selecting providers.

(2) Ratesetting methodologies and recommendations to maximize cost-effectiveness while emphasizing quality, variety, and flexibility in the delivery of services and supports.

(3) The various monitoring and oversight functions of state and local agencies and recommendations for improving effectiveness and minimizing duplication.

(Added by Stats. 1998, Ch. 1043, Sec. 18. Effective January 1, 1999.)

CHAPTER 7. APPEAL PROCEDURE

(Chapter 7 repealed and added by Stats. 1982, Ch. 506, Sec. 2.)

Article 1. Definitions

(Article 1 added by Stats. 1982, Ch. 506, Sec. 2.)

4700. Unless the context otherwise requires, the definitions set forth in this article govern the construction of this chapter.

(Repealed and added by Stats. 1982, Ch. 506, Sec. 2.)

4701. ''Adequate notice'' means a written notice informing the applicant, recipient, and authorized representative of at least all of the following:

(a) The action that the service agency proposes to take, including a statement of the basic facts upon which the service agency is relying.

(b) The reason or reasons for that action.

(c) The effective date of that action.

(d) The specific law, regulation, or policy supporting the action.

(e) The responsible state agency with whom a state appeal may be filed, including the address of the state agency director.

(f) That if a fair hearing is requested, the claimant has the following rights:

(1) The opportunity to be present in all proceedings and to present written and oral evidence.

(2) The opportunity to confront and cross-examine witnesses.

(3) The right to appear in person with counsel or other representatives of his or her own choosing.

(4) The right to access to records pursuant to Article 5 (commencing with Section 4725).

(5) The right to an interpreter.

(g) Information on availability of advocacy assistance, including referral to the developmental center or regional center clients' rights advocate, area board, publicly funded legal services corporations, and other publicly or privately funded advocacy organizations, including the protection and advocacy system required under federal

Public Law 95-602, the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C.A. Sec. 6000 et seq.).

(h) The fair hearing procedure, including deadlines, access to service agency records under Article 5 (commencing with Section 4725), the opportunity to request an informal meeting to resolve the issue or issues, and the opportunity to request mediation which shall be voluntary for both the claimant and the service agency.

(i) If the claimant has requested an informal meeting, information that it shall be held within 10 days of the date the hearing request form is received by the service agency.

(j) The option of requesting mediation prior to a fair hearing, as provided in Section 4711.5. Nothing in this section shall preclude the claimant or his or her authorized representative from proceeding directly to a fair hearing in the event that mediation is unsuccessful.

(k) The fair hearing shall be completed and a final administrative decision rendered within 90 days of the date the hearing request form is received by the service agency, unless the fair hearing request has been withdrawn or the time period has been extended in accordance with this chapter.

(*l*) Prior to a voluntary informal meeting, voluntary mediation or a fair hearing, the claimant or his or her authorized representative shall have the right to examine any or all documents contained in the individual's service agency file. Access to records shall be provided pursuant to Article 5 (commencing with Section 4725).

(m) An explanation that a request for mediation may constitute a waiver of the rights of a medicaid home and community-based waiver participant to receive a fair hearing decision within 90 days of the date the hearing request form is received by the service agency, as specified in subdivision (c) of Section 4711.5.

(n) That if a request for a fair hearing by a recipient is postmarked or received by a service agency no later than 10 days after receipt of the notice of the proposed action mailed pursuant to subdivision (a) of Section 4710, current services shall continue as provided in Section 4715. The notice shall be in clear, nontechnical language in English. If the claimant or authorized representative does not comprehend English, the notice shall be provided in such other language as the claimant or authorized representative comprehends.

(o) A statement indicating whether the recipient is a participant in the home and community-based services waiver.

(Amended by Stats. 2000, Ch. 416, Sec. 1. Effective January 1, 2001.)

4701.5. ''Applicant'' means a person who has applied for services from a service agency, or on whose behalf services have been applied for.

(Added by Stats. 1982, Ch. 506, Sec. 2.)

4701.6. ''Authorized representative'' means the conservator of an adult, the guardian, conservator, or parent or person having legal custody of a minor claimant, or a person or agency appointed pursuant to subdivision (d) of Section 4548 or subdivision (e) of Section 4705 and authorized in writing by the claimant or by the legal guardian, conservator, or parent or person having legal custody of a minor claimant to act for or represent the claimant under this chapter.

(Amended by Stats. 2006, Ch. 399, Sec. 6. Effective January 1, 2007.)

4702. ‘‘Claimant’’ means an applicant for or recipient of services who has filed for a fair hearing.

(Added by Stats. 1982, Ch. 506, Sec. 2.)

4702.5. ‘‘Days’’ means calendar days unless otherwise noted.

(Added by Stats. 1982, Ch. 506, Sec. 2.)

4702.6. ‘‘Hearing request form’’ means a document that shall include the name, address, and birth date of the claimant, date of request, reason for the request, and name, address, and relationship to the claimant of the authorized representative, if any, and whether the claimant is a participant in the medicaid home and community-based waiver. The hearing request form shall also indicate whether the claimant or his or her authorized representative is requesting mediation. A copy of the appointment of the authorized representative, by the claimant or the area board if any, shall also be included.

(Amended by Stats. 1998, Ch. 310, Sec. 46. Effective August 19, 1998.)

4702.7. For purposes of this section, ‘‘medicaid home and community-based waiver participant’’ means an individual deemed eligible and receiving services through the Medicaid Home and Community-based waiver program.

(Added by Stats. 2000, Ch. 416, Sec. 2. Effective January 1, 2001.)

4703. ‘‘Persons who have the right to request a fair hearing’’ means applicant, recipient, applicant or recipient’s legal guardian or conservator, applicant or recipient’s parent, if a minor, and applicant or recipient’s authorized representative.

(Added by Stats. 1982, Ch. 506, Sec. 2.)

4703.5. ‘‘Recipient’’ means a person with a developmental disability who is eligible for and receives services from a service agency.

(Added by Stats. 1982, Ch. 506, Sec. 2.)

4703.6. ‘‘Responsible state agency’’ means the state agency with which a state appeal is required to be filed.

(Added by Stats. 1982, Ch. 506, Sec. 2.)

4703.7. ‘‘Services’’ means the type and amount of services and service components set forth in the recipient’s individual program plan pursuant to Section 4646.

(Added by Stats. 1982, Ch. 506, Sec. 2.)

4704. ‘‘Service agency’’ means any developmental center or regional center that receives state funds to provide services to persons with developmental disabilities.

(Amended by Stats. 1998, Ch. 310, Sec. 47. Effective August 19, 1998.)

4704.5. For purposes of Sections 4710.9, 4711, 4711.5, 4711.7, 4712, and 4712.5, the director of the responsible state agency includes a designee thereof, which may, but need not, be a public or private agency that contracts with the State Department of Developmental Services for the provision of hearing officers or mediators.

(Amended by Stats. 1998, Ch. 310, Sec. 48. Effective August 19, 1998.)

4704.6. Each regional center and each vendor that contracts with a regional center to provide services to consumers shall conspicuously post on its Internet Web site, if any, a link to the department’s Internet Web site page that provides a description of the

appeals procedure set forth in this chapter and a department telephone number available for answering consumer and applicant appeals procedure questions.

(Added by Stats. 2007, Ch. 512, Sec. 2. Effective January 1, 2008.)

Article 2. General Provisions

(Article 2 added by Stats. 1982, Ch. 506, Sec. 2.)

4705. (a) Every service agency shall, as a condition of continued receipt of state funds, have an agency fair hearing procedure for resolving conflicts between the service agency and recipients of, or applicants for, service. The State Department of Developmental Services shall promulgate regulations to implement this chapter by July 1, 1999, which shall be binding on every service agency.

Any public or private agency receiving state funds for the purpose of serving persons with developmental disabilities not otherwise subject to the provisions of this chapter shall, as a condition of continued receipt of state funds, adopt and periodically review a written internal grievance procedure.

(b) An agency that employs a fair hearing procedure mandated by any other statute shall be considered to have an approved procedure for purposes of this chapter.

(c) The service agency's mediation and fair hearing procedure shall be stated in writing, in English and any other language that may be appropriate to the needs of the consumers of the agency's service. A copy of the procedure and a copy of the provisions of this chapter shall be prominently displayed on the premises of the service agency.

(d) All recipients and applicants, and persons having legal responsibility for recipients or applicants, shall be informed verbally of, and shall be notified in writing in a language which they comprehend of, the service agency's mediation and fair hearing procedure when they apply for service, when they are denied service, when notice of service modification is given pursuant to Section 4710, and upon request.

(e) If, in the opinion of any person, the rights or interests of a claimant who has not personally authorized a representative will not be properly protected or advocated, the local area board and the clients' right advocate assigned to the regional center or developmental center shall be notified, and the area board may appoint a person or agency as representative, pursuant to subdivision (d) of Section 4548, to assist the claimant in the mediation and fair hearing procedure. The appointment shall be in writing to the authorized representative and a copy of the appointment shall be immediately mailed to the service agency director.

(Amended by Stats. 2007, Ch. 512, Sec. 3. Effective January 1, 2008.)

4706. (a) Except as provided in subdivision (b) to the extent permitted by federal law, all issues concerning the rights of persons with developmental disabilities to receive services under this division shall be decided under this chapter, including those issues related to fair hearings, provided under the medicaid home- and community-services waiver granted to the State Department of Health Services.

(b) Whenever a fair hearing under this chapter involves services provided under the medicaid home- and community-based services waiver, the State Department of Health Services shall retain the right, as provided in Section 4712.5, to review and modify any decision reached under this chapter.

(Added by Stats. 1998, Ch. 310, Sec. 50. Effective August 19, 1998.)

4707. By July 1, 1999, the State Department of Developmental Services shall implement a mediation process for resolving conflicts between regional centers and recipients of services specified in this chapter. Regulations implementing the mediation process shall be adopted by July 1, 2000.

(Added by Stats. 1998, Ch. 310, Sec. 51. Effective August 19, 1998.)

Article 3. Fair Hearing Procedure

(Article 3 added by Stats. 1982, Ch. 506, Sec. 2.)

4710. (a) Adequate notice shall be sent to the applicant or recipient and the authorized representative, if any, by certified mail at least 30 days prior to any of the following actions:

(1) The agency makes a decision without the mutual consent of the service recipient or authorized representative to reduce, terminate, or change services set forth in an individual program plan.

(2) A recipient is determined to be no longer eligible for agency services.

(b) Adequate notice shall be sent to the recipient and the authorized representative, if any, by certified mail no more than five working days after the agency makes a decision without the mutual consent of the recipient or authorized representative, if any, to deny the initiation of a service or support requested for inclusion in the individual program plan.

(c) If the reason for denial of services or modification of services in a recipient's individual program plan is a lack of funds in the regional center budget, the regional center shall be the service agency responsible for giving adequate notice and participating in the fair hearing procedure under this chapter.

(d) The regional center shall, within 30 days after written notice is mailed to the applicant or client, notify the department in writing of the denial if a lack of funds in the regional center budget is the reason for one of the following:

(1) The denial of services to an applicant.

(2) The denial of services to a current regional center client requesting services not included in the client's individual program plan but determined to be necessary by the interdisciplinary team.

(3) Denial, cutback, or termination of current services to a recipient set forth in the individual program plan.

The notification to the department shall include the nature of the service requested, a request that the department allocate sufficient funds to the regional center within 30 days to provide the service, the projected cost for the service for the balance of the fiscal year, and information substantiating the reason for the lack of funds to purchase the service.

(e) If a person requests regional center services and is found to be ineligible for these services, the regional center shall give adequate notice pursuant to Section 4701. Notice shall be sent within five working days of the time limits set forth in Sections 4642 and 4643.

(f) The advance notice specified in subdivision (a) shall not be required when a reduction, termination, or change in services is determined to be necessary for the health and safety of the recipient. However, adequate notice shall be given within 10 days after the service agency action.

(Amended by Stats. 2000, Ch. 416, Sec. 4. Effective January 1, 2001.)

4710.5. (a) Any applicant for or recipient of services, or authorized representative of the applicant or recipient, who is dissatisfied with any decision or action of the service agency which he or she believes to be illegal, discriminatory, or not in the recipient's or applicant's best interests, shall, upon filing a request within 30 days after notification of the decision or action complained of, be afforded an opportunity for a fair hearing. The opportunity to request a voluntary informal meeting and an opportunity for mutually agreed upon voluntary mediation shall also be offered at this time.

(b) The request for a fair hearing and for mediation, or for a voluntary informal meeting, or any combination thereof, shall be stated in writing on a hearing request form provided by the service agency.

(c) If any person makes a request for mediation or a fair hearing other than on the hearing forms, the employee of the service agency who hears or receives the request shall provide the person with a hearing request form and shall assist the person in filling out the form if the person requires or requests assistance. Any employee who willfully fails to comply with this requirement shall be guilty of a misdemeanor.

(d) The hearing request form shall be directed to the director of the service agency responsible for the action complained of under subdivision (a). The service agency director shall simultaneously facsimile (FAX) a copy of the hearing request form to the department and the director of the responsible state agency or his or her designee pursuant to Section 4704.5 within five working days of the service agency director's receipt of the request. The department shall keep a file of all hearing request forms.

(Amended by Stats. 2000, Ch. 416, Sec. 5. Effective January 1, 2001.)

4710.6. (a) Upon receipt by the service agency director of the hearing request form requesting a fair hearing, mediation, or a voluntary informal meeting, the service agency director shall immediately provide adequate notice pursuant to Section 4701 to the claimant, the claimant's guardian or conservator, parent of a minor, and authorized representative of the claimant's rights in connection with the fair hearing, mediation, or informal meeting. If an informal meeting is requested by the claimant, the service agency and the claimant shall determine a mutually agreed upon time for the meeting. The service agency shall notify the claimant of the date upon which his or her hearing request form was received by the service agency.

(b) The written notice shall also confirm the mutually agreed upon date, time, and place for a voluntary informal meeting, if desired by the claimant or his or her authorized representative, with the service agency director or the director's designee. The written notice shall also state that the claimant or his or her authorized representative may decline an informal meeting.

(c) The written notification of rights required pursuant to subdivision (a) shall not be required if the service agency includes written notification of those rights with the notice required by Section 4710.

(Amended by Stats. 2000, Ch. 416, Sec. 6. Effective January 1, 2001.)

4710.7. (a) Upon requesting a fair hearing, the claimant has the right to request a voluntary informal meeting with the service agency director or his or her designee. The purpose of the meeting is to attempt to resolve the issue or issues that are the subject of the fair hearing appeal informally prior to the scheduled fair hearing.

(b) If an informal meeting is held, it shall be conducted by the service agency director or his or her designee. The service agency director or his or her designee shall notify the applicant or recipient and his or her authorized representative of the decision of the informal meeting in writing within five working days of the meeting.

(c) The written decision of the service agency director or his or her designee shall:

(1) Identify the issues presented by the appeal.

(2) Rule on each issue identified.

(3) State the facts supporting each ruling.

(4) Identify the laws, regulations, and policies upon which each ruling is based.

(d) Prior to the meeting, the claimant or his or her authorized representative shall have the right to examine any documents contained in the individual's service agency file. Access to records shall be provided pursuant to Article 5 (commencing with Section 4725).

(Amended by Stats. 2000, Ch. 416, Sec. 7. Effective January 1, 2001.)

4710.8. (a) At an informal meeting, the claimant shall have the rights stated pursuant to Section 4701.

(b) An informal meeting shall be held at a time and place reasonably convenient to the claimant and the authorized representative.

(c) An informal meeting shall be conducted in the English language. However, if the claimant, the claimant's guardian or conservator, the parent of a minor claimant, or the authorized representative does not understand English, an interpreter shall be provided who is competent and acceptable to both the person requiring the interpreter and the service agency director or the director's designee. Any cost of an interpreter shall be borne by the service agency.

(Amended by Stats. 2000, Ch. 416, Sec. 8. Effective January 1, 2001.)

4710.9. (a) If the claimant or his or her authorized representative is satisfied with the decision of the service agency following an informal meeting, he or she shall withdraw the request for a hearing on the matter decided. The decision of the service agency shall go into effect 10 days after the receipt of the withdrawal of the request for a fair hearing by the service agency. The service agency shall immediately forward a copy of the withdrawal to the department and to the director of the responsible state agency or his or her designee pursuant to Section 4704.5.

(b) If the claimant or his or her authorized representative has declined an informal meeting or is dissatisfied with the decision of the service agency and does not request mediation, the matter shall proceed to a fair hearing. The service agency shall immediately notify the director of the responsible state agency that the fair hearing request has not been withdrawn. A recommendation for consolidation pursuant to Section 4712.2 to the director of the responsible state agency may be made at this time.

(Repealed and added by Stats. 1998, Ch. 310, Sec. 57. Effective August 19, 1998.)

4711. Upon receipt of the hearing request form, where a fair hearing has been requested but mediation has not, the responsible state agency director shall immediately notify the claimant, the claimant's legal guardian or conservator, the parent of a minor claimant, the claimant's authorized representative, and the service agency director in writing of all the following information applicable to fair hearings. Where the hearing request form contains a request for a fair hearing and mediation, the

notifications shall be made separately, and each notice shall contain only the information applicable to the particular type of proceeding.

(a) The time, place, and date of the fair hearing or mediation, as applicable, if agreed to by the service agency.

(b) The rights of the parties at the fair hearing pursuant to Section 4701 or mediation, as applicable, pursuant to Section 4711.5.

(c) The availability of advocacy assistance pursuant to subdivision (g) of Section 4701 for both mediation and fair hearings.

(d) The name, address, and telephone number of the persons or offices designated by the director of the responsible state agency, as applicable, to conduct fair hearings, mediate disputes, and to receive requests for continuance or consolidation.

(e) The rights and responsibilities of the parties established pursuant to subdivisions (d) to (m), inclusive, of Section 4712.

(Amended by Stats. 2000, Ch. 416, Sec. 9. Effective January 1, 2001.)

4711.5. (a) Upon receipt of the written request for mediation, the service agency shall be given five working days to accept or decline mediation.

(b) If the service agency declines mediation, the notice of that decision shall be sent immediately to the claimant, his or her authorized representative, and the director of the responsible state agency.

(c) (1) If the service agency accepts mediation, the service agency shall immediately send notice of that decision to the claimant, his or her authorized representative, and the director of the responsible state agency.

(2) Within five calendar days after the receipt of the notice of the service agency's decision regarding mediation, the responsible state agency or the designee of the responsible state agency shall notify the claimant, his or her authorized representative, and the service agency of the information applicable to voluntary mediation specified in Section 4711. The mediation shall be held within 30 days of the date the hearing request form is received by the service agency, unless a continuance is granted to the claimant at the discretion of the mediator.

(3) A continuance granted pursuant to paragraph (2) shall constitute a waiver of medicaid home and community-based services of the participant's right to a decision within 90 days of the date the hearing request form is received by the service agency. The extension of time for the final decision resulting from the continuance shall only be as long as the time period of the continuance.

(d) Mediation shall be conducted in an informal, nonadversarial manner, and shall incorporate the rights of the claimant contained in paragraphs (1), (3), (4), and (5) of subdivision (f) of Section 4701.

(e) The State Department of Developmental Services shall contract with the mediators that meet the following requirements:

(1) Familiarity with the provisions of this division and implementing regulations, familiarity with the process of reconciling differences in a nonadversarial, informal manner.

(2) The person is not in the business of providing or supervising services provided to regional centers or to regional center consumers.

(f) During the course of the mediation, the mediator may meet separately with the participants to the mediation, and may speak with any party or parties confidentially in an attempt to assist the parties to reach a resolution that is acceptable to all parties.

(g) The mediator shall voluntarily disqualify himself or herself and withdraw from any case in which he or she cannot be fair and impartial. Any party may request the disqualification of the mediator by filing an affidavit, prior to the voluntary mediation, stating with particularity the grounds upon which it is claimed that a fair and impartial mediation cannot be accorded. The issue shall be decided by the mediator.

(h) Either the service agency or the claimant or his or her authorized representative may withdraw at any time from the mediation and proceed to a fair hearing.

(Amended by Stats. 2000, Ch. 416, Sec. 10. Effective January 1, 2001.)

4711.7. (a) If the issue or issues involved in the mediation are resolved to the satisfaction of both parties, the mediator shall prepare a written resolution. Agreement of the claimant or his or her authorized representative to the final solution shall be accompanied by a withdrawal, in writing, of the fair hearing request. The final resolution shall go into effect 10 days after receipt of the withdrawal of the request for a fair hearing by the service agency. The mediator shall immediately forward a copy of the withdrawal to the director of the responsible state agency.

(b) If the mediation fails to resolve an issue or issues to the satisfaction of the claimant, or his or her authorized representative, the matter shall proceed to fair hearing with respect to the unresolved issue or issues as provided under this chapter, and the mediator shall immediately notify the director of the responsible state agency of the outcome of the mediation.

(Added by Stats. 1998, Ch. 310, Sec. 60. Effective August 19, 1998.)

4712. (a) The fair hearing shall be held within 50 days of the date the hearing request form is received by the service agency, unless a continuance based upon a showing of good cause has been granted to the claimant. The service agency may also request a continuance based upon a showing of good cause, provided that the granting of the continuance does not extend the time period for rendering a final administrative decision beyond the 90-day period provided for in this chapter. For purposes of this section, good cause includes, but is not limited to, the following circumstances:

(1) Death of a spouse, parent, child, brother, sister, grandparent of the claimant or authorized representative, or legal guardian or conservator of the claimant.

(2) Personal illness or injury of the claimant or authorized representative.

(3) Sudden and unexpected emergencies, including, but not limited to, court appearances of the claimant or authorized representative, conflicting schedules of the authorized representative if the conflict is beyond the control of the authorized representative.

(4) Unavailability of a witness or evidence, the absence of which would result in serious prejudice to the claimant.

(5) An intervening request by the claimant or his or her authorized representative for mediation.

(b) Notwithstanding Sections 19130, 19131, and 19132 of the Government Code, the department shall contract for the provision of independent hearing officers. Hearing officers shall have had at least two years of full-time legal training at a California or American Bar Association accredited law school or the equivalent in training and experience as established by regulations to be adopted by the department pursuant to Section 4705. These hearing officers shall receive training in the law and regulations governing services to developmentally disabled individuals and administrative hearings. Training shall include, but not be limited to, the Lanterman

Developmental Disabilities Services Act and regulations adopted thereunder, relevant case law, information about services and supports available to persons with developmental disabilities, including innovative services and supports, the standard agreement contract between the department and regional centers and regional center purchase-of-service policies, and information and training on protecting the rights of consumers at administrative hearings, with emphasis on assisting, where appropriate, those consumers represented by themselves or an advocate inexperienced in administrative hearings in fully developing the administrative record. The State Department of Developmental Services shall seek the advice of the State Council on Developmental Disabilities, the protection and advocacy agency designated by the Governor in this state to fulfill the requirements and assurances of the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000, contained in Chapter 144 (commencing with Section 15001) of Title 42 of the United States Code, the Association of Regional Center Agencies, and other state agencies or organizations and consumers and family members as designated by the department in the development of standardized hearing procedures for hearing officers and training materials and the implementation of training procedures by the department. The department shall provide formal training for hearing officers on at least an annual basis. The training shall be developed and presented by the department, however, the department shall invite those agencies and organizations listed in this subdivision to participate.

(c) The hearing officer shall not be an employee, agent, board member, or contractor of the service agency against whose action the appeal has been filed, or a spouse, parent, child, brother, sister, grandparent, legal guardian, or conservator of the claimant, or any person who has a direct financial interest in the outcome of the fair hearing, or any other interest which would preclude a fair and impartial hearing.

(d) The claimant and the service agency shall exchange a list of potential witnesses, the general subject of the testimony of each witness, and copies of all potential documentary evidence at least five calendar days prior to the hearing. The hearing officer may prohibit testimony of a witness that is not disclosed and may prohibit the introduction of documents that have not been disclosed. However, the hearing officer may allow introduction of the testimony or witness in the interest of justice.

(e) The fair hearing shall be held at a time and place reasonably convenient to the claimant and the authorized representative. The claimant or the authorized representative of the claimant and the regional center shall agree on the location of the fair hearing.

(f) Merits of a pending fair hearing shall not be discussed between the hearing officer and a party outside the presence of the other party.

(g) The hearing officer shall voluntarily disqualify himself or herself and withdraw from any case in which he or she cannot accord a fair and impartial hearing or consideration. Any party may request the disqualification of the hearing officer by filing an affidavit, prior to the taking of evidence at a hearing, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded. The issue shall be decided by the hearing officer.

(h) Both parties to the fair hearing shall have the rights specified in subdivision (f) of Section 4701.

(i) The fair hearing need not be conducted according to the technical rules of evidence and those related to witnesses. Any relevant evidence shall be admitted. Both

parties shall be allowed to submit documents into evidence at the beginning of the hearing. No party shall be required to formally authenticate any document unless the hearing officer determines the necessity to do so in the interest of justice. All testimony shall be under oath or affirmation which the hearing officer is empowered to administer.

(j) A service agency shall present its witnesses and all other evidence before the claimant presents his or her case unless the parties agree otherwise or the hearing officer determines that there exists good cause for a witness to be heard out of order. This section does not alter the burden of proof.

(k) A recording shall be made of the proceedings before the hearing officer. Any cost of recording shall be borne by the responsible state agency.

(*l*) The fair hearing shall be conducted in the English language. However, if the claimant, the claimant's guardian or conservator, parent of a minor claimant, or authorized representative does not understand English, an interpreter shall be provided by the responsible state agency.

(m) The fair hearing shall be open to the public except at the request of the claimant or authorized representative or when personnel matters are being reviewed.

(n) The agency awarded the contract for independent hearing officers shall biennially conduct, or cause to be conducted, an evaluation of the hearing officers who conduct hearings under this part. The department shall approve the methodology used to conduct the evaluation. Information and data for this evaluation shall be solicited from consumers who were claimants in an administrative hearing over the past two years, their family members or authorized representative if involved in the hearing, regional centers, and nonattorney advocates, attorneys who represented either party in an administrative hearing over the past two years, and the organizations identified in subdivision (b). Regional centers shall forward copies of administrative decisions reviewed by the superior court to the department. The areas of evaluation shall include, but not be limited to, the hearing officers' demeanor toward parties and witnesses, conduct of the hearing in accord with fairness and standards of due process, ability to fairly develop the record in cases where consumers represent themselves or are represented by an advocate that does not have significant experience in administrative hearings, use of legal authority, clarity of written decisions, and adherence to the requirements of subdivision (b) of Section 4712.5. The department shall be provided with a copy of the evaluation and shall use the evaluation in partial fulfillment of its evaluation of the contract for the provision of independent hearing officers. A summary of the data collected shall be made available to the public upon request, provided that the names of individual hearing officers and consumers shall not be disclosed.

(Amended by Stats. 2002, Ch. 676, Sec. 37. Effective January 1, 2003.)

4712.2. (a) Two or more claimants with a common complaint, or their authorized representatives, or a service agency may request the consolidation of appeals involving a common question of law or fact. The hearing officer may grant the request for consolidation if the hearing officer finds that consolidation would not result in prejudice or undue inconvenience to any party, undue delay, or a violation of any claimant's right to confidentiality unless the claimant agrees to have otherwise confidential information revealed to other claimants. Requests for consolidation shall be forwarded to the hearing officer, and postmarked within five working days of the receipt of the notice sent pursuant to Section 4711. The hearing officer shall notify the

parties and authorized representatives, if any, of a request for consolidation and shall afford an opportunity for any written objections to be submitted.

(b) In all consolidated hearings, each individual claimant shall have all the rights specified in subdivision (f) of Section 4701. A separate written decision shall be issued to each claimant and respective authorized representatives.

(Amended by Stats. 2000, Ch. 416, Sec. 12. Effective January 1, 2001.)

4712.5. (a) Except as provided in subdivision (c), within 10 working days of the concluding day of the state hearing, but not later than 80 days following the date the hearing request form was received, the hearing officer shall render a written decision and shall transmit the decision to each party and to the director of the responsible state agency, along with notification that this is the final administrative decision, that each party shall be bound thereby, and that either party may appeal the decision to a court of competent jurisdiction within 90 days of the receiving notice of the final decision.

(b) The hearing officer's decision shall be in ordinary and concise language and shall contain a summary of the facts, a statement of the evidence from the proceedings that was relied upon, a decision on each of the issues presented, and an identification of the statutes, regulations, and policies supporting the decision.

(c) Where the decision involves an issue arising from the federal home- and community-based service waiver program, the hearing officer's decision shall be a proposed decision submitted to the Director of Health Services as the single state agency for the medicaid program. Within 90 days following the date the hearing request form is postmarked or received, whichever is earlier, the director may adopt the decision as written or decide the matter on the record. If the Director of Health Services does not act on the proposed decision within 90 days, the decision shall be deemed to be adopted by the Director of Health Services. The final decision shall be immediately transmitted to each party, along with the notice described in subdivision (a). If the decision of the Director of Health Services differs from the proposed decision of the hearing officer, a copy of that proposed decision shall also be served upon each party.

(d) The department shall collect and maintain, or cause to be collected and maintained, redacted copies of all administrative hearing decisions issued under this division. Hearing decisions shall be categorized by the type of service or support that was the subject of the hearing and by the year of issuance. The department shall make copies of the decisions available to the public upon request at a cost per page not greater than that which it charges for document requests submitted pursuant to Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code. The department shall use this information in partial fulfillment of its obligation to monitor regional centers and in its evaluation of the contract for the provision of independent hearing officers.

(Amended by Stats. 2000, Ch. 416, Sec. 13. Effective January 1, 2001.)

4712.7. In addition to any other delegation of authority granted to the Director of Health Services, the director may delegate his or her authority to adopt final decisions under this chapter to hearing officers described in subdivision (b) of Section 4712 to the extent deemed appropriate by the director. The delegation shall be in writing.

(Added by Stats. 1998, Ch. 310, Sec. 63. Effective August 19, 1998.)

4713. (a) If the hearing officer's decision is unfavorable to the claimant, and the claimant has been receiving the services which have been the subject of the appeal, the

hearing officer's decision shall not be implemented until 10 days after receipt of certified mailing to the claimant and the authorized representative.

(b) If the claimant, the claimant's guardian or conservator, parent of a minor claimant, or authorized representative cannot understand English, the written decision shall be provided by the responsible state agency to that person in English and in such language which such person comprehends.

(Added by Stats. 1983, 1st Ex. Sess., Ch. 16, Sec. 20. Effective May 12, 1983. Operative October 1, 1983, by Sec. 28 of Ch. 16.)

4714. (a) Commencing July 1, 1999, for each appeal request submitted pursuant to Section 4710.5, regional centers and developmental centers shall submit information to the department including, but not limited to, all of the following:

(1) Whether the case was resolved through an informal meeting or mediation.

(2) Whether an informal meeting or mediation was declined, and if so, by which party.

(3) The issue or issues involved in the case.

(4) The outcome of the case if a fair hearing was held.

(b) The information collected pursuant to this section shall be compiled by the department and made available to the public upon request.

(Added by Stats. 1998, Ch. 859, Sec. 4. Effective January 1, 1999.)

Article 4. Services Pending Final Administrative Decision

(Article 4 added by Stats. 1982, Ch. 506, Sec. 2.)

4715. (a) Except as otherwise provided in this section, if a request for a hearing is postmarked or received by the service agency no later than 10 days after receipt of the notice of the proposed action mailed pursuant to subdivision (a) of Section 4710, services that are being provided pursuant to a recipient's individual program plan shall be continued during the appeal procedure up to and including the 10th day after receipt of any of the following:

(1) Receipt by the service agency, following an informal meeting, of the withdrawal of the fair hearing request pursuant to Section 4710.9.

(2) Receipt by the service agency, following mediation, of the withdrawal of the fair hearing request pursuant to subdivision (a) of Section 4711.4.

(3) Receipt by the recipient of the final decision of the hearing officer or single stage agency pursuant to subdivisions (a) and (c) of Section 4712.5.

(b) Services continued pursuant to subdivision (a) may be modified by agreement of the parties in accordance with the decision of the interdisciplinary team and the individual program plan.

(c) Any appeal to a court by either party shall not operate as a stay of enforcement of the final administrative decision, provided that either party may seek a stay of enforcement from any court of competent jurisdiction.

(Amended by Stats. 1998, Ch. 310, Sec. 64. Effective August 19, 1998.)

4716. Nothing in this chapter shall presume the incompetence of any person with a developmental disability to participate in any of the appeals procedures established herein.

(Repealed and added by Stats. 1982, Ch. 506, Sec. 2.)

Article 5. Access to Records

(Article 5 added by Stats. 1982, Ch. 506, Sec. 2.)

4725. For the purposes of this article:

(a) ''Access'' means the right to inspect, review, and obtain an accurate copy of any record obtained in the course of providing services under this division. A service agency may make a reasonable charge in an amount not to exceed the actual cost of reproducing the record, unless the imposition of the cost would prohibit the exercise of the right to obtain a copy. No charge may be made to search for or retrieve any record.

(b) ''Record'' means any item of information directly relating to a person with developmental disabilities or to one who is believed to have a developmental disability which is maintained by a service agency, whether recorded by handwriting, print, tapes, film, microfilm, or other means.

(Repealed and added by Stats. 1982, Ch. 506, Sec. 2.)

4726. Notwithstanding the provisions of Section 5328, access to records shall be provided to an applicant for, or recipient of, services or to his or her authorized representative for purposes of the appeal procedure under this chapter.

(Added by Stats. 1982, Ch. 506, Sec. 2.)

4727. Nothing in this chapter shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him or her in confidence by members of a recipient's or applicant's family.

(Added by Stats. 1982, Ch. 506, Sec. 2.)

4728. Each service agency shall adopt procedures for granting of requests by persons authorized under Section 4726 for access to records during regular business hours, provided that access shall be granted no later than three business days following the date of receipt of the oral or written request for access. Procedures shall include notice of the location of all records and the provision of qualified personnel to interpret records if requested.

(Amended by Stats. 1983, 1st Ex. Sess., Ch. 16, Sec. 23. Effective May 12, 1983. Operative October 1, 1983, by Sec. 28 of Ch. 16.)

4729. Whenever access to service agency records is requested, the service agency shall provide at least the following information:

(a) The types of records maintained by the service agency.

(b) The position of the official responsible for the maintenance of records.

(c) The right of access to the records, and the policies of the service agency for obtaining access, including the cost, if any, consistent with subdivision (a) of Section 4725, to be charged for reproducing copies of records.

(Added by Stats. 1982, Ch. 506, Sec. 2.)

4730. Any person who willfully and knowingly violates the provisions of this article is guilty of a misdemeanor.

(Added by Stats. 1982, Ch. 506, Sec. 2.)

4731. (a) Each consumer or any representative acting on behalf of any consumer or consumers, who believes that any right to which a consumer is entitled has been abused, punitively withheld, or improperly or unreasonably denied by a regional

center, developmental center, or service provider, may pursue a complaint as provided in this section.

(b) Initial referral of any complaint taken pursuant to this section shall be to the director of the regional center from which the consumer receives case management services. If the consumer resides in a state developmental center, the complaint shall be made to the director of that state developmental center. The director shall, within 20 working days of receiving a complaint, investigate the complaint and send a written proposed resolution to the complainant and, if applicable, to the service provider. The written proposed resolution shall include a telephone number and mailing address for referring the proposed resolution in accordance with subdivision (c).

(c) If the complainant is not satisfied with the proposed resolution, the complainant may refer the complaint, in writing, to the Director of Developmental Services within 15 working days of receipt of the proposed resolution. The director shall, within 45 days of receiving a complaint, issue a written administrative decision and send a copy of the decision to the complainant, the director of the regional center or state developmental center, and the service provider, if applicable. If there is no referral to the department, the proposed resolution shall become effective on the 20th working day following receipt by the complainant.

(d) The department shall annually compile the number of complaints filed, by each regional center and state developmental center catchment area, the subject matter of each complaint, and a summary of each decision. Copies shall be made available to any person upon request.

(e) This section shall not be used to resolve disputes concerning the nature, scope, or amount of services and supports that should be included in an individual program plan, for which there is an appeal procedure established in this division, or disputes regarding rates or audit appeals for which there is an appeal procedure established in regulations. Those disputes shall be resolved through the appeals procedure established by this division or in regulations.

(f) All consumers or, where appropriate, their parents, legal guardian, conservator, or authorized representative, shall be notified in writing in a language which they comprehend, of the right to file a complaint pursuant to this section when they apply for services from a regional center or are admitted to a developmental center, and at each regularly scheduled planning meeting.

(Amended by Stats. 2001, Ch. 171, Sec. 28. Effective August 10, 2001.)

CHAPTER 7.5. RESIDENTIAL CARE FACILITY APPEALS PROCEDURES

(Chapter 7.5 repealed and added by Stats. 1981, Ch. 714, Sec. 470.)

4740. The Legislature finds the following:

(a) The quality of care provided to persons with developmental disabilities by residential facilities is contingent upon a closely coordinated ‘‘team’’ effort by the regional center or its designee, the person with developmental disabilities, the parent or representative if appropriate, the residential facility administrator, and the licensing agency. The rights and responsibilities of each must be identified in order to assure clear direction and accountability for each.

(b) The quality of care is impaired when inordinate numbers of staff from placement and licensing agencies give direction to the facility administrator regarding care and service requirements.

(Amended by Stats. 1998, Ch. 1043, Sec. 23. Effective January 1, 1999.)

4741. An adult person with a developmental disability has the legal right to determine where his or her residence will be. Except in a situation which presents immediate danger to the health and well-being of the individual, the regional center or its designee shall not remove a consumer from a residential care facility against the client's wishes unless there has been specific court action to abridge such right with respect to an adult or unless the parent, guardian or conservator consents with respect to a child.

(Amended by Stats. 1998, Ch. 1043, Sec. 24. Effective January 1, 1999.)

4742. The regional center or its designated representative shall (a) guide and counsel facility staff regarding the care and services and supports required by each consumer served by the regional center; and (b) monitor the care and services and supports provided the individual to ensure that care and services and supports are provided in accordance with the individual program plan.

(Amended by Stats. 1998, Ch. 1043, Sec. 25. Effective January 1, 1999.)

4742.1. (a) A statement made by a regional center representative when discharging his or her obligation to monitor the provision of services and supports pursuant to this division shall be a privileged communication, subject to subdivision (b).

(b) A statement shall not be privileged pursuant to subdivision (a) if a party to a judicial action demonstrates that the regional center representative made the disputed statement with knowledge of its falsity or with reckless disregard for the truth.

(Added by Stats. 1998, Ch. 1043, Sec. 26. Effective January 1, 1999.)

4743. It is the intent of the Legislature that to the greatest extent possible, the staff of the regional center or its designee are assigned so as to minimize the number of persons responsible for programs provided in a given facility.

The regional center or its designee shall designate the staff person responsible for assuring that each individual consumer's program plan is carried out. One person shall be assigned by the regional center as the principal liaison to a facility and to monitor the provision of care and the services provided by that facility in accordance with the individual program plans. If, due to the number of regional center consumers in the facility, additional staff of a regional center or its designee serve consumers in the facility, one person shall be assigned as having primary responsibility for, and assure consistency and continuity of, directions to the administrator and for the monitoring of care and services.

(Amended by Stats. 1998, Ch. 1043, Sec. 27. Effective January 1, 1999.)

4744. The regional center or its designee shall provide to the residential facility administrator all information in its possession concerning any history of dangerous propensity of the consumer prior to the placement in that facility. However, no confidential consumer information shall be released pursuant to this section without the consent of the consumer or authorized representative.

(Amended by Stats. 1998, Ch. 1043, Sec. 28. Effective January 1, 1999.)

4745. During each visit to the facility, the designated staff person shall inform the administrator orally of any substantial inadequacies in the care and services provided, the specific corrective action necessary and the date by which corrective action must be completed. The designated staff person shall confirm this information in writing to the administrator within 48 hours after the oral notice and inform the administrator in writing of the right to appeal the findings.

(Amended by Stats. 1998, Ch. 1043, Sec. 29. Effective January 1, 1999.)

4746. The severity of the deficiencies and the quality of care provided shall determine how long the regional center or its designee will work with the facility administrator to resolve inadequacies. After a reasonable period of time, if the care continues to be unacceptable, the designated staff person shall submit to his or her supervisor and to the licensing agency and administrator a recommended disposition with supporting documents attached. The placement agency shall develop sufficient documentation of inadequacies and care provided to sustain corrective action.

(Repealed and added by Stats. 1981, Ch. 714, Sec. 470.)

4747. If a consumer or, when appropriate, the parent, guardian, or conservator or authorized representative, including those appointed pursuant to subdivision (d) of Section 4548 or subdivision (e) of Section 4705, requests a relocation, the regional center shall schedule an individual program plan meeting, as soon as possible to assist in locating and moving to another residence.

(Amended by Stats. 2006, Ch. 399, Sec. 8. Effective January 1, 2007.)

4748. Within nine months of the effective date of this section, the State Department of Developmental Services shall develop and implement regulations for use by the regional center or its designee to assure uniformity of the care and services to be provided to persons registered with the regional centers who reside in residential facilities.

(Repealed and added by Stats. 1981, Ch. 714, Sec. 470.)

CHAPTER 8. EVALUATION

(Chapter 8 added by Stats. 1977, Ch. 1252.)

4750. The Legislature intends that expenditures on state programs for persons with developmental disabilities shall have measurable and desirable results. The results shall reflect the degree to which persons with developmental disabilities are empowered to make choices and are leading more independent, productive, and normal lives.

(Amended by Stats. 1992, Ch. 1011, Sec. 26. Effective January 1, 1993.)

4750.5. In order to gather data that is relevant to ensuring the safety and well-being of persons with developmental disabilities, the department shall ensure that the client master file entry for any person with developmental disabilities placed by a regional center will be updated within 30 days after the change of residence.

(Added by Stats. 1996, Ch. 434, Sec. 3. Effective January 1, 1997.)

4752. The department shall prepare by July 1, 1978, a plan for using the method to obtain and report statewide information on program effectiveness.

The plan shall include:

(a) A description of any sampling procedures to be used.

(b) Methods for obtaining and analyzing information about the type and amount of service provided to obtain program results.

(c) Methods for determining the state expenditures associated with varying levels of measured program effectiveness.

(d) Specification of procedures and format for future reports to the Legislature on program costs and effectiveness.

(e) The projected costs of implementation.

(Added by Stats. 1977, Ch. 1252.)

4753. By January 1, 1979, the department shall implement the evaluation system for all programs under its jurisdiction.

(Added by Stats. 1977, Ch. 1252.)

4754. Nothing in this chapter shall be construed to prohibit any agency providing services to persons with developmental disabilities from utilizing additional evaluation mechanisms for the agency's own program purposes.

(Added by Stats. 1977, Ch. 1252.)

CHAPTER 9. BUDGETARY PROCESS AND FINANCIAL PROVISIONS

(Chapter 9 added by Stats. 1977, Ch. 1252.)

4775. The Legislature finds that the method of appropriating funds for numerous programs for the developmentally disabled affects the availability and distribution of services and must be related to statewide planning. Therefore, the process for determining levels of funding of programs must involve consideration of the state plan established pursuant to Chapter 3 (commencing with Section 4560) of this division and the participation of citizens who may be directly affected by funding decisions.

(Added by Stats. 1977, Ch. 1252.)

4776. On or before August 1 of each year, each regional center shall submit to the department and the state council a program budget plan for the subsequent budget year. The budget plan shall include all of the following:

(a) An estimate of all developmentally disabled persons to be served by the regional center.

(b) An estimate of services to be provided by the regional center.

(c) An estimate of cost, by type of service.

(d) Estimated sources and amounts of all revenue, including funds which are not administered by regional centers.

(e) A detailed report of the resources required to implement Section 4509.

(Amended by Stats. 1979, Ch. 1140.)

4776.5. (a) Regional centers shall not be subject to any provision of law, regulation, or policy required of state agencies pertaining to the planning and acquisition of information technology, including personal computers, local area networks, information technology consultation, and software.

(b) The State Department of Developmental Services and the Association of Regional Center Agencies shall jointly develop guidelines for use by regional centers in the expenditure of funds for those information system activities, including

consultation and software development, involving interface with the data bases of the State Department of Developmental Services, including the Uniform Fiscal System.

(Added by Stats. 1996, Ch. 197, Sec. 17. Effective July 22, 1996.)

4777. On or before September 1 of each year, the Superintendent of Public Instruction shall submit to the state council:

(a) An estimate of all developmentally disabled persons to be served throughout the state.

(b) Estimated total cost, by service or educational category.

(c) Estimated sources of revenue.

(Added by Stats. 1977, Ch. 1252.)

4778. To the extent feasible, all funds appropriated for developmental disabilities programs under this part shall be allocated to those programs by August 1 of each year.

(Amended by Stats. 1992, Ch. 713, Sec. 38. Effective September 15, 1992.)

4780. When appropriated by the Legislature, the department may receive and expend all funds made available by the federal government, the state, its political subdivisions, and other sources, and, within the limitation of the funds made available, shall act as an agent for the transmittal of the funds for services through the regional centers. The department may use any funds received under Article 5 (commencing with Section 123800) of Chapter 3 of Part 2 of Division 106 of the Health and Safety Code for the purposes of this division.

(Amended by Stats. 1996, Ch. 1023, Sec. 463. Effective September 29, 1996.)

4780.5. The State Department of Developmental Services is responsible for the processing, audit, and payment of funds made available to regional centers under this division. The department shall establish procedures for hearing objections to audit findings and exceptions by regional centers.

(Added by Stats. 1979, Ch. 1142.)

4781. The department may accept and expend grants, gifts, and legacies of money and, with the consent of the Department of Finance, may accept, manage, and expend grants, gifts and legacies of other property, in furtherance of the purposes of this division.

The secretary may enter into agreements with any person, agency, corporation, foundation, or other legal entity to carry out the purposes of this division.

(Added by Stats. 1977, Ch. 1252.)

4781.5. (a) For the 2006–07 fiscal year only, a regional center may not expend any purchase of service funds for the startup of any new program unless one of the following criteria is met:

(1) The expenditure is necessary to protect the consumer's health or safety or because of other extraordinary circumstances.

(2) The program to be developed promotes and provides integrated supported work options for individuals or groups of no more than three consumers.

(3) The program to be developed promotes and provides integrated social, civic, volunteer, or recreational activities.

(b) Notwithstanding subdivision (a), a regional center may approve grants for the 2006–07 fiscal year only to current providers to engage in new or expanded

employment activities that result in greater integration, conversion from sheltered to supported work environments, self-employment, and increased consumer participation in the federal Ticket to Work program.

(c) Startup contracts for programs funded under this section shall be outcome-based.

(d) The department shall develop criteria by which regional centers shall approve grants, and shall provide prior written authorization for the expenditures under this section.

(e) This section shall not apply to any of the following:

(1) The purchase of services funds allocated as part of the department's community placement plan process.

(2) Expenditures for the startup of new programs made pursuant to a contract entered into before July 1, 2002.

(Amended by Stats. 2007, Ch. 188, Sec. 29. Effective August 24, 2007.)

4781.6. (a) A regional center shall not expend any purchase of service funds for the startup of any new program unless the expenditure is necessary to protect the consumer's health or safety or because of extraordinary circumstances, and the department has granted prior written authorization for the expenditures.

(b) This section does not apply to the purchase of services funds allocated as part of the department's community placement plan process.

(Amended by Stats. 2008, 3rd Ex. Sess., Ch. 3, Sec. 11. Effective February 16, 2008.)

4782. Parents of children under the age of 18 years who are receiving 24-hour out-of-home care services through a regional center or who are residents of a state hospital or on leave from the state hospital shall be required to pay a fee depending upon their ability to pay, but not to exceed (1) the cost of caring for a normal child at home, as determined by the Director of Developmental Services, or (2) the cost of services provided, whichever is less. The State Department of Developmental Services shall determine, assess, and collect all parental fees in the manner as provided in Section 7513.2. The method of determination of the amount of the fee shall be the same, whether the child is placed in the state hospital or in a public or private community facility. In no event, however, shall parents be charged for diagnosis or counseling services received through the regional centers.

(Amended by Stats. 1984, Ch. 268, Sec. 36.6. Effective June 30, 1984.)

4783. (a) (1) The Family Cost Participation Program is hereby created in the State Department of Developmental Services for the purpose of assessing a cost participation to parents, as defined in Section 50215 of Title 17 of the California Code of Regulations, who have a child to whom all of the following applies:

(A) The child has a developmental disability or is eligible for services under the California Early Intervention Services Act.

(B) The child is zero years of age through 17 years of age.

(C) The child lives in the parents' home.

(D) The child receives services and supports purchased through the regional center.

(E) The child is not eligible for Medi-Cal.

(2) Notwithstanding any other provision of law, a parent described in subdivision (a) shall participate in the Family Cost Participation Program established pursuant to this section.

(3) Application of this section to children zero through two years of age, inclusive, shall be contingent upon approval by the United States Department of Education.

(b) (1) The department shall develop and establish a Family Cost Participation Schedule that shall be used by regional centers to assess the parents' cost participation. The schedule shall consist of a sliding scale for families with an annual gross income not less than 400 percent of the federal poverty guideline, and be adjusted for the level of annual gross income and the number of persons living in the family home.

(2) The schedule established pursuant to this section shall be exempt from the rulemaking provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) Family cost participation assessments shall only be applied to respite, day care, and camping services that are included in the child's individual program plan or individualized family service plan for children zero through two years of age.

(d) If there is more than one minor child living in the parents' home and receiving services or supports paid for by the regional center, or living in a 24-hour out-of-home facility, including a developmental center, the assessed amount shall be adjusted as follows:

(1) A parent that meets the criteria specified in subdivision (b) with two children shall be assessed at 75 percent of the respite, day care, and camping services in each child's individual program plan or individualized family service plan for each child living at home.

(2) A parent that meets the criteria specified in subdivision (b) with three children shall be assessed at 50 percent of the respite, day care, and camping services included in each child's individual program plan or individualized family service plan for each child living at home.

(3) A parent that meets the criteria specified in subdivision (b) with four children shall be assessed 25 percent of the respite, day care, and camping services included in each child's individual program plan or individualized family service plan for each child living at home.

(4) A parent that meets the criteria specified in subdivision (b) with more than four children shall be exempt from participation in the Family Cost Participation Program.

(e) For each child, the amount of cost participation shall be less than the amount of the parental fee that the parent would pay if the child lived in a 24-hour, out-of-home facility.

(f) Commencing January 1, 2005, each regional center shall be responsible for administering the Family Cost Participation Program.

(g) Family cost participation assessments or reassessments shall be conducted as follows:

(1) (A) A regional center shall assess the cost participation for all parents of current consumers who meet the criteria specified in this section. A regional center shall use the most recent individual program plan or individualized family service plan for this purpose.

(B) A regional center shall assess the cost participation for parents of newly identified consumers at the time of the initial individual program plan or the individualized family service plan.

(C) Reassessments for cost participation shall be conducted as part of the individual program plan or individual family service plan review pursuant to subdivision (b) of Section 4646 or subdivision (f) of Section 95020 of the Government Code.

(D) The parents are responsible for notifying the regional center when a change in family income occurs that would result in a change in the assessed amount of cost participation.

(2) Parents shall self-certify their gross annual income to the regional center by providing copies of W-2 Wage Earners Statements, payroll stubs, a copy of the prior year's state income tax return, or other documents and proof of other income.

(3) A regional center shall notify parents of the parents' assessed cost participation within 10 working days of receipt of the parents' complete income documentation.

(4) Parents who have not provided copies of income documentation pursuant to paragraph (2) shall be assessed the maximum cost participation based on the highest income level adjusted for family size until such time as the appropriate income documentation is provided. Parents who subsequently provide income documentation that results in a reduction in their cost participation shall be reimbursed for the actual cost difference incurred for services identified in the individual program plan or individualized family service plan for respite, day care, and camping services, for 90 calendar days preceding the reassessment. The actual cost difference is the difference between the maximum cost participation originally assessed and the reassessed amount using the parents' complete income documentation, that is substantiated with receipts showing that the services have been purchased by the parents.

(5) The executive director of the regional center may grant a cost participation adjustment for parents who incur an unavoidable and uninsured catastrophic loss with direct economic impact on the family or who substantiate, with receipts, significant unreimbursed medical costs associated with care for a child who is a regional center consumer. A redetermination of the cost participation adjustment shall be made at least annually.

(h) A provider of respite, day care, or camping services shall not charge a rate for the parents' share of cost that is higher than the rate paid by the regional center for its share of cost.

(i) The department shall develop, and regional centers shall use, all forms and documents necessary to administer the program established pursuant to this section. The forms and documents shall be posted on the department's Web site. A regional center shall provide appropriate materials to parents at the initial individual program plan or individualized family service plan meeting and subsequent individual program plan or individualized family service plan review meetings. These materials shall include a description of the Family Cost Participation Program.

(j) The department shall include an audit of the Family Cost Participation Program during its audit of a regional center.

(k) (1) Parents of children ages three through 17 years of age may appeal an error in the amount of the parents' cost participation to the executive director of the regional center within 30 days of notification of the amount of the assessed cost participation. The parents may appeal to the Director of Developmental Services, or his or her designee, any decision by the executive director made pursuant to this subdivision within 15 days of receipt of the written decision of the executive director.

(2) Parents of children ages three through 17 years of age who dispute the decision of the executive director pursuant to paragraph (5) of subdivision (g) shall have a right to a fair hearing as described in, and the regional center shall provide notice pursuant to, Chapter 7 (commencing with Section 4700). This paragraph shall become inoperative on July 1, 2006.

(3) On and after July 1, 2006, a parent described in paragraph (2) shall have the right to appeal the decision of the executive director to the Director of Developmental Services, or his or her designee, within 15 days of receipt of the written decision of the executive director.

(l) For parents of children ages zero through two years of age, inclusive, the complaint, mediation, and due process procedures set forth in Sections 52170 to 52174, inclusive, of Title 17 of the California Code of Regulations shall be used to resolve disputes regarding this section.

(m) The department may adopt emergency regulations to implement this section. The adoption, amendment, repeal, or readoption of a regulation authorized by this section is deemed to be necessary for the immediate preservation of the public peace, health and safety, or general welfare, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the department is hereby exempted from the requirement that it describe specific facts showing the need for immediate action. A certificate of compliance for these implementing regulations shall be filed within 24 months following the adoption of the first emergency regulations filed pursuant to this subdivision.

(n) By April 1, 2005, and annually thereafter, the department shall report to the appropriate fiscal and policy committees of the Legislature on the status of the implementation of the Family Cost Participation Program established under this section. On and after April 1, 2006, the report shall contain all of the following:

(1) The annual total purchase of services savings attributable to the program per regional center.

(2) The annual costs to the department and each regional center to administer the program.

(3) The number of families assessed a cost participation per regional center.

(4) The number of cost participation adjustments granted pursuant to paragraph (5) of subdivision (g) per regional center.

(5) The number of appeals filed pursuant to subdivision (k) and the number of those appeals granted, modified, or denied.

(Amended by Stats. 2008, Ch. 758, Sec. 22. Effective September 30, 2008.)

4784. (a) The Director of Developmental Services shall establish, annually review, and adjust as needed, a schedule of parental fees for services received through the regional centers. This schedule shall be revised to reflect changes in economic conditions that affect parents' ability to pay the fee, but not to exceed an inflationary factor as determined by the department.

(b) The parental fee schedule established pursuant to this section shall be exempt from Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) In establishing the amount parents shall pay, the director shall take into account all of the following factors:

(1) Medical expenses incurred prior to regional center care.

(2) Whether the child is living at home.

(3) Parental payments for medical expenses, clothing, incidentals, and other items considered necessary to the normal rearing of a child.

(4) Transportation expenses incurred in visiting a child.

(d) All parental payments shall be deposited in the Program Development Fund established in Chapter 6 (commencing with Section 4670) to provide resources needed to initiate new programs, consistent with approved priorities for program development in the state plan.

(Amended by Stats. 1985, Ch. 582, Sec. 4.)

4786. The director shall develop, establish, and maintain an equitable system of rates of state payment for care and services purchased by the department from community care facilities. Such rate system shall be flexible and reflect the differing costs associated with the differing types and levels of care and services provided.

(Added by Stats. 1980, Ch. 1285, Sec. 17.)

4787. (a) The department shall, in developing the annual budget for regional center-funded services and supports for residents of developmental centers who are projected to move into the community in the budget year, estimate the costs of these services and supports. Budgeted funding shall be allocated to each regional center based on each regional center's share of the projected placements to be made within the budget year.

(b) When a resident of a developmental center moves into a community placement outside of their regional catchment area, the department shall transfer from the regional center an appropriate amount of the funding allocated for that consumer to the regional center that will provide services.

(c) A regional center able to exceed its projected placements within the fiscal year shall be allocated additional funding for that purpose in that fiscal year, if sufficient funding is available, and to the extent that additional funding is necessary to make those placements.

(d) If the department determines that a regional center will not make all of the projected placements during the fiscal year for which it has received funding, those funds shall be made available to regional centers who have exceeded their projected placements, to the extent that additional funding is necessary to make those placements.

(e) With the approval of the Department of Finance, savings that result from population reductions in the developmental centers may be transferred to regional centers for the purpose of providing services and supports to residents of developmental centers who have moved into a community placement pursuant to their individual program plan.

(f) This section shall not expand or limit the entitlement to services for a person with developmental disabilities set forth in this division.

(Added by Stats. 1995, Ch. 513, Sec. 4. Effective January 1, 1996.)

4790. (a) It is the intent of the Legislature to provide an incentive for regional centers to select out-of-home placements that are most appropriate for each person with a developmental disability requiring out-of-home care and to provide a disincentive for inappropriate placement in or delayed discharge from state hospitals.

(b) By March 1, 1982, the Health and Welfare Agency shall submit to the Legislature a detailed implementation plan for a pilot project involving four regional centers. These regional centers shall receive allocations of funds equivalent to the cost of state hospital care for the clients of the individual regional center from which they shall purchase services from state hospitals or other providers.

(c) Funds so allocated shall cover costs of care of all clients of the pilot project regional centers in state hospitals and, in addition, shall be used to pay costs of (1) community care, including but not limited to, out-of-home care for clients currently residing in state hospitals who have been deemed more appropriately served in the community, and (2) out-of-home costs for persons placed after receipt of the allocation.

(d) Regional centers shall be selected on the basis of their willingness to participate in the project, their demonstrated ability to provide necessary community care resources, and their relative standing in the provision of high quality programmatic and administrative services in accordance with the systems evaluation package review of regional centers by the State Department of Developmental Services. In order to ensure the most efficient use of these provisions, one of the four selected regional centers shall have the highest ratio of nonstate hospital out-of-home residential placements in its total active caseload.

(Added by Stats. 1981, Ch. 821, Sec. 1.)

CHAPTER 10. JUDICIAL REVIEW

(Chapter 10 added by Stats. 1977, Ch. 1252.)

4800. (a) Every adult who is or has been admitted or committed to a state hospital, developmental center, community care facility, as defined in Section 1502 of the Health and Safety Code, health facility, as defined in Section 1250 of the Health and Safety Code, or any other appropriate placement permitted by law, as a developmentally disabled patient shall have a right to a hearing by writ of habeas corpus for his or her release from the hospital, developmental center, community care facility, or health facility after he or she or any person acting on his or her behalf makes a request for release to any member of the staff of the state hospital, developmental center, community care facility, or health facility or to any employee of a regional center.

(b) The member of the staff or regional center employee to whom a request for release is made shall promptly provide the person making the request for his or her signature or mark a copy of the form set forth below. The member of the staff, or regional center employee, as the case may be, shall fill in his or her own name and the date, and, if the person signs by mark, shall fill in the person's name, and shall then deliver the completed copy to the medical director of the state hospital or developmental center, the administrator or director of the community care facility, or the administrator or director of the health facility, as the case may be, or his or her designee, notifying him or her of the request. As soon as possible, the person notified shall inform the superior court for the appropriate county, as indicated in Section 4801, of the request for release and shall transmit a copy of the request for release to the person's parent or conservator together with a statement that notice of judicial proceedings taken pursuant to that request will be forwarded by the court. The copy of the request for release and the notice shall be sent by the person notified by registered or certified mail with proper postage prepaid, addressed to the addressee's last known address, and with a return receipt requested. The person notified shall also transmit a copy of the request for release and the name and address of the person's parent or conservator to the court.

(c) Any person who intentionally violates this section is guilty of a misdemeanor.

(d) The form for a request for release shall be substantially as follows:

(Name of the state hospital, developmental center, community care facility, or health facility or regional center) _____ day of _____ 19____

I, _____ (member of the staff of the state hospital, developmental center, community care facility, or health facility or employee of the regional center), have today received a request for the release from _____ (name of state hospital, developmental center, or community care facility) State Hospital, developmental center, community care facility, or health facility of _____ (name of patient) from the undersigned patient on his or her own behalf or from the undersigned person on behalf of the patient.

_____

Signature or mark of patient making request for release

_____

Signature or mark of person making request on behalf of patient

(Amended by Stats. 1996, Ch. 1076, Sec. 3. Effective January 1, 1997.)

4801. (a) Judicial review shall be in the superior court for the county in which the state hospital, developmental center, community care facility, or health facility is located, except that, if the adult has been found incompetent to stand trial and has been committed pursuant to Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 of the Penal Code, judicial review shall be in the superior court of the county that determined the question of the mental competence of the defendant. The adult requesting to be released shall be informed of his or her right to counsel by a member of the staff of the state hospital, developmental center, community care facility, or health facility and by the court; and if he or she does not have an attorney for the proceedings, the court shall immediately appoint the public defender or other attorney to assist him or her in the preparation of a petition for the writ of habeas corpus and to represent him or her in the proceedings. The person shall pay the costs of those legal services if he or she is able.

(b) At the time the petition for the writ of habeas corpus is filed with the court, the clerk of the court shall transmit a copy of the petition, together with notification as to the time and place of any evidentiary hearing in the matter, to the parent or conservator of the person seeking release or for whom release is sought and to the director of the appropriate regional center. Notice shall also be provided to the director of the appropriate developmental center if the person seeking release or for whom release is sought resides in a developmental center. The notice shall be sent by registered or certified mail with proper postage prepaid, addressed to the addressee's last known address, and with a return receipt requested.

(c) The court shall either release the adult or order an evidentiary hearing to be held not sooner than five judicial days nor more than 10 judicial days after the petition and notice to the adult's parent or conservator and to the director of the appropriate regional center and developmental center are deposited in the United States mail pursuant to this section.

(1) Except as provided in paragraph (2), if the court finds (A) that the adult requesting release or for whom release is requested is not developmentally disabled, or (B) that he or she is developmentally disabled and that he or she is able to provide safely for his or her basic personal needs for food, shelter, and clothing, he or she shall be released within 72 hours. If the court finds that he or she is developmentally disabled and that he or she is unable to provide safely for his or her basic personal needs for food, shelter, or clothing, but that a responsible person or a regional center or other public or private agency is willing and able to provide therefor, the court shall release the developmentally disabled adult to the responsible person or regional center or other public or private agency, as the case may be, subject to any conditions that the court deems proper for the welfare of the developmentally disabled adult and that are consistent with the purposes of this division.

(2) If the person is charged with a violent felony and has been committed to his or her current placement pursuant to Section 1370.1 of the Penal Code or Section 6500, and the court finds (A) that the adult requesting release or for whom release is requested is not developmentally disabled or mentally retarded, or (B) that he or she is able to provide safely for his or her basic personal needs for food, shelter, and clothing, the court shall, before releasing the person, determine that the release will not pose a danger to the health or safety of others due to the person's known behavior. If the court finds there is no danger pursuant to the finding required by subparagraph (D) of paragraph (1) of subdivision (a) of Section 1370.1 of the Penal Code, the person shall be released within 72 hours. If the person's release poses a danger to the health or safety of others, the court may grant or deny the request, taking into account the danger to the health or safety of others posed by the person. If the court finds that release of the person can be made subject to conditions that the court deems proper for the preservation of public health and safety and the welfare of the person, the person shall be released subject to those conditions.

(d) If in any proceeding under this section, the court finds that the adult is developmentally disabled and has no parent or conservator, and is in need of a conservator, the court shall order the appropriate regional center or the state department to initiate, or cause to be initiated, proceedings for the appointment of a conservator for the developmentally disabled adult.

(e) This section shall become operative January 1, 1988.

(Amended by Stats. 1996, Ch. 1076, Sec. 4. Effective January 1, 1997.)

4802. This chapter shall not be construed to impair the right of a conservator of an adult developmentally disabled patient to remove the patient from the state hospital at any time pursuant to Section 4825.

(Amended by Stats. 1979, Ch. 730.)

4803. If a regional center recommends that a person be admitted to a community care facility or health facility as a developmentally disabled resident, the employee or designee of the regional center responsible for making the recommendations shall certify in writing that neither the person recommended for admission to a community care facility or health facility, nor the parent of a minor or conservator of an adult, if appropriate, nor the person or agency appointed pursuant to subdivision (d) of Section 4548 or subdivision (e) of Section 4705 has made an objection to the admission to the

person making the recommendation. The regional center shall transmit the certificate, or a copy thereof, to the community care facility or health facility.

A community care facility or health facility shall not admit any adult as a developmentally disabled patient on recommendation of a regional center unless a copy of the certificate has been transmitted pursuant to this section.

Any person who, knowing that objection to a community care facility or health facility admission has been made, certifies that no objection has been made, shall be guilty of a misdemeanor.

Objections to proposed placements shall be resolved by a fair hearing procedure pursuant to Section 4700.

(Amended by Stats. 2006, Ch. 399, Sec. 9. Effective January 1, 2007.)

4804. Whenever a proceeding is held in a superior court under the provisions of this chapter, involving a person who has been placed in a state hospital located outside the county of residence of the person, the provisions of this section shall apply. The appropriate financial officer or other designated official of the county in which the proceeding is held may make out a statement of all of the costs incurred by the county for the investigation, preparation, and conduct of the proceedings, and the costs of appeal, if any. The statement may be certified by a judge of the superior court of the county. The statement may then be sent to the county of residence of the person, which shall reimburse the county providing the services. If it is not possible to determine the actual county of residence of the person, the statement may be sent to the county in which the person was originally detained, which shall reimburse the county providing the services.

(Amended by Stats. 2002, Ch. 221, Sec. 207. Effective January 1, 2003.)

4805. Objections to proposed transfers between state hospitals shall be resolved pursuant to Chapter 7 (commencing with Section 4700).

(Added by Stats. 1981, Ch. 990, Sec. 4.)

Chapter 11. Guardianship and Conservatorship

(Chapter 11 added by Stats. 1977, Ch. 1252.)

4825. The provisions of this division shall not be construed to terminate any appointment of the State Department of Mental Health as guardian of the estate of a developmentally disabled person prior to July 1, 1971.

It is the intent of this section that the Director of Developmental Services be appointed as guardian or conservator of a developmentally disabled person as provided pursuant to the provisions of Article 7.5 (commencing with Section 416) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code.

Notwithstanding the provisions of Section 6000, the admission of an adult developmentally disabled person to a state hospital or private institution shall be upon the application of the person's parent or conservator in accordance with the provisions of Sections 4653 and 4803. Any person so admitted to a state hospital may leave the state hospital at any time, if such parent or conservator gives notice of his or her desire for the departure of the developmentally disabled person to any member of the hospital staff and completes normal hospitalization departure procedures.

Notwithstanding the provisions of Section 4655, any adult developmentally disabled person who is competent to do so may apply for and receive any services provided by a regional center.

(Amended by Stats. 1980, Ch. 246, Sec. 8.)

CHAPTER 12. COMMUNITY LIVING CONTINUUMS

(Chapter 12 added by Stats. 1978, Ch. 1232.)

4830. As used in this chapter:

(a) ''Continuum'' means a coordinated multicomponent services system within the geographic borders of each of the 13 area boards on developmental disabilities whose design shall support the sequential developmental needs of persons such that the pattern of these services provides an unbroken chain of experience, maximum personal growth and liberty.

(b) ''Normalization'' means making available programs, methods, and titles which are culturally normative, and patterns and conditions of everyday life which are as close as possible to the norms and patterns of the mainstream of society.

(c) ''Designated agency'' means the legal entity selected by the Department of Developmental Services to be responsible for organizing or providing services within each continuum or both.

(Added by Stats. 1978, Ch. 1232.)

4831. The State Department of Developmental Services may develop the design and phase-in plan for continuums and may designate one or more designated agencies to implement community living continuums throughout the state, after consideration of a recommendation from the respective area board on developmental disabilities in conjunction with recommendations from the appropriate regional center.

(Added by Stats. 1978, Ch. 1232.)

4832. An area board may review and evaluate existing and proposed community living arrangement programs within their jurisdiction and may make a recommendation to the Director of the Department of Developmental Services concerning programs which should be considered as the most appropriate agency to be designated as responsible for the implementation of the community living continuum within their area. These programs shall include, but not be limited to, those which have been funded through the issuance of Mental Retardation Private Institutions' Fund grants, Developmental Disability Community Development grants, and model state hospital programs. Consideration shall be given to all of the following:

(a) Private nonprofit corporations.

(b) Public agencies.

(c) A joint powers agreement agency.

At least one-third of the board of directors, public or private or an advisory committee in the event a public agency is selected, shall be composed of consumer representatives, including members of the immediate family of the consumer.

No person shall serve as a director or advisory committee member who has a financial interest, as defined in Section 87103 of the Government Code, in designated agency operations, except with respect to any interest as a consumer of a designated agency or regional center services.

(Amended by Stats. 1980, Ch. 99, Sec. 1. Effective May 16, 1980.)

4833. Upon designation by the Department of Developmental Services pursuant to Section 4831, the designated agency established pursuant to Section 4832 shall:

(a) Design, organize and/or provide services for persons in local communities.

(b) Seek and utilize funds from all available resources.

(c) Assure that all programs within the community living continuum shall provide all employees with competency-based, pre- and in-service training, which is coordinated with appropriate, public education agencies.

(d) Establish public support and acceptance for community development with full integration of individuals with developmental special needs.

The community living continuums shall be based upon the principle of normalization and shall include provisions for, but not be limited to, individual choice of living in home, in various types of apartments, small group dwellings, or condominiums. The department and these programs shall assure that services are provided in, or as close to, a person's home community as feasible.

(Added by Stats. 1978, Ch. 1232.)

4834. The Director of the Department of Developmental Services may contract with a designated agency, pursuant to this chapter.

(Added by Stats. 1978, Ch. 1232.)

4835. The Director of Developmental Services may establish uniform operational procedures, performance and evaluation standards and utilization criteria for designated agencies pursuant to this chapter.

These standards and criteria shall be developed with participation by consumer organizations, area boards on developmental disabilities, the Association of Regional Center Agencies, the Department of Social Services, the Department of Health Services, the Department of Education, the Department of Rehabilitation, and the Department of Mental Health and consultations with individuals with experience in developmental services programming.

(Added by Stats. 1978, Ch. 1232.)

4836. The director shall prepare a yearly report to the Legislature on the progress and effectiveness of the system using the state evaluation model in accordance with this division.

(Added by Stats. 1978, Ch. 1232.)

4837. The Director of Developmental Services may provide 90-day advance funding to the designated agency or community-based programs for the development or provision of continuum services under the jurisdiction of the department.

Notwithstanding any other provision of law, any contract entered into by the department with a designated agency pursuant to this chapter may provide for periodic advance payments for services to be performed under such contract. No advance payment made pursuant to this section shall exceed 25 percent of the total annual contract amount.

(Added by Stats. 1978, Ch. 1232.)

4839. The State Department of Developmental Services may study and prepare a plan in cooperation with the State Council on Developmental Disabilities. The plan should consider the following:

(a) Necessary technical assistance, training, and evaluation to assure standards of quality and program success.

(b) Maximization of existing state and federal resources available to assist persons with developmental special needs to live in the least restrictive environment possible, including the following:

(1) Federal housing subsidy and assistance.

(2) Supplemental security income.

(3) Local social services.

(4) Local and state health services and related resources.

(c) Procedural standards for designated agencies, including the following:

(1) Program development process.

(2) Training for workers in the developmental services field.

(3) Management information system.

(4) Fiscal accountability and cost benefit control.

(5) Establishment of contractual relationships.

(6) Evaluation.

(Amended by Stats. 2006, Ch. 538, Sec. 696. Effective January 1, 2007.)

4841. Notwithstanding the provisions of Sections 4675, 4676 and 4677, the Director of Developmental Services, when reviewing, approving, and allocating money from the Program Development Fund for community living arrangements, shall give high priority to programs which may be included in a continuum.

(Added by Stats. 1978, Ch. 1232.)

4843. To accomplish the goals enumerated in Section 4833, the director may:

(a) Develop a continuum training model and provide technical assistance to providers of community living arrangements through state and county agencies and regional center professional collaboration.

(b) Establish competency-based training programs.

(c) Centralize and increase the availability and dissemination of information regarding community living arrangements.

(d) Assist the agencies in community living continuums and regional centers in the recruitment of qualified care providers and staff in order to fulfill the increasing need for quality living arrangements and support services.

(Added by Stats. 1978, Ch. 1232.)

4844. The Director of Developmental Services shall initiate and monitor interagency performance agreements between the Department of Rehabilitation, the Department of Mental Health, the Department of Health Services, the Department of Social Services, and the Department of Housing and Community Development to assure planning, coordination and resource sharing.

(Added by Stats. 1978, Ch. 1232.)

4845. If authorized by regulations adopted by the department and if not available through other state or local programs, the continuum services may with respect to the designated agency, include, but shall not be limited to:

(a) Family subsidy programs.

(b) In-home support services.

(c) Subsidized adoptive and quasi-adoptive foster care services.

(d) Alternative respite services.
(e) Crisis assistance.
(f) Independent and semi-independent living.
(g) Group living for six or fewer persons.
(h) Programs to meet the special needs of individuals who are medically fragile.
(i) Services to persons requiring maximum supervision due to intensive behavioral and severe developmental special needs.

It is not the intent of this section to release any other state or local agency of its program responsibilities.

(Added by Stats. 1978, Ch. 1232.)

4846. Interagency agreements shall be established between the regional centers and the community living continuums to assure clear roles and responsibilities for delivery of services; and may include the Department of Rehabilitation Independent Living Programs where applicable.

(Added by Stats. 1978, Ch. 1232.)

CHAPTER 13. HABILITATION SERVICES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES

(Chapter 13 repealed (by Sec. 1) and added by Stats. 2003, Ch. 226, Sec. 2. Effective January 1, 2004. Operative July 1, 2004, by Sec. 3 of Ch. 226.)

4850. (a) The Legislature reaffirms its intent that habilitation services for adults with developmental disabilities should be planned and provided as a part of a continuum and that habilitation services should be available to enable persons with developmental disabilities to approximate the pattern of everyday living available to nondisabled people of the same age.

(b) The Legislature further intends that habilitation services shall be provided to adults with developmental disabilities as specified in this chapter in order to guarantee the rights stated in Section 4502.

(Repealed and added by Stats. 2003, Ch. 226, Sec. 2. Effective January 1, 2004. Operative July 1, 2004, by Sec. 3 of Ch. 226.)

4850.1. Notwithstanding Section 19050.9 of the Government Code, beginning July 1, 2004, the State Department of Developmental Services shall succeed to all functions and responsibilities of the Department of Rehabilitation with respect to the administration of the Habilitation Services Program established pursuant to former Chapter 4.5 (commencing with Section 19350) of Part 2 of Division 10.

(Repealed and added by Stats. 2003, Ch. 226, Sec. 2. Effective January 1, 2004. Operative July 1, 2004, by Sec. 3 of Ch. 226.)

4850.2. (a) Except as otherwise specifically provided, this chapter shall only apply to those habilitation services purchased by the regional centers.

(b) Nothing in this section shall be construed to abridge the rights stated in Section 4502.

(Added by Stats. 2003, Ch. 226, Sec. 2. Effective January 1, 2004. Operative July 1, 2004, by Sec. 3 of Ch. 226.)

4851. The definitions contained in this chapter shall govern the construction of this chapter, with respect to habilitation services provided through the regional center,

and unless the context requires otherwise, the following terms shall have the following meanings:

(a) ''Habilitation services'' means community-based services purchased or provided for adults with developmental disabilities, including services provided under the Work Activity Program and the Supported Employment Program, to prepare and maintain them at their highest level of vocational functioning, or to prepare them for referral to vocational rehabilitation services.

(b) ''Individual program plan'' means the overall plan developed by a regional center pursuant to Section 4646.

(c) ''Individual habilitation service plan'' means the service plan developed by the habilitation service vendor to meet employment goals in the individual program plan.

(d) ''Department'' means the State Department of Developmental Services.

(e) ''Work activity program'' includes, but is not limited to, sheltered workshops or work activity centers, or community-based work activity programs certified pursuant to subdivision (f) or accredited by CARF, the Rehabilitation Accreditation Commission.

(f) ''Certification'' means certification procedures developed by the Department of Rehabilitation.

(g) ''Work activity program day'' means the period of time during which a Work Activity Program provides services to consumers.

(h) ''Full day of service'' means, for purposes of billing, a day in which the consumer attends a minimum of the declared and approved work activity program day, less 30 minutes, excluding the lunch period.

(i) ''Half day of service'' means, for purposes of billing, any day in which the consumer's attendance does not meet the criteria for billing for a full day of service as defined in subdivision (g), and the consumer attends the work activity program not less than two hours, excluding the lunch period.

(j) ''Supported employment program'' means a program that meets the requirements of subdivisions (n) to (s), inclusive.

(k) ''Consumer'' means any adult who receives services purchased under this chapter.

(l) ''Accreditation'' means a determination of compliance with the set of standards appropriate to the delivery of services by a work activity program or supported employment program, developed by CARF, the Rehabilitation Accreditation Commission, and applied by the commission or the department.

(m) ''CARF'' means CARF the Rehabilitation Accreditation Commission.

(n) ''Supported employment'' means paid work that is integrated in the community for individuals with developmental disabilities.

(o) ''Integrated work'' means the engagement of an employee with a disability in work in a setting typically found in the community in which individuals interact with individuals without disabilities other than those who are providing services to those individuals, to the same extent that individuals without disabilities in comparable positions interact with other persons.

(p) ''Supported employment placement'' means the employment of an individual with a developmental disability by an employer in the community, directly or through contract with a supported employment program. This includes provision of ongoing support services necessary for the individual to retain employment.

(q) ''Allowable supported employment services'' means the services approved in the individual program plan and specified in the individual habilitation service plan for the purpose of achieving supported employment as an outcome, and may include any of the following:

(1) Job development, to the extent authorized by the regional center.

(2) Program staff time for conducting job analysis of supported employment opportunities for a specific consumer.

(3) Program staff time for the direct supervision or training of a consumer or consumers while they engage in integrated work unless other arrangements for consumer supervision, including, but not limited to, employer supervision reimbursed by the supported employment program, are approved by the regional center.

(4) Community-based training in adaptive functional and social skills necessary to ensure job adjustment and retention.

(5) Counseling with a consumer's significant other to ensure support of a consumer in job adjustment.

(6) Advocacy or intervention on behalf of a consumer to resolve problems affecting the consumer's work adjustment or retention.

(7) Ongoing support services needed to ensure the consumer's retention of the job.

(r) ''Group services'' means job coaching in a group supported employment placement at a job coach-to-consumer ratio of not less than one-to-three nor more than one-to-eight where services to a minimum of three consumers are funded by the regional center or the Department of Rehabilitation. For consumers receiving group services, ongoing support services shall be limited to job coaching and shall be provided at the worksite.

(s) ''Individualized services'' means job coaching and other supported employment services for regional center-funded consumers in a supported employment placement at a job coach-to-consumer ratio of one-to-one, and that decrease over time until stabilization is achieved. Individualized services may be provided on or off the jobsite.

(Amended by Stats. 2005, Ch. 80, Sec. 18. Effective July 19, 2005.)

4852. A consumer shall be referred to a provider of habilitation services under this chapter when all of the following apply:

(a) The individual is an adult who has been diagnosed as having a developmental disability.

(b) The individual is determined to be in need of and has chosen habilitation services through the individual program planning process pursuant to Section 4646.

(Repealed and added by Stats. 2003, Ch. 226, Sec. 2. Effective January 1, 2004. Operative July 1, 2004, by Sec. 3 of Ch. 226.)

4853. (a) When a referral for habilitation services pursuant to Section 4852 has been made and if the individual is placed in a work activity program, he or she shall be deemed presumptively eligible for a period not to exceed 90 days.

(b) During the period of presumptive eligibility, the work activity program shall submit a work skills evaluation report to the regional center. The work skills evaluation report shall reflect the performance of the consumer in all of the following areas:

(1) Appropriate behavior to safely conduct himself or herself in a work setting.

(2) Adequate attention span to reach a productivity level in paid work.

(3) Ability to understand and act on simple instructions within a reasonable length of time.

(4) Ability to communicate basic needs and understand basic receptive language.
(5) Attendance level.
(c) During the period of presumptive eligibility, the individual program plan planning team shall, pursuant to Section 4646, utilize the work skills evaluation report to determine the appropriateness of the referral.

(Repealed and added by Stats. 2003, Ch. 226, Sec. 2. Effective January 1, 2004. Operative July 1, 2004, by Sec. 3 of Ch. 226.)

4854. In developing the individual habilitation service plan pursuant to Section 4853, the habilitation service provider shall develop specific and measurable objectives to determine whether the consumer demonstrates ability to reach or maintain individual employment goals in all of the following areas:
(a) Participation in paid work for a specified period of time.
(b) Obtaining or sustaining a specified productivity rate.
(c) Obtaining or sustaining a specified attendance level.
(d) Demonstration of appropriate behavior for a work setting.

(Repealed and added by Stats. 2003, Ch. 226, Sec. 2. Effective January 1, 2004. Operative July 1, 2004, by Sec. 3 of Ch. 226.)

4854.1. The individual program plan planning team, shall, pursuant to Section 4646, meet, when it is necessary to review any of the following:
(a) The appropriateness of job placement.
(b) The appropriateness of the services available at the Work Activity Program or Supported Employment Program.
(c) The individual habilitation service plan.

(Added by Stats. 2003, Ch. 226, Sec. 2. Effective January 1, 2004. Operative July 1, 2004, by Sec. 3 of Ch. 226.)

4855. When an individual who is eligible for habilitation services under this chapter is referred to the Department of Rehabilitation for vocational rehabilitation services, including supported employment services, and is placed on a Department of Rehabilitation waiting list for vocational rehabilitation as a result of the Department of Rehabilitation's order of selection regulations, the regional center shall authorize appropriate services for the individual pursuant to this chapter as needed until services can be provided by the vocational rehabilitation program.

(Repealed and added by Stats. 2003, Ch. 226, Sec. 2. Effective January 1, 2004. Operative July 1, 2004, by Sec. 3 of Ch. 226.)

4856. (a) The regional center shall monitor, evaluate, and audit habilitation services providers for program effectiveness, using performance criteria that include, but are not limited to, all of the following:
(1) Service quality.
(2) Protections for individuals receiving services.
(3) Compliance with applicable CARF standards.
(b) (1) The regional center may impose immediate sanctions on providers of work activity programs and supported employment programs for noncompliance with accreditation or services standards contained in regulations adopted by the department, and for safety violations which pose a threat to consumers of habilitation services.
(2) Sanctions include, but are not limited to, the following:
(A) A moratorium on new referrals.

(B) Imposition of a corrective plan as specified in regulations.

(C) Removal of consumers from a service area where dangerous conditions or abusive conditions exist.

(D) Termination of vendorization.

(c) A moratorium on new referrals may be the first formal sanction to be taken except in instances where consumers are at imminent risk of abuse or other harm. When the regional center determines a moratorium on new referrals to be the first formal sanction, a corrective action plan shall be developed. The moratorium shall be lifted only when the conditions cited are corrected per a corrective action plan.

(d) A corrective action plan is a formal sanction, that may be imposed either simultaneously with a moratorium on new referrals, or as a single sanction in circumstances that do not require a moratorium, as determined by the regional center. Noncompliance with the conditions and timelines of the corrective action plan shall result in termination of vendorization.

(e) Removal of consumers from a program shall only take place where dangerous or abusive conditions are present, or upon termination of vendorization. In instances of removal for health and safety reasons, when the corrections are made by the program, as determined by the regional center, consumers may return, at their option.

(f) Any provider sanctioned under subparagraph (B) or (C) of paragraph (2) of subdivision (b) may request an administrative review as specified in Section 4648.1.

(g) Any provider sanctioned under subparagraph (D) of paragraph (2) of subdivision (b) shall have a right to a formal review by the Office of Administrative Hearings under Chapter 4 (commencing with Section 11370) of Part 1 of Division 3 of Title 2 of the Government Code.

(h) Effective July 1, 2004, if a habilitation services provider is under sanction under former Section 19354.5, the provider shall complete the requirements of the corrective action plan or any other terms or conditions imposed upon it as part of the sanctions. At the end of the term of the corrective action plan or other compliance requirements, the services provider shall be evaluated by the regional center based upon the requirements in this section.

(Repealed and added by Stats. 2003, Ch. 226, Sec. 2. Effective January 1, 2004. Operative July 1, 2004, by Sec. 3 of Ch. 226.)

4857. The regional center shall purchase habilitation services pursuant to the individual program plan. Habilitation services shall continue as long as satisfactory progress is being made toward achieving the objectives of the individual habilitation service plan or as long as these services are determined by the regional center to be necessary to maintain the individual at their highest level of vocational functioning, or to prepare the individual for referral to vocational rehabilitation services.

(Repealed and added by Stats. 2003, Ch. 226, Sec. 2. Effective January 1, 2004. Operative July 1, 2004, by Sec. 3 of Ch. 226.)

4857.1. Regional centers may purchase habilitation services only from providers who are accredited community nonprofit agencies that provide work activity services or supported employment services, or both, and that have been vendored as described in Section 4861 and regulations promulgated pursuant thereto. Habilitation services

providers who, on July 1, 2004, are providing services to consumers shall be deemed to be an approved vendor.

(Added by Stats. 2003, Ch. 226, Sec. 2. Effective January 1, 2004. Operative July 1, 2004, by Sec. 3 of Ch. 226.)

4858. (a) Each work activity program vendor shall, at a minimum, annually review the status of consumers participating in their program to determine whether these individuals would benefit from vocational rehabilitation services, including supported employment.

(b) If it is determined that the consumer would benefit from vocational rehabilitation services, the work activity program vendor shall, in conjunction with the regional center and in accordance with the individual program plan process, refer the consumer to the Department of Rehabilitation.

(Repealed and added by Stats. 2003, Ch. 226, Sec. 2. Effective January 1, 2004. Operative July 1, 2004, by Sec. 3 of Ch. 226.)

4859. (a) The department shall adopt regulations to establish rates for work activity program services subject to the approval of the Department of Finance. The regulations shall provide for an equitable and cost-effective ratesetting procedure in which each specific allowable service, activity, and provider administrative cost comprising an overall habilitation service, as determined by the department, reflects the reasonable cost of service. Reasonable costs shall be determined biennially by the department, subject to audit at the discretion of the department.

(b) The department shall adopt the existing work activity program rates as of July 1, 2004, that shall remain in effect until the next ratesetting year.

(c) Notwithstanding paragraph (4) of subdivision (a) of Section 4648, the regional center shall pay the work activity program rates established by the department.

(Repealed and added by Stats. 2003, Ch. 226, Sec. 2. Effective January 1, 2004. Operative July 1, 2004, by Sec. 3 of Ch. 226.)

4860. (a) (1) The hourly rate for supported employment services provided to consumers receiving individualized services shall be thirty dollars and eighty-two cents ($30.82).

(2) Job coach hours spent in travel to consumer worksites may be reimbursable for individualized services only when the job coach travels from the vendor's headquarters to the consumer's worksite or from one consumer's worksite to another, and only when the travel is one way.

(b) The hourly rate for group services shall be thirty dollars and eighty-two cents ($30.82), regardless of the number of consumers served in the group. Consumers in a group shall be scheduled to start and end work at the same time, unless an exception that takes into consideration the consumer's compensated work schedule is approved in advance by the regional center. The department, in consultation with stakeholders, shall adopt regulations to define the appropriate grounds for granting these exceptions. When the number of consumers in a supported employment placement group drops to fewer than the minimum required in subdivision (r) of Section 4851 the regional center may terminate funding for the group services in that group, unless, within 90 days, the program provider adds one or more regional center, or Department of Rehabilitation funded supported employment consumers to the group.

(c) Job coaching hours for group services shall be allocated on a prorated basis between a regional center and the Department of Rehabilitation when regional center and Department of Rehabilitation consumers are served in the same group.

(d) When Section 4855 applies, fees shall be authorized for the following:

(1) A three-hundred-sixty-dollar ($360) fee shall be paid to the program provider upon intake of a consumer into a supported employment program. No fee shall be paid if that consumer completed a supported employment intake process with that same supported employment program within the previous 12 months.

(2) A seven-hundred-twenty-dollar ($720) fee shall be paid upon placement of a consumer in an integrated job, except that no fee shall be paid if that consumer is placed with another consumer or consumers assigned to the same job coach during the same hours of employment.

(3) A seven-hundred-twenty-dollar ($720) fee shall be paid after a 90-day retention of a consumer in a job, except that no fee shall be paid if that consumer has been placed with another consumer or consumers, assigned to the same job coach during the same hours of employment.

(e) Notwithstanding paragraph (4) of subdivision (a) of Section 4648 the regional center shall pay the supported employment program rates established by this section.

(Amended by Stats. 2008, Ch. 758, Sec. 23. Effective September 30, 2008.)

4861. The regional center may vendor new work activity or supported employment programs, after determining the capacity of the program to deliver effective services, and assessing the ability of the program to comply with CARF requirements.

(a) Programs that receive the regional center's approval to provide supported employment services shall receive rates in accordance with Section 4860.

(b) A new work activity program shall receive the statewide average rate, as determined by the department. As soon as the new work activity program has a historical period of not less than three months that is representative of the cost per consumer, as determined by the department, the department shall set the rate in accordance with Section 4859.

(c) The regional center may purchase services from new work activity programs and supported employment programs, even though the program in not yet accredited by CARF, if all of the following apply:

(1) The vendor can demonstrate that the program is in compliance with certification standards established by the Department of Rehabilitation, to allow a period for becoming CARF accredited.

(2) (A) The program commits, in writing, to apply for accreditation by CARF within three years of the approval to purchase services by the regional center.

(B) CARF shall accredit a program within four years after the program has been vendored.

(d) The regional center may approve or disapprove proposals submitted by new or existing vendors based on all of the following criteria to the extent that it is federally permissible:

(1) The need for a work activity or supported employment program.

(2) The capacity of the vendor to deliver work activity or supported employment services effectively.

(3) The ability of the vendor to comply with the requirements of this section.

(4) The ability of the vendor to achieve integrated paid work for consumers served in supported employment.

(Repealed and added by Stats. 2003, Ch. 226, Sec. 2. Effective January 1, 2004. Operative July 1, 2004, by Sec. 3 of Ch. 226.)

4862. (a) The length of a work activity program day shall not be less than five hours, excluding the lunch period.

(b) (1) Except as provided in paragraph (2), the length of a work activity program day shall not be reduced from the length of the work activity program day in the historical period that was the basis for the approved habilitation services rate.

(2) (A) A work activity program may, upon consultation with, and prior written approval from, the regional center, change the length of a work activity program day.

(B) If the regional center approves a reduction in the work activity program day pursuant to subparagraph (A), the department may change the work activity program rate.

(c) (1) A work activity program may change the length of a work activity program day for a specific consumer in order to meet the needs of that consumer, if the regional center, upon the recommendation of the individual program planning team, approves the change.

(2) The work activity program shall specify in writing to the regional center the reasons for any proposed change in a work activity program day on an individual basis.

(Amended (as to be added July 1, 2004, by Stats. 2003, Ch. 226) by Stats. 2003, Ch. 886, Sec. 3. Effective January 1, 2004. Amendment operative July 1, 2004, by Sec. 4 of Ch. 886.)

4863. (a) In accordance with regulations adopted by the department, and if agreed upon by the work activity program and the regional center, hourly billing shall be permitted, provided that it does not increase the regional center's costs when used in lieu of full-day or half-day billing. A work activity program shall be required to submit a request for the hourly billing option to the regional center not less than 60 days prior to the program's proposed implementation of this billing option.

(b) If a work activity program and the regional center elect to utilize hourly billing, the hourly billing process shall be required to be used for a minimum of one year.

(c) When the hourly billing process is being used, the definitions contained in subdivisions (h) and (i) of Section 4851 shall not apply.

(Repealed and added by Stats. 2003, Ch. 226, Sec. 2. Effective January 1, 2004. Operative July 1, 2004, by Sec. 3 of Ch. 226.)

4864. The department shall authorize payment for absences in work activity programs and supported employment programs that are directly consequent to a declaration of a State of Emergency by the Governor. If the department authorizes payment for absences due to a state of emergency, the vendor shall bill only for absences in excess of the average number of absences experienced by the vendor during the 12-month period prior to the month in which the disaster occurred.

(Repealed and added by Stats. 2003, Ch. 226, Sec. 2. Effective January 1, 2004. Operative July 1, 2004, by Sec. 3 of Ch. 226.)

4865. At the request of the Department of Rehabilitation, a work activity or supported employment program or both shall release accreditation and state licensing

reports and consumer special incident reports as required by law or regulations in instances of suspected abuse.

(Repealed and added by Stats. 2003, Ch. 226, Sec. 2. Effective January 1, 2004. Operative July 1, 2004, by Sec. 3 of Ch. 226.)

4865.1. (a) A regional center shall continue to pay the rate in effect as of June 30, 2004, for a supported employment placement group composed of a coach-to-client ratio of 1:3 when the provider submits to the State Department of Developmental Services and the regional center, by July 30, 2004, documentation that all of the following conditions apply:

(1) The group was established prior to July 1, 2002.

(2) The group was at the 1:3 ratio on May 1, 2004.

(3) The employer will only accommodate a group of three.

(b) In consultation with the regional center, the State Department of Developmental Services shall determine whether the requirements of this section have been met. The department's decision shall be final.

(c) Groups paid under this section shall meet the requirements of subdivision (r) of Section 4851 by July 1, 2005, or be subject to termination of funding pursuant to subdivision (b) of Section 4860.

(Added by Stats. 2004, Ch. 228, Sec. 9.4. Effective August 16, 2004.)

4866. The department may promulgate emergency regulations to carry out the provisions of this chapter. If the Department of Developmental Services promulgates emergency regulations, the adoption of the regulations shall be deemed necessary for the immediate preservation of the public peace, health and safety, or general welfare for purposes of subdivision (b) of Section 11346.1 of the Government Code.

(Repealed and added by Stats. 2003, Ch. 226, Sec. 2. Effective January 1, 2004. Operative July 1, 2004, by Sec. 3 of Ch. 226.)

4867. Nothing in this chapter shall be interpreted to mean that work activity programs or supported employment programs cannot serve consumers who are funded by agencies other than regional centers, including, but not limited to, the Department of Rehabilitation.

(Added by Stats. 2003, Ch. 226, Sec. 2. Effective January 1, 2004. Operative July 1, 2004, by Sec. 3 of Ch. 226.)

DIVISION 4.7. PROTECTION AND ADVOCACY AGENCY

(Division 4.7 added by Stats. 1991, Ch. 534, Sec. 7.)

CHAPTER 1. DEFINITIONS

(Chapter 1 added by Stats. 1991, Ch. 534, Sec. 7.)

4900. (a) The definitions contained in this section shall govern the construction of this division, unless the context requires otherwise. These definitions shall not be construed to alter or impact the definitions or other provisions of the Elder and Dependent Adult Civil Protection Act (Chapter 11 (commencing with Section 15600), or Chapter 13 (commencing with Section 15750), of Part 3 of Division 9.

(b) ''Abuse'' means an act, or failure to act, that would constitute abuse as that term is defined in federal regulations pertaining to the authority of protection and advocacy agencies, including Section 51.2 of Title 42 of the Code of Federal Regulations or Section 1386.19 of Title 45 of the Code of Federal Regulations. ''Abuse'' also means an act, or failure to act, that would constitute abuse as that term is defined in Section 15610.07 of the Welfare and Institutions Code or Section 11165.6 of the Penal Code.

(c) ''Complaint'' has the same meaning as ''complaint'' as defined in federal statutes and regulations pertaining to the authority of protection and advocacy agencies, including Section 10802(1) of Title 42 of the United States Code, Section 51.2 of Title 42 of the Code of Federal Regulations, or Section 1386.19 of Title 45 of the Code of Federal Regulations.

(d) ''Disability'' means a developmental disability, as defined in Section 15002(8) of Title 42 of the United States Code, a mental illness, as defined in Section 10802(4) of Title 42 of the United States Code, a disability within the meaning of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), as defined in Section 12102(2) of Title 42 of the United States Code, or a disability within the meaning of the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code), as defined in subdivision (i) or (k) of Section 12926 of the Government Code.

(e) ''Facility'' or ''program'' means a public or private facility or program providing services, support, care, or treatment to persons with disabilities, even if only on an as-needed basis or under contractual arrangement. ''Facility'' or ''program'' includes, but is not limited to, a hospital, a long-term health care facility, a community living arrangement for people with disabilities, including a group home, a board and care home, an individual residence or apartment of a person with a disability where services are provided, a day program, a juvenile detention facility, a homeless shelter, a jail, or a prison, including all general areas, as well as special, mental health, or forensic units. The term includes any facility licensed under Division 2 (commencing with Section 1200) of the Health and Safety Code and any facility that is unlicensed but is not exempt from licensure as provided in subdivision (a) of Section 1503.5 of the Health and Safety Code. The term also includes a public or private school or other institution or program providing education, training, habilitation, therapeutic, or residential services to persons with disabilities.

(f) ''Legal guardian,'' ''conservator,'' or ''legal representative,'' means a person appointed by a state court or agency empowered under state law to appoint and review the legal guardian, conservator, or legal representative, as appropriate. With respect to an individual described under paragraph (2) of subdivision (i), this person is one who

has the legal authority to consent to health or mental health care or treatment on behalf of the individual. With respect to an individual described under paragraphs (1) or (3) of subdivision (i), this person is one who has the legal authority to make all decisions on behalf of the individual. These terms include the parent of a minor who has legal custody of the minor. These terms do not include a person acting solely as a representative payee, a person acting solely to handle financial matters, an attorney or other person acting on behalf of an individual with a disability solely in individual legal matters, or an official or his or her designee who is responsible for the provision of treatment or services to an individual with a disability.

(g) ''Neglect'' means a negligent act, or omission to act, that would constitute neglect as that term is defined in federal statutes and regulations pertaining to the authority of protection and advocacy agencies, including Section 10802(5) of Title 42 of the United States Code, Section 51.2 of Title 42 of the Code of Federal Regulations, or Section 1386.19 of Title 45 of the Code of Federal Regulations. ''Neglect'' also means a negligent act, or omission to act, that would constitute neglect as that term is defined in subdivision (b) of Section 15610.07 of the Welfare and Institutions Code or Section 11165.2 of the Penal Code.

(h) ''Probable cause'' to believe that an individual has been subject to abuse or neglect, or is at significant risk of being subjected to abuse or neglect, exists when the protection and advocacy agency determines that it is objectively reasonable for a person to entertain that belief. The individual making a probable cause determination may base the decision on reasonable inferences drawn from his or her experience or training regarding similar incidents, conditions, or problems that are usually associated with abuse or neglect. Information supporting a probable cause determination may result from monitoring or other activities, including, but not limited to, media reports and newspaper articles.

(i) ''Protection and advocacy agency'' means the private nonprofit corporation designated by the Governor in this state pursuant to federal law for the protection and advocacy of the rights of persons with disabilities, including the following:

(1) People with developmental disabilities, as authorized under the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000, contained in Chapter 144 (commencing with Section 15001) of Title 42 of the United States Code.

(2) People with mental illness, as authorized under the federal Protection and Advocacy for Mentally Ill Individuals Amendments Act of 1991, contained in Chapter 114 (commencing with Section 10801) of Title 42 of the United States Code.

(3) People with disabilities within the meaning of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.) as defined in Section 12102(2) of Title 42 of the United States Code, who do not have a developmental disability as defined in Section 15002(8) of Title 42 of the United States Code, people with a mental illness as defined in Section 10802(4) of Title 42 of the United States Code, and who are receiving services under the federal Protection and Advocacy of Individual Rights Act as defined in Section 794e of Title 29 of the United States Code, or people with a disability within the meaning of the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code), as defined in subdivision (i) or (k) of Section 12926 of the Government Code.

(j) ''Reasonable unaccompanied access'' means access that permits the protection and advocacy agency, without undue interference, to monitor, inspect, and observe conditions in facilities and programs, to meet and communicate with residents and

service recipients privately and confidentially on a regular basis, formally or informally, by telephone, mail, electronic mail, and in person, and to review records privately and confidentially, in a manner that minimizes interference with the activities of the program or service, that respects residents' privacy interests and honors a resident's request to terminate an interview, and that does not jeopardize the physical health or safety of facility or program staff, residents, service recipients, or protection and advocacy agency staff.

(Amended by Stats. 2003, Ch. 878, Sec. 4. Effective January 1, 2004.)

4901. (a) The protection and advocacy agency, for purposes of this division, shall be a private nonprofit corporation and shall meet all of the requirements of federal law applicable to protection and advocacy systems, including, but not limited to, the requirement that it establish a grievance procedure for clients or prospective clients of the system to ensure that people with disabilities have full access to services of the system.

(b) State officers and employees, in taking any action relating to the protection and advocacy agency, shall meet the requirements of federal law applicable to protection and advocacy systems.

(c) The authority of the protection and advocacy agency set forth in this division shall not diminish the authority of the protection and advocacy agency under federal statutes pertaining to the authority of protection and advocacy systems, or under federal rules and regulations adopted in implementation of those statutes.

(d) Nothing in this division shall be construed to supplant the jurisdiction or the responsibilities of adult protective services programs pursuant to Chapter 11 (commencing with Section 15600), or Chapter 13 (commencing with Section 15750), of Part 3 of Division 9.

(e) (1) Nothing in this division shall be construed to supplant the duties or authority of the State Long-Term Care Ombudsman Program pursuant to Chapter 11 (commencing with Section 9700) of Division 8.5.

(2) The protection and advocacy agency shall cooperate with the Office of the State Long-Term Care Ombudsman when appropriate, as provided in Section 9717.

(f) (1) Nothing in this division shall be construed to alter or impact the Elder and Dependent Adult Civil Protection Act (Chapter 11 (commencing with Section 15600), or Chapter 13 (commencing with Section 15750), of Part 3 of Division 9, including the confidentiality requirements of Section 15633 and the legal responsibility of the protection and advocacy agency to report elder or dependent adult abuse or neglect as required by paragraph (1) of subdivision (b) of Section 15630.

(2) The adult protective services agency shall retain the responsibility to investigate any report of abuse or neglect in accordance with Chapter 13 (commencing with Section 15750) of Part 3 of Division 9 when the reported abuse or neglect is within the jurisdiction of the adult protective services agency.

(Amended by Stats. 2003, Ch. 878, Sec. 5. Effective January 1, 2004.)

4902. (a) The protection and advocacy agency, in protecting and advocating for the rights of people with disabilities, pursuant to the federal mandate, may do all of the following:

(1) Investigate any incident of abuse or neglect of any person with a disability if the incident is reported to the protection and advocacy agency or if the protection and advocacy agency determines there is probable cause to believe the abuse or neglect

occurred. This authority shall include reasonable access to a facility or program and authority to examine all relevant records and interview any facility or program service recipient, employee, or other person who might have knowledge of the alleged abuse or neglect.

(2) Pursue administrative, legal, and other appropriate remedies or approaches to ensure the protection of the rights of people with disabilities.

(3) Provide information and training on, and referral to, programs and services addressing the needs of people with disabilities, including information and training regarding individual rights and the services available from the protection and advocacy agency.

(b) The protection and advocacy agency shall, in addition, have reasonable access to facilities or programs in the state that provide care and treatment to people with disabilities, and access to those persons.

(1) The protection and advocacy agency shall have reasonable unaccompanied access to public or private facilities, programs, and services, and to recipients of services therein, at all times as are necessary to investigate incidents of abuse and neglect in accord with paragraph (1) of subdivision (a). Access shall be afforded, upon request, to the agency when any of the following has occurred:

(A) An incident is reported or a complaint is made to the agency.

(B) The agency determines there is probable cause to believe that an incident has or may have occurred.

(C) The agency determines that there is or may be imminent danger of serious abuse or neglect of an individual with a disability.

(2) The protection and advocacy agency shall have reasonable unaccompanied access to public and private facilities, programs, and services, and recipients of services therein during normal working hours and visiting hours for other advocacy services. In the case of information and training services, access shall be at times mutually agreeable to the protection and advocacy agency and facility management. This access shall be for the purpose of any of the following:

(A) Providing information and training on, and referral to programs addressing the needs of, individuals with disabilities, and information and training on individual rights and the protection and advocacy services available from the agency, including, but not limited to, the name, address, and telephone number of the protection and advocacy agency.

(B) Monitoring compliance with respect to the rights and safety of residents or service recipients.

(C) Inspecting, viewing, and photographing all areas of the facility or program that are used by residents or service recipients, or that are accessible to them.

(c) If the protection and advocacy agency's access to facilities, programs, service recipients, residents, or records covered by this division is delayed or denied by a facility, program, or service, the facility, program, or service shall promptly provide the agency with a written statement of reasons. In the case of denial of access for alleged lack of authorization, the facility, program, or service shall promptly provide to the agency the name, address, and telephone number of the legal guardian, conservator, or other legal representative of the individual with a disability for whom authorization is required. Access to a facility, program, service recipient, resident, or to records, shall not be delayed or denied without the prompt provision of a written statement of the reasons for the denial.

(d) The protection and advocacy agency may not enter an individual residence or apartment of a client or his or her family without the consent of an adult occupant. In the absence of this consent, the protection and advocacy agency may enter only if it has obtained the legal authority to enforce its access authority pursuant to legal remedies available under this division or applicable federal law.

(e) A care provider, including, but not limited to, any individual, state entity, or other organization that is required to respond to these requests, may charge a reasonable fee to cover the cost of copying records pursuant to this division that may take into account the costs incurred by the care provider in locating, identifying, and making the records available as required pursuant to this division. Charges for copying records that would otherwise be available to the protection and advocacy agency or the person with a disability whose records are requested, under other statutes providing for access to records, may not exceed any rates for obtaining copies of the records specified in the applicable provisions.

(Amended by Stats. 2003, Ch. 878, Sec. 6. Effective January 1, 2004.)

4903. (a) The protection and advocacy agency shall have access to the records of any of the following people with disabilities:

(1) Any person who is a client of the agency, or any person who has requested assistance from the agency, if that person or the agent designated by that person, or the legal guardian, conservator, or other legal representative of that person, has authorized the protection and advocacy agency to have access to the records and information. If a person with a disability who is able to authorize the protection and advocacy agency to access his or her records expressly denies this access after being informed by the protection and advocacy agency of his or her right to authorize or deny access, the protection and advocacy agency may not have access to that person's records.

(2) Any person, including any individual who cannot be located, to whom all of the following conditions apply:

(A) The individual, due to his or her mental or physical condition, is unable to authorize the protection and advocacy agency to have access to his or her records.

(B) The individual does not have a legal guardian, conservator, or other legal representative, or the individual's representative is a public entity, including the state or one of its political subdivisions.

(C) The protection and advocacy agency has received a complaint that the individual has been subject to abuse or neglect, or has determined that probable cause exists to believe that the individual has been subject to abuse or neglect.

(3) Any person who is deceased, and for whom the protection and advocacy agency has received a complaint that the individual had been subjected to abuse or neglect, or for whom the agency has determined that probable cause exists to believe that the individual had been subjected to abuse or neglect.

(4) Any person who has a legal guardian, conservator, or other legal representative with respect to whom a complaint has been received by the protection and advocacy agency, or with respect to whom the protection and advocacy agency has determined that probable cause exists to believe that the person has been subjected to abuse or neglect, whenever all of the following conditions exist:

(A) The representative has been contacted by the protection and advocacy agency upon receipt of the representative's name and address.

(B) The protection and advocacy agency has offered assistance to the representatives to resolve the situation.

(C) The representative has failed or refused to act on behalf of the person.

(b) Individual records that shall be available to the protection and advocacy agency under this section shall include, but not be limited to, all of the following information and records related to the investigation, whether written or in another medium, draft or final, including, but not limited to, handwritten notes, electronic files, photographs, videotapes, or audiotapes:

(1) Information and records prepared or received in the course of providing intake, assessment, evaluation, education, training, or other supportive services, including, but not limited to, medical records, financial records, monitoring reports, or other reports, prepared or received by a member of the staff of a facility, program, or service that is providing care, treatment, or services.

(2) Reports prepared by an agency charged with investigating reports of incidents of abuse, neglect, injury, or death occurring at the program, facility, or service while the individual with a disability is under the care of a member of the staff of a program, facility, or service, or by or for a program, facility, or service, that describe any or all of the following:

(A) Abuse, neglect, injury, or death.

(B) The steps taken to investigate the incidents.

(C) Reports and records, including, but not limited to, personnel records prepared or maintained by the facility, program, or service in connection with reports of incidents, subject to the following:

(i) If a state statute specifies procedures with respect to personnel records, the protection and advocacy agency shall follow those procedures.

(ii) Personnel records shall be protected from disclosure in compliance with the fundamental right of privacy established pursuant to Section 1 of Article I of the California Constitution. The custodian of personnel records shall have a right and a duty to resist attempts to allow the unauthorized disclosure of personnel records, and may not waive the privacy rights that are guaranteed pursuant to Section 1 of Article I of the California Constitution.

(D) Supporting information that was relied upon in creating a report, including, but not limited to, all information and records that document interviews with persons who were interviewed, physical and documentary evidence that was reviewed, or related investigative findings.

(3) Discharge planning records.

(c) Information in the possession of a program, facility, or service that must be available to the agency investigating instances of abuse or neglect pursuant to paragraph (1) of subdivision (a) of Section 4902, whether written or in another medium, draft or final, including, but not limited to, handwritten notes, electronic files, photographs, videotapes, audiotapes, or records, shall include, but not be limited to, all of the following:

(1) Information in reports prepared by individuals and entities performing certification or licensure reviews, or by professional accreditation organizations, as well as related assessments prepared for a program, facility, or service by its staff, contractors, or related entities, subject to any other provision of state law protecting records produced by medical care evaluation or peer review committees.

(2) Information in professional, performance, building, or other safety standards, or demographic and statistical information, relating to the facility.

(d) The authority of the protection and advocacy agency to have access to records does not supersede any prohibition on discovery specified in Sections 1157 and 1157.6 of the Evidence Code, nor does it supersede any prohibition on disclosure subject to the physician-patient privilege or the psychotherapist-patient privilege.

(e) (1) The protection and advocacy agency shall have access to records of individuals described in paragraph (1) of subdivision (a) of Section 4902 and in subdivision (a), and other records that are relevant to conducting an investigation, under the circumstances described in those subdivisions, not later than three business days after the agency makes a written request for the records involved.

(2) The protection and advocacy agency shall have immediate access to the records, not later than 24 hours after the agency makes a request, without consent from another party, in a situation in which treatment, services, supports, or other assistance is provided to an individual with a disability, if the agency determines there is probable cause to believe that the health or safety of the individual is in serious and immediate jeopardy, or in a case of death of an individual with a disability.

(f) Confidential information kept or obtained by the protection and advocacy agency shall remain confidential and may not be subject to disclosure. This subdivision shall not, however, prevent the protection and advocacy agency from doing any of the following:

(1) Sharing the information with the individual client who is the subject of the record or report or other document, or with his or her legally authorized representative, subject to any limitation on disclosure to recipients of mental health services as provided in subsection (b) of Section 10806 of Title 42 of the United States Code.

(2) Issuing a public report of the results of an investigation that maintains the confidentiality of individual service recipients.

(3) Reporting the results of an investigation to responsible investigative or enforcement agencies should an investigation reveal information concerning the facility, its staff, or employees warranting possible sanctions or corrective action. This information may be reported to agencies that are responsible for facility licensing or accreditation, employee discipline, employee licensing or certification suspension or revocation, or criminal prosecution.

(4) Pursuing alternative remedies, including the initiation of legal action.

(5) Reporting suspected elder or dependent adult abuse pursuant to the Elder Abuse and Dependent Adult Civil Protection Act (Chapter 11 (commencing with Section 15600) of Part 3 of Division 9).

(g) The protection and advocacy agency shall inform and train employees as appropriate regarding the confidentiality of client records.

(Amended by Stats. 2003, Ch. 878, Sec. 7. Effective January 1, 2004.)

4904. (a) The protection and advocacy agency, its employees, and designated agents, shall not be liable for an injury resulting from an employee's or agent's act or omission where the act or omission was the result of the exercise, in good faith, of the discretion vested in him or her.

(b) The protection and advocacy agency, its employees, and designated agents, shall not be liable for damages awarded under Section 3294 of the Civil Code or other

damages imposed primarily for the sake of example and by way of punishing the defendant.

(c) The protection and advocacy agency, its employees, and designated agents, when participating in filing a complaint or providing information pursuant to this division or participating in a judicial proceeding resulting therefrom shall be presumed to be acting in good faith and unless the presumption is rebutted, shall be immune from any liability, civil or criminal, and shall be immune from any penalty, sanction, or restriction that might be incurred or imposed.

(Added by Stats. 1991, Ch. 534, Sec. 7.)

4905. (a) No employee or agent of a facility, program, or service shall subject a person with a disability to reprisal or harassment or directly or indirectly take or threaten to take any action that would prevent the person, his or her legally authorized representative, or family member from reporting or otherwise bringing to the attention of the protection and advocacy agency any facts or information relative to suspected abuse, neglect, or other violations of the person's rights.

(b) Any attempt to involuntarily remove from a facility, program, or service, or to deny privileges or rights without good cause to a person with a disability by whom or for whom a complaint has been made to the protection and advocacy agency, within 60 days after the date the complaint is made or within 60 days after the conclusion of any proceeding resulting from the complaint, shall raise a presumption that the action was taken in retaliation for the filing of the complaint.

(Amended by Stats. 2003, Ch. 878, Sec. 8. Effective January 1, 2004.)

4906. (a) The protection and advocacy agency may not obtain access through the use of physical force to facilities, programs, service recipients, residents, or records required by the division if this access is delayed or denied.

(b) Notwithstanding subdivision (a), nothing in this division is intended to preclude the protection and advocacy agency from pursuing appropriate legal remedies to enforce its access authority under this division or applicable federal law.

(Added by Stats. 2003, Ch. 878, Sec. 9. Effective January 1, 2004.)

EXCERPTS FROM GOVERNMENT CODE

TITLE 14. CALIFORNIA EARLY INTERVENTION SERVICES ACT

(Title 14 repealed and added by Stats. 1993, Ch. 945, Sec. 2. Effective October 8, 1993. Repealed conditionally as prescribed by Section 95003. See the later operative Title 14 added by Sec. 4 of Ch. 945.)

CHAPTER 1. GENERAL PROVISIONS

(Chapter 1 added by Stats. 1993, Ch. 945, Sec. 2. Effective October 8, 1993. Repealed conditionally as prescribed by Section 95003.)

95000. This title may be cited as the California Early Intervention Services Act.

(Repealed and added by Stats. 1993, Ch. 945, Sec. 2. Effective October 8, 1993. Repealed conditionally as prescribed by Section 95003. See same-numbered section in the later operative Title 14 added by Sec. 4 of Ch. 945.)

95001. (a) The Legislature hereby finds and declares all of the following:

(1) There is a need to provide appropriate early intervention services individually designed for infants and toddlers from birth to two years of age, inclusive, who have disabilities or are at risk of having disabilities, to enhance their development and to minimize the potential for developmental delays.

(2) Early intervention services for infants and toddlers with disabilities or who are at risk of having disabilities represent an investment of resources, in that these services reduce the ultimate costs to our society, by minimizing the need for special education and related services in later school years and by minimizing the likelihood of institutionalization. These services also maximize the ability of families to better provide for the special needs of their children. Early intervention services for infants and toddlers with disabilities maximize the potential of the individuals to be effective in the context of daily life and activities, including the potential to live independently, and exercise the full rights of citizenship. The earlier intervention is started, the greater is the ultimate cost-effectiveness and the higher is the educational attainment and quality of life achieved by children with disabilities.

(3) The family is the constant in the child's life, while the service system and personnel within those systems fluctuate. Because the primary responsibility of an infant's or toddler's well-being rests with the family, services should support and enhance the family's capability to meet the special developmental needs of their infant or toddler with disabilities.

(4) Family-to-family support strengthens families' ability to fully participate in services planning and their capacity to care for their infants or toddlers with disabilities.

(5) Meeting the complex needs of infants with disabilities and their families requires active state and local coordinated, collaborative, and accessible service delivery systems that are flexible, culturally competent, and responsive to family-identified needs. When health, developmental, educational, and social programs are coordinated, they are proven to be cost effective, not only for systems, but for families as well.

(6) Family-professional collaboration contributes to changing the ways that early intervention services are provided and to enhancing their effectiveness.

(7) Infants and toddlers with disabilities are a part of their communities, and as citizens make valuable contributions to society as a whole.

(b) Therefore, it is the intent of the Legislature that:

(1) Funding provided under Part C of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431 et seq.) be used to improve and enhance early intervention services as defined in this title by developing innovative ways of providing family focused, coordinated services, which are built upon existing systems.

(2) The State Department of Developmental Services, the State Department of Education, the State Department of Health Care Services, the State Department of Mental Health, the State Department of Social Services, and the State Department of Alcohol and Drug Programs coordinate services to infants and toddlers with disabilities and their families. These agencies need to collaborate with families and communities to provide a family-centered, comprehensive, multidisciplinary, interagency, community-based, early intervention system for infants and toddlers with disabilities.

(3) Families be well informed, supported, and respected as capable and collaborative decisionmakers regarding services for their child.

(4) Professionals be supported to enhance their training and maintain a high level of expertise in their field, as well as knowledge of what constitutes most effective early intervention practices.

(5) Families and professionals join in collaborative partnerships to develop early intervention services that meet the needs of infants and toddlers with disabilities, and that those partnerships be the basis for the development of services that meet the needs of the culturally and linguistically diverse population of California.

(6) To the maximum extent possible, infants and toddlers with disabilities and their families be provided services in the most natural environment, and include the use of natural supports and existing community resources.

(7) The services delivery system be responsive to the families and children it serves within the context of cooperation and coordination among the various agencies.

(8) Early intervention program quality be ensured and maintained through established early intervention program and personnel standards.

(9) The early intervention system be responsive to public input and participation in the development of implementation policies and procedures for early intervention services through the forum of an interagency coordinating council established pursuant to federal regulations under Part C of the federal Individuals with Disabilities Education Act.

(c) It is not the intent of the Legislature to require the State Department of Education to implement this title unless adequate reimbursement, as specified and agreed to by the department, is provided to the department from federal funds from Part C of the federal Individuals with Disabilities Education Act.

(Amended by Stats. 2008, Ch. 179, Sec. 132. Effective January 1, 2009. Repealed conditionally as prescribed by Section 95003.)

95001.5. In order to prevent any potential conflict of interest and pursuant to Section 303.604 of Title 34 of the Code of Federal Regulations, no member of the interagency coordinating council may cast a vote on any matter that would provide

direct financial benefit to that member or otherwise give the appearance of a conflict of interest.

(Added by Stats. 1997, Ch. 294, Sec. 2. Effective August 18, 1997. Repealed conditionally as prescribed by Section 95003.)

95002. The purpose of this title is to provide a statewide system of coordinated, comprehensive, family-centered, multidisciplinary, interagency programs, responsible for providing appropriate early intervention services and support to all eligible infants and toddlers and their families.

(Repealed and added by Stats. 1993, Ch. 945, Sec. 2. Effective October 8, 1993. Repealed conditionally as prescribed by Section 95003. See same-numbered section in the later operative Title 14 added by Sec. 4 of Ch. 945.)

95003. (a) The state's participation in Part C of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431 et seq.) shall be contingent on the receipt of federal funds to cover the costs of complying with the federal statutes and regulations that impose new requirements on the state. The State Department of Developmental Services and the State Department of Education annually shall report to the Department of Finance during preparation of the Governor's Budget, and the May Revision, the budget year costs and federal funds projected to be available.

(b) If the amount of funding provided by the federal government pursuant to Part C of the federal Individuals with Disabilities Education Act for the 1993–94 fiscal year, or any fiscal year thereafter, is not sufficient to fund the full increased costs of participation in this federal program by the local educational agencies, as required pursuant to this title, for infants and toddlers from birth to two years of age, inclusive, identified pursuant to Section 95014, and that lack of federal funding would require an increased contribution from the General Fund or a contribution from a local educational agency in order to fund those required and supplemental costs, the state shall terminate its participation in the program. Termination of the program shall occur on July 1 if local educational agencies have been notified of the termination prior to March 10 of that calendar year. If this notification is provided after March 10 of a calendar year, then termination shall not occur earlier than July 1 of the subsequent calendar year. The voluntary contribution by a state or local agency of funding for any of the programs or services required pursuant to this title shall not constitute grounds for terminating the state's participation in that federal program. It is the intent of the Legislature that if the program terminates, the termination shall be carried out in an orderly manner with notification of parents and certificated personnel.

(c) This title shall remain in effect only until the state terminates its participation in Part C of the federal Individuals with Disabilities Education Act for individuals from birth to two years of age, inclusive, and notifies the Secretary of the Senate of the termination, and as of that later date is repealed. As the lead agency, the State Department of Developmental Services, upon notification by the Department of Finance or the State Department of Education as to the insufficiency of federal funds and the termination of this program, shall be responsible for the payment of services pursuant to this title when no other agency or department is required to make these payments.

(Amended (as amended by Stats. 2007, Ch. 56, Sec. 106) by Stats. 2008, Ch. 179, Sec. 133. Effective January 1, 2009. Repealed conditionally by its own provisions. See same-numbered section in the later operative Title 14 added by Stats. 1993, Ch. 945, Sec. 4.)

95004. The early intervention services specified in this title shall be provided as follows:

(a) Direct services for eligible infants and toddlers and their families shall be provided pursuant to the existing regional center system under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code) and the existing local education agency system under appropriate sections of Part 30 (commencing with Section 56000) of the Education Code and regulations adopted pursuant thereto, and Part C of the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431 et seq.).

(b) (1) In providing services under this title, regional centers shall comply with the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code, and its implementing regulations (Division 2 (commencing with Section 50201) of Title 17 of the California Code of Regulations) including, but not limited to, those provisions relating to vendorization and ratesetting, and the Family Cost Participation Program, except where compliance with those provisions would result in any delays in, the provision of early intervention, or otherwise conflict with this title and the regulations implementing this title (Chapter 2 (commencing with Section 52000) of Division 2 of Title 17 of the California Code of Regulations), or Part C of the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431) et seq., and applicable federal regulations contained in Part 303 (commencing with Section 303.1) of Title 34 of the Code of Federal Regulations.

(2) When compliance with this subdivision would result in any delays in the provision of early intervention services for the provision of any of these services, the department may authorize a regional center to use a special service code that allows immediate procurement of the service.

(c) Services shall be provided by family resource centers that provide, but are not limited to, parent-to-parent support, information dissemination and referral, public awareness, family professional collaboration activities, and transition assistance for families.

(d) Existing obligations of the state to provide these services at state expense shall not be expanded.

(e) It is the intent of the Legislature that services be provided in accordance with Sections 303.124, 303.126, and 303.527 of Title 34 of the Code of Federal Regulations.

(Amended (as amended by Stats. 2001, Ch. 171) by Stats. 2008, 3rd Ex. Sess., Ch. 3, Sec. 1. Effective February 16, 2008. Repealed conditionally as prescribed by Section 95003. See same-numbered section in the later operative Title 14 added by Stats. 1993, Ch. 945, Sec. 4.)

CHAPTER 2. ADMINISTRATION

(Chapter 2 added by Stats. 1993, Ch. 945, Sec. 2. Effective October 8, 1993. Repealed conditionally as prescribed by Section 95003.)

95006. This title shall be administered under the shared direction of the Secretary of the Health and Human Services Agency and the Superintendent of Public Instruction. The planning, development, implementation, and monitoring of the statewide system of early intervention services shall be conducted by the State Department of Developmental Services in collaboration with the State Department of

Education with the advice and assistance of an interagency coordinating council established pursuant to federal regulations.

(Amended by Stats. 2007, Ch. 56, Sec. 107. Effective January 1, 2008. Repealed conditionally as prescribed by Section 95003.)

95007. The State Department of Developmental Services shall serve as the lead agency responsible for administration and coordination of the statewide system. The specific duties and responsibilities of the State Department of Developmental Services shall include, but are not limited to, all of the following:

(a) Establishing a single point of contact with the federal Office of Special Education Programs for the administration of Part C of the federal Individuals with Disabilities Education Act.

(b) Administering the state early intervention system in accordance with Part C of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431 et seq.), applicable regulations, and an approved state application.

(c) Administering mandatory and discretionary components as specified in Sections 95022 and 95024.

(d) Administering fiscal arrangements and interagency agreements with participating agencies and community-based organizations to implement this title.

(e) Establishing interagency procedures, including the designation of local coordinating structures, as are necessary to share agency information and to coordinate policymaking activities.

(f) Adopting written procedures for receiving and resolving complaints regarding violations of Part C of the federal Individuals with Disabilities Education Act by public agencies covered under this title, as specified in Section 1435(a)(10) of Title 20 of the United States Code and appropriate federal regulations.

(g) Establishing, adopting, and implementing procedural safeguards that comply with the requirements of Part C of the federal Individuals with Disabilities Education Act, as specified in Section 1439 of Title 20 of the United States Code and appropriate federal regulations.

(h) (1) Monitoring of agencies, institutions, and organizations receiving assistance under this title.

(2) Monitoring shall be conducted by interagency teams that are sufficiently trained to ensure compliance. Interagency teams shall consist of, but not be limited to, representatives from the State Department of Developmental Services, the State Department of Education, the interagency coordinating council, or a local family resource center or network, parent, direct service provider, or any other agency responsible for providing early intervention services.

(3) All members of an interagency team shall have access to all information that is subject to review. Members of each interagency team shall maintain the confidentiality of the information, and each member of the interagency team shall sign a written agreement of confidentiality.

(4) A summary of monitoring issues and findings shall be forwarded biannually to the interagency coordinating council for review.

(i) Establishing innovative approaches to information distribution, family support services, and interagency coordination at the local level.

(j) Ensuring the provision of appropriate early intervention services to all infants eligible under Part C of the federal Individuals with Disabilities Education Act (20

U.S.C. Sec. 1431 et seq.) and under Section 95014, except for those infants who have solely a low incidence disability as defined in Section 56026.5 of the Education Code and who are not eligible for services under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code).

The development and implementation of subdivisions (e) to (h), inclusive, shall be a collaborative effort between the State Department of Developmental Services and the State Department of Education. In establishing the written procedures for receiving and resolving complaints as specified in subdivision (f) and in establishing and implementing procedural safeguards as specified in subdivision (g), it is the intent of the Legislature that these procedures be identical for all infants served under this act and shall be in accordance with Sections 303.400 and 303.420(b) of Title 34 of the Code of Federal Regulations. The procedural safeguards and due process requirements established under this title shall replace and be used in lieu of due process procedures contained in Chapter 1 (commencing with Section 4500) of Division 4.5 of the Welfare and Institutions Code and Part 30 (commencing with Section 56500) of the Education Code for infants and their families eligible under this title.

(Amended by Stats. 2007, Ch. 56, Sec. 108. Effective January 1, 2008. Repealed conditionally as prescribed by Section 95003.)

95008. The State Department of Education shall be responsible for administering services and programs for infants with solely visual, hearing, and severe orthopedic impairments, and any combination thereof, who meet the criteria in Sections 56026 and 56026.5 of the Education Code, and in Section 3030(a), (b), (d), or (e) of, and Section 3031 of, Title 5 of the California Code of Regulations and Part C of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431 et seq.) and who are not eligible for services under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code).

(Amended by Stats. 2007, Ch. 56, Sec. 109. Effective January 1, 2008. Repealed conditionally as prescribed by Section 95003.)

95009. The development of joint regulations for meeting the requirements of this title shall be the shared responsibility of the State Department of Developmental Services on behalf of the Secretary of the Health and Welfare Agency, and the State Department of Education on behalf of the Superintendent of Public Instruction. The joint regulations shall be agreed upon by both departments. These regulations shall be developed and approved by October 1, 1995. The Department of Finance shall review and comment upon the joint regulations prior to any public hearing on them.

(Added by Stats. 1993, Ch. 945, Sec. 2. Effective October 8, 1993. Repealed conditionally as prescribed by Section 95003.)

CHAPTER 3. STATE INTERAGENCY COORDINATION

(Chapter 3 added by Stats. 1993, Ch. 945, Sec. 2. Effective October 8, 1993. Repealed conditionally as prescribed by Section 95003.)

95012. (a) The following departments shall cooperate and coordinate their early intervention services for eligible infants and their families under this title, and need to collaborate with families and communities, to provide a family-centered, comprehensive, multidisciplinary, interagency, community-based early intervention system:

(1) State Department of Developmental Services.
(2) State Department of Education.
(3) State Department of Health Services.
(4) State Department of Social Services.
(5) State Department of Mental Health.
(6) State Department of Alcohol and Drug Programs.

(b) Each participating department shall enter into an interagency agreement with the State Department of Developmental Services. Each interagency agreement shall specify, at a minimum, the agency's current and continuing level of financial participation in providing services to infants and toddlers with disabilities and their families. Each interagency agreement shall also specify procedures for resolving disputes in a timely manner. Interagency agreements shall also contain provisions for ensuring effective cooperation and coordination among agencies concerning policymaking activities associated with the implementation of this title, including legislative proposals, regulation development, and fiscal planning. All interagency agreements shall be reviewed annually and revised as necessary.

(Amended by Stats. 1998, Ch. 310, Sec. 5. Effective August 19, 1998. Repealed conditionally as prescribed by Section 95003.)

CHAPTER 4. ELIGIBILITY

(Chapter 4 added by Stats. 1993, Ch. 945, Sec. 2. Effective October 8, 1993. Repealed conditionally as prescribed by Section 95003.)

95014. (a) The term ''eligible infant or toddler'' for the purposes of this title means infants and toddlers from birth through two years of age, for whom a need for early intervention services, as specified in the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431 et seq.) and applicable regulations, is documented by means of assessment and evaluation as required in Sections 95016 and 95018 and who meet one of the following criteria:

(1) Infants and toddlers with a developmental delay in one or more of the following five areas: cognitive development; physical and motor development, including vision and hearing; communication development; social or emotional development; or adaptive development. Developmentally delayed infants and toddlers are those who are determined to have a significant difference between the expected level of development for their age and their current level of functioning. This determination shall be made by qualified personnel who are recognized by, or part of, a multidisciplinary team, including the parents.

(2) Infants and toddlers with established risk conditions, who are infants and toddlers with conditions of known etiology or conditions with established harmful developmental consequences. The conditions shall be diagnosed by a qualified personnel recognized by, or part of, a multidisciplinary team, including the parents. The condition shall be certified as having a high probability of leading to developmental delay if the delay is not evident at the time of diagnosis.

(3) Infants and toddlers who are at high risk of having substantial developmental disability due to a combination of biomedical risk factors, the presence of which is diagnosed by qualified clinicians recognized by, or part of, a multidisciplinary team, including the parents.

(b) Regional centers and local educational agencies shall be responsible for ensuring that eligible infants and toddlers are served as follows:

(1) The State Department of Developmental Services and regional centers shall be responsible for the provision of appropriate early intervention services in accordance with Part C of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431 et seq.) for all infants eligible under Section 95014, except for those infants with solely a visual, hearing, or severe orthopedic impairment, or any combination of those impairments, who meet the criteria in Sections 56026 and 56026.5 of the Education Code, and in Section 3030(a), (b), (d), or (e) of, and Section 3031 of, Title 5 of the California Code of Regulations.

(2) The State Department of Education and local educational agencies shall be responsible for the provision of appropriate early intervention services in accordance with Part C of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431 et seq.) for infants with solely a visual, hearing, or severe orthopedic impairment, or any combination of those impairments, who meet the criteria in Sections 56026 and 56026.5 of the Education Code, and in Section 3030(a), (b), (d), or (e) of, and Section 3031 of, Title 5 of the California Code of Regulations, and who are not eligible for services under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code).

(c) For infants and toddlers and their families who are eligible to receive services from both a regional center and a local educational agency, the regional center shall be the agency responsible for providing or purchasing appropriate early intervention services that are beyond the mandated responsibilities of local educational agencies. The local educational agency shall provide special education services up to its funded program capacity as established annually by the State Department of Education in consultation with the State Department of Developmental Services and the Department of Finance.

(d) No agency or multidisciplinary team, including any agency listed in Section 95012, shall presume or determine eligibility, including eligibility for medical services, for any other agency. However, regional centers and local educational agencies shall coordinate intake, evaluation, assessment, and individualized family service plans for infants and toddlers and their families who are served by an agency.

(e) Upon termination of the program pursuant to Section 95003, the State Department of Developmental Services shall be responsible for the payment of services pursuant to this title.

(Amended by Stats. 2007, Ch. 56, Sec. 110. Effective January 1, 2008. Repealed conditionally as prescribed by Section 95003.)

CHAPTER 5. SERVICES

(Chapter 5 added by Stats. 1993, Ch. 945, Sec. 2. Effective October 8, 1993. Repealed conditionally as prescribed by Section 95003.)

95016. (a) Each infant or toddler referred for evaluation for early intervention services shall have a timely, comprehensive, multidisciplinary evaluation of his or her needs and level of functioning in order to determine eligibility. In the process of determining eligibility of an infant or toddler, an assessment shall be conducted by qualified personnel, and shall include a family interview, to identify the child's unique strengths and needs and the services appropriate to meet those needs; and the resources, priorities, and concerns of the family and the supports and services necessary to enhance the family's capacity to meet the developmental needs of their infant or toddler. Evaluations and assessments shall be shared and utilized between the regional

center and the local educational agency, and any other agency providing services for the eligible infant or toddler, as appropriate. Family assessments shall be family directed and voluntary on the part of the family. Families shall be afforded the opportunity to participate in all decisions regarding eligibility and services.

(b) Regional centers and local educational agencies or their designees shall be responsible for ensuring that the requirements of this section are implemented. The procedures, requirements, and timelines for evaluation and assessment shall be consistent with the statutes and regulations under Part C of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431 et seq.), applicable regulations, and this title, and shall be specified in regulations adopted pursuant to Section 95028.

(Amended by Stats. 2007, Ch. 56, Sec. 111. Effective January 1, 2008. Repealed conditionally as prescribed by Section 95003.)

95018. Each eligible infant or toddler and family shall be provided a service coordinator who will be responsible for facilitating the implementation of the individualized family service plan and for coordinating with other agencies and persons providing services to the family. The qualifications, responsibilities, and functions of service coordinators shall be consistent with the statutes and regulations under Part C and this title, and shall be specified in regulations adopted pursuant to Section 95028. The State Department of Developmental Services shall ensure that service coordinators, as defined in federal law, meet federal and state regulation requirements, are trained to work with infants and their families, and meet competency requirements set forth in Section 303.22(d) of Title 34 of the Code of Federal Regulations. Service coordinator caseloads shall be an overall average of 62 consumers to each staff member. Pursuant to Section 303.521 of Title 34 of the Code of Federal Regulations, service coordination is not subject to any fees that might be established for any other federal or state program.

(Amended by Stats. 2007, Ch. 56, Sec. 112. Effective January 1, 2008. Repealed conditionally as prescribed by Section 95003.)

95020. (a) An eligible infant or toddler shall have an individualized family service plan. The individualized family service plan shall be used in place of an individualized education program required pursuant to Sections 4646 and 4646.5 of the Welfare and Institutions Code, the individualized program plan required pursuant to Section 56340 of the Education Code, or any other applicable service plan.

(b) For an infant or toddler who has been evaluated for the first time, a meeting to share the results of the evaluation, to determine eligibility and, for children who are eligible, to develop the initial individualized family service plan shall be conducted within 45 calendar days of receipt of the written referral. Evaluation results and determination of eligibility may be shared in a meeting with the family prior to the individualized family service plan. Written parent consent to evaluate and assess shall be obtained within the 45-day timeline. A regional center, local educational agency, or the designee of one of those entities shall initiate and conduct this meeting. Families shall be afforded the opportunity to participate in all decisions regarding eligibility and services.

(c) Parents shall be fully informed of their rights, including the right to invite another person, including a family member or an advocate or peer parent, or any or all of them, to accompany them to any or all individualized family service plan meetings.

With parental consent, a referral shall be made to the local family resource center or network.

(d) The individualized family service plan shall be in writing and shall address all of the following:

(1) A statement of the infant's or toddler's present levels of physical development including vision, hearing, and health status, cognitive development, communication development, social and emotional development, and adaptive developments.

(2) With the concurrence of the family, a statement of the family's concerns, priorities, and resources related to meeting the special developmental needs of the eligible infant or toddler.

(3) A statement of the major outcomes expected to be achieved for the infant or toddler and family where services for the family are related to meeting the special developmental needs of the eligible infant or toddler.

(4) The criteria, procedures, and timelines used to determine the degree to which progress toward achieving the outcomes is being made and whether modifications or revisions are necessary.

(5) A statement of the specific early intervention services necessary to meet the unique needs of the infant or toddler as identified in paragraph (3), including, but not limited to, the frequency, intensity, location, duration, and method of delivering the services, and ways of providing services in natural environments.

(6) A statement of the agency responsible for providing the identified services.

(7) The name of the service coordinator who shall be responsible for facilitating implementation of the plan and coordinating with other agencies and persons.

(8) The steps to be taken to ensure transition of the infant or toddler upon reaching three years of age to other appropriate services. These may include, as appropriate, special education or other services offered in natural environments.

(9) The projected dates for the initiation of services in paragraph (5) and the anticipated duration of those services.

(e) Each service identified on the individualized family service plan shall be designated as one of three types:

(1) An early intervention service, as defined in subsection (4) of Section 1432 of Title 20 of the United States Code, and applicable regulations, that is provided or purchased through the regional center, local educational agency, or other participating agency. The State Department of Health Care Services, State Department of Social Services, State Department of Mental Health, and State Department of Alcohol and Drug Programs shall provide services in accordance with state and federal law and applicable regulations, and up to the level of funding as appropriated by the Legislature. Early intervention services identified on an individualized family service plan that exceed the funding, statutory, and regulatory requirements of these departments shall be provided or purchased by regional centers or local educational agencies under subdivisions (b) and (c) of Section 95014. The State Department of Health Care Services, State Department of Social Services, State Department of Mental Health, and State Department of Alcohol and Drug Programs shall not be required to provide early intervention services over their existing funding, statutory, and regulatory requirements.

(2) Another service, other than those specified in paragraph (1), which the eligible infant or toddler or his or her family may receive from other state programs, subject to the eligibility standards of those programs.

(3) A referral to a nonrequired service that may be provided to an eligible infant or toddler or his or her family. Nonrequired services are those services that are not defined as early intervention services or do not relate to meeting the special developmental needs of an eligible infant or toddler related to the disability, but which may be helpful to the family. The granting or denial of nonrequired services by a public or private agency is not subject to appeal under this title.

(f) An annual review, and other periodic reviews, of the individualized family service plan for an infant or toddler and the infant's or toddler's family shall be conducted to determine the degree of progress that is being made in achieving the outcomes specified in the plan and whether modification or revision of the outcomes or services is necessary. The frequency, participants, purpose, and required processes for annual and periodic reviews shall be consistent with the statutes and regulations under Part C of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431 et seq.) and this title, and shall be specified in regulations adopted pursuant to Section 95028.

(Amended by Stats. 2008, Ch. 179, Sec. 134. Effective January 1, 2009. Repealed conditionally as prescribed by Section 95003.)

95022. The statewide system of early intervention shall be administered by the State Department of Developmental Services in collaboration with the State Department of Education and with the advice and assistance of an interagency coordinating council established pursuant to federal regulations and shall include all of the following mandatory components:

(a) A central directory that includes information about early intervention services, resources, and experts available in the state, professionals and other groups providing services to eligible infants and toddlers, and research and demonstration projects being conducted in the state. The central directory shall specify the nature and scope of the services available and the telephone number and address for each of the sources listed in the directory.

(b) A public awareness program focusing on early identification of eligible infants and toddlers and the dissemination of information about the purpose and scope of the system of early intervention services and how to access evaluation and other early intervention services.

(c) Personnel standards that ensure that personnel are appropriately and adequately prepared and trained.

(d) A comprehensive system of personnel development that provides training for personnel including, but not limited to, public and private providers, primary referral sources, paraprofessionals, and persons who will serve as service coordinators. The training shall specifically address at least all of the following:

(1) Understanding the early intervention services system, including the family service plan process.

(2) Meeting the interrelated social, emotional, and health needs of eligible infants and toddlers.

(3) Assisting families in meeting the special developmental needs of the infant or toddler, assisting professionals to utilize best practices in family focused early intervention services and promoting family professional collaboration.

(4) Reflecting the unique needs of local communities and promoting culturally competent service delivery.

(e) A comprehensive child-find system, including policies and procedures that ensure that all infants and toddlers who may be eligible for services under this title are identified, located, and evaluated, that services are coordinated between participating agencies, and that infants and toddlers are referred to the appropriate agency.

(f) A surrogate parent program established pursuant to Section 303.406 of Title 34 of the Code of Federal Regulations to be used by regional centers and local education agencies.

(Amended by Stats. 1998, Ch. 485, Sec. 103. Effective January 1, 1999. Repealed conditionally as prescribed by Section 95003.)

CHAPTER 6. FUNDING

(Chapter 6 added by Stats. 1993, Ch. 945, Sec. 2. Effective October 8, 1993. Repealed conditionally as prescribed by Section 95003.)

95024. (a) Any increased cost to local educational agencies due to the implementation of this title shall be funded from the Part C federal funds provided for the purposes of this title.

(b) Any increased costs to regional centers due to the implementation of this title shall be funded from the Part C federal funds provided for the purposes of this title.

(c) The annual Budget Act shall specify the amount of federal Part C funds allocated for local assistance and for state operations individually, for the State Department of Developmental Services, and for the State Department of Education.

(d) If federal funds are available after mandatory components and increased costs in subdivisions (a) and (b), if any, are funded, the lead agency, in consultation with the State Department of Education, may do the following:

(1) Designate local interagency coordination areas throughout the state and allocate available Part C federal funds to fund interagency coordination activities, including, but not limited to, outreach and public awareness, and interagency approaches to service planning and delivery. If the lead agency chooses to designate and fund local interagency coordination areas, the lead agency shall first offer to enter into a contract with the regional center or a local educational agency. If the regional center or any of the local educational agencies do not accept the offer, the lead agency, in consultation with the State Department of Education and the approval of the regional center and local educational agencies in the area, directly may enter into a contract with a private, nonprofit organization. Nothing in this section shall preclude a regional center or local educational agency that enters into a contract with the lead agency from subcontracting with a private, nonprofit organization.

(2) Allocate funds to support family resource services, including, but not limited to, parent-to-parent support, information dissemination and referral, public awareness, family-professional collaboration activities, and transition assistance for families.

(e) If an expenditure plan is developed under subdivision (d), the lead agency, in consultation with the State Department of Education, shall give high priority to funding family resource services.

(f) Nothing in this section shall be construed to limit the lead agency's authority, in consultation with the State Department of Education, to allocate discretionary Part C federal funds for any legitimate purpose consistent with the statutes and regulations under Part C (20 U.S.C. Secs. 1431 to 1444, inclusive) and this title.

(Amended by Stats. 2007, Ch. 56, Sec. 114. Effective January 1, 2008. Repealed conditionally as prescribed by Section 95003.)

CHAPTER 7. DATA COLLECTION

(Chapter 7 added by Stats. 1993, Ch. 945, Sec. 2. Effective October 8, 1993. Repealed conditionally as prescribed by Section 95003.)

95026. The lead agency shall maintain a system for compiling data required by the federal Office of Special Education Programs, through Part C of the federal Individuals with Disabilities Education Act, including the number of eligible infants and toddlers and their families in need of appropriate early intervention services, the number of eligible infants and toddlers and their families served, the types of services provided, and other information required by the federal Office of Special Education Programs. All participating agencies listed in Section 95012 shall assist in the development of the system and shall cooperate with the lead agency in meeting federal data requirements. The feasibility of using existing systems and including social security numbers shall be explored to facilitate data collection.

(Amended by Stats. 2007, Ch. 56, Sec. 115. Effective January 1, 2008. Repealed conditionally as prescribed by Section 95003.)

CHAPTER 8. REGULATIONS

(Chapter 8 added by Stats. 1993, Ch. 945, Sec. 2. Effective October 8, 1993. Repealed conditionally as prescribed by Section 95003.)

95028. (a) On or before October 1, 1995, the State Department of Developmental Services, on behalf of the Secretary of the Health and Human Services Agency, and the State Department of Education, on behalf of the Superintendent of Public Instruction, jointly shall develop, approve, and implement regulations, as necessary, to comply with the requirements of this title and Part C, as specified in federal statutes and regulations.

(b) The regulations developed pursuant to this section shall include, but are not limited to, the following requirements:

(1) The administrative structure for planning and implementation of the requirements of this title and Part C.

(2) Eligibility for Part C services.

(3) Evaluation and assessment.

(4) Individualized family service plans.

(5) Service coordination.

(6) The program and service components of the statewide system for early intervention services.

(7) The duties and responsibilities of the lead agency as specified in Section 95006, including procedural safeguards and the process for resolving complaints against a public agency for violation of the requirements of Part C.

(c) The State Department of Developmental Services shall adopt regulations to implement this title in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2. Initial regulations to implement this title shall be adopted as emergency regulations. The adoption of these initial emergency regulations shall be considered by the Office of Administrative Law to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. The initial emergency regulations shall remain in effect for no more than 180 days. These regulations shall be jointly developed by the State Department of Developmental Services and the State Department of Education by July 1, 1994. The

Department of Finance shall review and comment upon the emergency regulations prior to their adoption.

(Amended by Stats. 2007, Ch. 56, Sec. 116. Effective January 1, 2008. Repealed conditionally as prescribed by Section 95003.)

CHAPTER 9. EVALUATION

(Chapter 9 added by Stats. 1993, Ch. 945, Sec. 2. Effective October 8, 1993. Repealed conditionally as prescribed by Section 95003.)

95029. The State Department of Developmental Services and the State Department of Education shall ensure that an independent evaluation of the program and its structure is completed by October 1, 1996. The evaluation shall address the following issues:

(a) The efficiency and cost-effectiveness of the state administrative structure, the local interagency coordinating structure, and the mandatory program components.

(b) The degree to which programs and services provided through regional centers and local educational agencies fulfill the purpose of Part C of the federal Individuals with Disabilities Education Act.

(c) The extent to which implementation of the program has resulted in improved services for infants and their families, and greater satisfaction with service delivery by families.

(d) The outcomes and effectiveness of family resource centers.

(e) The adequacy of the Part C funding models. The evaluation shall be funded with federal funds.

(Amended by Stats. 2007, Ch. 56, Sec. 117. Effective January 1, 2008. Repealed conditionally as prescribed by Section 95003.)

95029.5. (a) The State Department of Education shall conduct a study of the current methods of providing special instruction and other services to infants and toddlers who are deaf or hard of hearing. The study shall be funded, upon appropriation by the Legislature, by any available federal funds administered by the State Department of Education and shall include, but not be limited to, all of the following:

(1) The personnel utilized.

(2) The varying approaches utilized in providing services to individuals with single disabilities, as compared to the approaches used in providing services to individuals with multiple disabilities, including hearing impairments.

(3) The adequacy of the resources and personnel standards.

(4) The costs associated with ensuring that infants and toddlers who are deaf or hard of hearing received special instruction from credentialed teachers of the deaf.

(b) The department shall report to the Legislature by January 1, 2006, recommendations regarding how to best provide and fund appropriate quality services for these children.

(Added by Stats. 2004, Ch. 456, Sec. 1. Effective January 1, 2005. Repealed conditionally as prescribed by Section 95003.)

CHAPTER 10. TERMINATION

(Chapter 10 added by Stats. 1993, Ch. 945, Sec. 2. Effective October 8, 1993. Repealed conditionally as prescribed by Section 95003. Note: Section 95030, this chapter's only section, was repealed on July 22, 1999, by Stats. 1999, Ch. 146.)

TITLE 14. CALIFORNIA EARLY INTERVENTION SERVICES ACT

(Title 14 repealed (in Sec. 2) and added by Stats. 1993, Ch. 945, Sec. 4. Effective October 8, 1993. New title conditionally operative, pursuant to Section 95004, upon repeal of the Title 14 added by Sec. 2 of Ch. 945.)

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

(Chapter 1 added by Stats. 1993, Ch. 945, Sec. 4. Effective October 8, 1993. Conditionally operative as prescribed by Section 95004.)

Article 1. General Provisions

(Article 1 added by Stats. 1993, Ch. 945, Sec. 4. Effective October 8, 1993. Conditionally operative as prescribed by Section 95004.)

95000. The Legislature finds that disabled and high-risk infants now survive the newborn period due to greatly improved surgical and medical care services. However, in many communities, services that provide the careful nurturing and stimulation that these infants need to develop to their potential are not available. The Legislature hereby finds and declares that individualized early intervention services for infants who are at high risk or who have a disabling condition, and for their families, which provide educational, developmental, health, and social services with active parent involvement, can significantly reduce the potential impact of many disabling conditions and positively influence later development when the child reaches school age.

The Legislature further finds that infants have unique needs and therefore require both a unique service delivery model, which may be different from any system currently in place in California, and unique program and personnel standards specific to the needs of infants who are at high risk or who have a disabling condition and their families.

The Legislature further acknowledges that early intervention services are cost effective in that these services frequently make productive citizens of children and eliminate the far greater costs of long-term remedial treatment for, and unnecessary lifelong dependency on, others.

(Amended (as added by Stats. 1993, Ch. 945, Sec. 4) by Stats. 2004, Ch. 183, Sec. 184. Effective January 1, 2005. Conditionally operative as prescribed by Section 95004.)

95002. It is the intent of the Legislature that those agencies which possess the greatest expertise in providing early intervention services to infants and their families in the past continue to provide these services. It is the further intent of the Legislature that existing early intervention services rendered by state and local public agencies and private agencies be coordinated and maximized through interagency services with specific state and local government responsibilities.

(Repealed (in Sec. 2) and added by Stats. 1993, Ch. 945, Sec. 4. Effective October 8, 1993. Conditionally operative as prescribed by Section 95004.)

95003. It is the intent of the Legislature that the State Department of Health Services, the State Department of Developmental Services, the State Department of Mental Health, the State Department of Social Services, and the State Department of Education work together to provide coordinated, interagency services to high-risk and disabled infants and their families.

(Repealed (in Sec. 2) and added by Stats. 1993, Ch. 945, Sec. 4. Effective October 8, 1993. Conditionally operative as prescribed by Section 95004.)

95004. This title shall become operative upon the repeal of Title 14 (commencing with Section 95000) as added by Section 2 of Chapter 945 of the Statutes of 1993.

(Amended (as added by Stats. 1993, Ch. 945, Sec. 4) by Stats. 1994, Ch. 146, Sec. 86. Effective January 1, 1995.)