

AMENDED IN SENATE AUGUST 14, 2014

AMENDED IN SENATE JUNE 18, 2014

AMENDED IN ASSEMBLY APRIL 21, 2014

AMENDED IN ASSEMBLY MARCH 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1595

Introduced by Assembly Member Chesbro

February 3, 2014

An act to amend Sections 4433, 4433.5, 4474.1, 4478, 4520, 4521, 4525, 4530, 4535, 4540, 4544, 4550, 4552, 4561, 4562, 4564, 4565, 4626, 4628, 4629, 4635, 4640.6, 4646, 4646.5, 4648, 4649, 4650, 4659, 4662, 4669.2, 4677, 4685.8, 4701, 4702.6, 4705, 4775, 4830, 4831, 4832, and 4835 of, to amend the heading of Article 3 (commencing with Section 4530) of, to amend the heading of Article 6 (commencing with Section 4543) of, to amend the heading of Article 7 (commencing with Section 4550) of, Chapter 2 of Division 4.5 of, to add ~~Section Sections 4520.5 and 4541~~ to, to repeal Sections 4543, 4547, 4560, and 4566 of, and to repeal and add Sections ~~4545, 4546, 4545, 4546, 4548,~~ 4551, 4553, and 4563 of, the Welfare and Institutions Code, relating to developmental services.

LEGISLATIVE COUNSEL'S DIGEST

AB 1595, as amended, Chesbro. State Council on Developmental Disabilities.

Existing federal law, the Developmental Disabilities Assistance and Bill of Rights Act of 2000, 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.

Existing law establishes the State Council on Developmental Disabilities to, among other things, serve as the state planning council responsible for developing the California Developmental Disabilities State Plan and monitoring and evaluating the implementation of the plan. Existing law requires the council to conduct activities related to meeting the objectives of the state plan. Existing law requires these activities to include, among other things, supporting and conducting technical assistance activities to assist public and private entities to contribute to the objectives of the state plan, and authorizes the activities to include, among other things, supporting and conducting activities to assist neighborhoods and communities to respond positively to individuals with disabilities and their families.

This bill would revise the activities the council is authorized to conduct to include, among other things, encouraging and assisting in the establishment or strengthening of self-advocacy organizations led by individuals with developmental disabilities and appoint an authorized representative for persons with developmental disabilities, as specified. The bill would make additional changes relating to the activities of the council.

Existing law requires the Governor to appoint 31 voting members to the council, including 13 members from the area boards and 7 members at large. Existing law requires the Governor, prior to appointing specified council members, to request and consider recommendations from organizations representing, or providing services to, or both, persons with developmental disabilities. Existing law also limits the term of those members to 3 years.

This bill would instead require 20 members of the council to be nonagency members who reflect the socioeconomic, geographic, disability, racial, ethnic, and language diversity of the state, and who shall be persons with a developmental disability, or their parents, immediate relatives, guardians, or conservators residing in California, as specified. The bill would additionally require the Governor to consult with the current members, including the nonagency members, of the council prior to appointing specified members and would require those members to serve no more than 2 terms.

Existing law also establishes the area boards on developmental disabilities to, among other things, conduct the local advocacy, capacity

building, and systemic change activities required by the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000, and to assist the council on implementing provisions of the act. Existing law requires area boards to locally assist the state council with the implementation of specified federal provisions and provides for the composition of area boards.

This bill would revise and recast the area boards as regional offices or as regional advisory committees and would make the establishment of the regional offices and the regional advisory committees discretionary. The bill would require any regional officers and regional advisory committees established to be constituted and operated according to policies and procedures set by the state council. The bill would require the regional advisory *committees* to, upon the request of the state council, among other things, advise the state council and its regional office on local issues and to identify and provide input regarding local systemic needs within its community. The bill would make conforming changes.

Existing law requires the state council chairperson to appoint an executive director and to appoint an executive director for each area board, as specified. Existing law requires the state council to have responsibility for the selection, hiring, and supervision of all state council personnel.

This bill would instead require the state council to appoint an executive director and would instead require the state council, through its executive director, to have responsibility for the selection, hiring, and supervision of all state council personnel.

Existing law establishes the State Department of Developmental Services and sets forth its powers and duties, including, but not limited to, the administration of state developmental centers and the administration and oversight of community programs providing services to consumers with developmental disabilities and their families. Existing law authorizes the department to contract with the council for the purpose of utilizing area boards to provide clients' rights advocacy services to individuals with developmental disabilities who reside in *state* developmental centers and state hospitals.

This bill would instead authorize the department to contract with the council to provide clients' rights advocacy services to individuals with developmental disabilities who reside in developmental centers. The bill would make other conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 4433 of the Welfare and Institutions Code
2 is amended to read:
3 4433. (a) The Legislature finds and declares all of the
4 following:
5 (1) The State of California accepts its responsibility to ensure
6 and uphold the rights of persons with developmental disabilities
7 and an obligation to ensure that laws, regulations, and policies on
8 the rights of persons with developmental disabilities are observed
9 and protected.
10 (2) Persons with developmental disabilities are vulnerable to
11 abuse, neglect, and deprivations of their rights.
12 (3) Clients' rights advocacy services provided by the regional
13 centers, the advocacy services currently provided by the department
14 at the state developmental centers, and the services provided by
15 the department's Office of Human Rights may have conflicts of
16 interest or the appearance of a conflict of interest.
17 (4) The services provided to individuals with developmental
18 disabilities and their families are of such a special and unique
19 nature that they cannot satisfactorily be provided by state agencies
20 or regional centers and must be contracted out pursuant to
21 paragraph (3) of subdivision (b) of Section 19130 of the
22 Government Code.
23 (b) (1) To avoid the potential for a conflict of interest or the
24 appearance of a conflict of interest, beginning January 1, 1998,
25 the department shall contract for clients' rights advocacy services.
26 The department shall solicit a single statewide contract with a
27 nonprofit agency that results in at least three responsive bids that
28 meet all of the criteria specified in paragraph (2) to perform the
29 services specified in subdivision (d). If three responsive bids are
30 not received, the department may rebid the contract on a regional
31 basis, not to exceed three regional contracts and one contract for
32 developmental centers and headquarters.
33 (2) Any contractor selected shall meet the following
34 requirements:

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

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

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

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

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

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

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

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

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

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

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

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

10 (e) In order to ensure that individuals with developmental
11 disabilities have access to high quality advocacy services, the
12 contractor shall establish a grievance procedure and shall advise
13 persons receiving services under the contract of the availability of
14 other advocacy services, including the services provided by the
15 protection and advocacy agency specified in Division 4.7
16 (commencing with Section 4900).

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

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

23 SEC. 2. Section 4433.5 of the Welfare and Institutions Code
24 is amended to read:

25 4433.5. Notwithstanding Section 4433, the department may
26 contract with the State Council on Developmental Disabilities for
27 the purpose of providing clients' rights advocacy services to
28 individuals with developmental disabilities who reside in
29 developmental centers.

30 SEC. 3. Section 4474.1 of the Welfare and Institutions Code
31 is amended to read:

32 4474.1. (a) Whenever the State Department of Developmental
33 Services proposes the closure of a state developmental center, the
34 department shall be required to submit a detailed plan to the
35 Legislature not later than April 1 immediately prior to the fiscal
36 year in which the plan is to be implemented, and as a part of the
37 Governor's proposed budget. A plan submitted to the Legislature
38 pursuant to this section, including any modifications made pursuant
39 to subdivision (b), shall not be implemented without the approval
40 of the Legislature.

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

4 (c) Prior to submission of the plan to the Legislature, the
5 department shall solicit input from the State Council on
6 Developmental Disabilities, the Association of Regional Center
7 Agencies, the protection and advocacy agency specified in Section
8 4901, the local regional center, consumers living in the
9 developmental center, parents, family members, guardians, and
10 conservators of persons living in the developmental centers or their
11 representative organizations, persons with developmental
12 disabilities living in the community, developmental center
13 employees and employee organizations, community care providers,
14 the affected city and county governments, and business and civic
15 organizations, as may be recommended by local state Senate and
16 Assembly representatives.

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

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

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

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

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

35 (3) The impact on residents and their families.

36 (4) Anticipated alternative placements for residents.

37 (5) The impact on regional center services.

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

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

4 (8) The fiscal impact of the closure.

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

6 SEC. 4. Section 4478 of the Welfare and Institutions Code is
7 amended to read:

8 4478. (a) The chairperson of an advisory board advising a
9 developmental center shall meet annually with the developmental
10 center director, the regional center directors, and a representative
11 of the State Council on Developmental Disabilities.

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

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

17 SEC. 5. Section 4520 of the Welfare and Institutions Code is
18 amended to read:

19 4520. (a) A State Council on Developmental Disabilities with
20 authority independent of any single state service agency is hereby
21 created.

22 (b) The Legislature finds that in each of the 56 states and
23 territories, the federal Developmental Disabilities Assistance and
24 Bill of Rights Act of 2000 (Public Law 106-402 (42 U.S.C. 15001
25 et seq.)) establishes State Councils on Developmental Disabilities
26 that work to promote the core values of the act, including
27 self-determination, independence, productivity, integration, and
28 inclusion in all aspects of community life.

29 (c) The Legislature finds that California’s State Council on
30 Developmental Disabilities was established pursuant to the federal
31 Developmental Disabilities Assistance and Bill of Rights Act of
32 2000 to engage in advocacy, capacity building, and systemic
33 change activities that are consistent with the policy contained in
34 federal law and contribute to a coordinated, consumer- and
35 family-centered, consumer- and family-directed, comprehensive
36 system that includes the provision of needed community services,
37 individualized supports, and other forms of assistance that promote
38 self-determination for individuals with developmental disabilities
39 and their families. It is the intent of the Legislature that the state
40 council independently exercise its authority and responsibilities

1 under federal law, expend its federal funding allocation, and
2 exercise all powers and duties that may be necessary to carry out
3 the purposes contained in applicable federal law.

4 (d) The Legislature finds that the federal Developmental
5 Disabilities Assistance and Bill of Rights Act of 2000 requires the
6 council to promote certain principles that include all of the
7 following:

8 (1) Individuals with developmental disabilities, including those
9 with the most severe developmental disabilities, are capable of
10 self-determination, independence, productivity, and integration
11 and inclusion in all facets of community life, but often require the
12 provision of community services, individualized supports, and
13 other forms of assistance.

14 (2) Individuals with developmental disabilities and their families
15 have competencies, capabilities, and personal goals that should be
16 recognized, supported, and encouraged, and any assistance to these
17 individuals should be provided in an individualized manner,
18 consistent with the unique strengths, resources, priorities, concerns,
19 abilities, and capabilities of these individuals.

20 (3) Individuals with developmental disabilities and their families
21 are the primary decisionmakers regarding the services and supports
22 these individuals and their families receive, including choosing
23 where an individual lives from available options, and have
24 decisionmaking roles in policies and programs that affect the lives
25 of these individuals and their families.

26 (e) (1) The Legislature finds that the *state* council faces unique
27 challenges in ensuring access and furthering these principles due
28 to the state's size, diversity, and a service delivery system that
29 promotes significant local control.

30 (2) Therefore, it is the intent of the Legislature that the state
31 council, consistent with its authority and responsibilities under
32 federal law, ensure that the council is accessible and responsive
33 to the ~~diverse~~, *diverse* geographic, racial, ethnic, and language
34 needs of ~~persons~~ *individuals* with developmental disabilities and
35 their families throughout California, which in part may, as
36 determined by the *state* council, be achieved through the
37 establishment of regional offices, the number and location of which
38 may be determined by the *state* council.

39 (f) This chapter, Chapter 3 (commencing with Section 4561),
40 and Division 4.7 (commencing with Section 4900), are intended

1 by the Legislature to secure full compliance with the requirements
2 of the federal Developmental Disabilities Assistance and Bill of
3 Rights Act of 2000 as amended and extended, which provides
4 federal funds to assist the state in planning, coordinating,
5 monitoring, and evaluating services for persons with developmental
6 disabilities and in establishing a system to protect and advocate
7 the legal and civil rights of persons with developmental disabilities.

8 (g) The state council may use funds and other moneys allocated
9 to the *state* council in accordance with the purposes of the federal
10 Developmental Disabilities Assistance and Bill of Rights Act of
11 2000. This section does not preclude the state council from using
12 moneys other than moneys provided through the federal
13 Developmental Disabilities Assistance and Bill of Rights Act of
14 2000 in any manner consistent with applicable federal and state
15 law.

16 *SEC. 6. Section 4520.5 is added to the Welfare and Institutions*
17 *Code, to read:*

18 *4520.5. Notwithstanding any other law, the state council shall*
19 *determine the structure of its organization, as required by the*
20 *federal Developmental Disabilities Assistance and Bill of Rights*
21 *Act of 2000 (Public Law 106-402 (42 U.S.C. 15001 et seq.)).*

22 ~~SEC. 6.~~

23 *SEC. 7. Section 4521 of the Welfare and Institutions Code is*
24 *amended to read:*

25 4521. (a) (1) All references to “council” or “state council” in
26 this division shall be a reference to the State Council on
27 Developmental Disabilities.

28 (2) “Developmental disability,” as used in this chapter, means
29 a developmental disability as defined in Section 15002(8) of Title
30 42 of the United State Code.

31 (b) There shall be 31 voting members on the state council
32 appointed by the Governor from among the residents of the state,
33 as follows:

34 (1) (A) Twenty members of the council shall be nonagency
35 members who reflect the socioeconomic, geographic, disability,
36 racial, ethnic, and language diversity of the state, and who shall
37 be persons with a developmental disability or their parents,
38 immediate relatives, guardians, or conservators residing in
39 California. Of the 20 members:

1 (i) At least seven members shall be persons with developmental
2 disabilities.

3 (ii) At least seven members shall be a person who is a parent,
4 immediate relative, guardian, or conservator of a person with a
5 developmental disability.

6 (iii) At least one of the members shall be a person with a
7 developmental disability who is a current or former resident of an
8 institution or his or her immediate relative, guardian, or
9 conservator.

10 (B) To ensure that *state* council membership is geographically
11 representative, as required by federal law, the Governor shall
12 appoint the members described in clauses (i) and (ii) of
13 subparagraph (A) from the geographical area of each regional
14 office, if regional offices have been established by the council.
15 Each member described in clauses (i) and (ii) of subparagraph (A)
16 may, in the discretion of the *state* council, serve as a liaison from
17 the *state* council to consumers and family members in the
18 geographical area that he or she is from.

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

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

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

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

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

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

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

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

38 (H) The executive director of the agency established in
39 California to fulfill the requirements and assurance of Title I,
40 Subtitle C, of the federal Developmental Disabilities Assistance

1 and Bill of Rights Act of 2000 for a system to protect and advocate
 2 the rights of persons with developmental disabilities, or his or her
 3 designee.

4 (I) The Director of the California Department of Aging or his
 5 or her designee.

6 (c) Prior to appointing the members described in paragraph (1)
 7 of, and subparagraph (E) of paragraph (2) of, subdivision (b), the
 8 Governor shall consult with the current members of the council,
 9 including nonagency members of the council, and consider
 10 recommendations from organizations representing persons with a
 11 broad range of developmental disabilities, or persons interested
 12 in, or providing services to, or both, persons with developmental
 13 disabilities.

14 (d) The term of each member described in paragraph (1) of, and
 15 subparagraph (E) of paragraph (2) of, subdivision (b) shall be for
 16 three years. The term of these members shall begin on the date of
 17 appointment by the Governor and these members shall serve no
 18 more than two terms.

19 (e) A member may continue to serve following the expiration
 20 of his or her term until the Governor appoints that member’s
 21 successor. The state council shall notify the Governor regarding
 22 membership requirements of the council and shall notify the
 23 Governor, in writing, immediately when a vacancy occurs prior
 24 to the expiration of a member’s term, at least six months before a
 25 member’s term expires, and when a vacancy on the council remains
 26 unfilled for more than 60 days.

27 ~~SEC. 7.~~

28 *SEC. 8.* Section 4525 of the Welfare and Institutions Code is
 29 amended to read:

30 4525. (a) In order to prevent any potential conflicts of interest,
 31 members of the state council may not be employees of a state,
 32 local, or private agency or facility that provides services to persons
 33 with a developmental disability, or be members of the governing
 34 board of any entity providing the service, when the service is
 35 funded in whole or in part with state funds.

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

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

5 (2) A person with a developmental disability who receives
6 employment services through a provider receiving state or federal
7 funds, or who receives funds directly to pay for his or her own
8 services and supports.

9 (3) A person who serves as a member of a regional advisory
10 committee of the state council, established pursuant to Article 6.

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

14 ~~SEC. 8:~~

15 *SEC. 9.* The heading of Article 3 (commencing with Section
16 4530) of Chapter 2 of Division 4.5 of the Welfare and Institutions
17 Code is amended to read:

18
19 Article 3. Designated State Agency

20
21 ~~SEC. 9:~~

22 *SEC. 10.* Section 4530 of the Welfare and Institutions Code is
23 amended to read:

24 4530. (a) The California Health and Human Services Agency
25 shall be the designated state agency for support to the state council.
26 The agency secretary shall ensure the state council is provided
27 efficient accounting, financial management, personnel, and other
28 reasonable support services when requested by the council in the
29 performance of its mandated responsibilities.

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

35 (c) The designation of the California Health and Human Services
36 Agency shall not interfere in any way with the provisions of
37 Section 4552 requiring all personnel employed by the council to
38 be solely responsible, organizationally and administratively, to the
39 council.

1 ~~SEC. 10.~~

2 *SEC. 11.* Section 4535 of the Welfare and Institutions Code is
 3 amended to read:

4 4535. (a) The state council shall meet at least six times per
 5 year, and, upon call of its chairperson, as often as necessary to
 6 fulfill its duties. All meetings and records of the state council shall
 7 be open to the public.

8 (b) The state council shall, by majority vote of the voting
 9 members, elect its own chairperson and vice chairperson who shall
 10 have full voting rights on all state council actions, from among the
 11 appointed members, described in paragraph (1) ~~of, and~~
 12 ~~subparagraph (E) of paragraph (2) of,~~ of subdivision (b) of Section
 13 4521. The council shall establish any committees it deems
 14 necessary or desirable. The chairperson shall appoint all members
 15 of committees of the state council. The chairs and vice chairs of
 16 the state council and its standing committees shall be individuals
 17 with a developmental disability, or the parent, sibling, guardian,
 18 or conservator of an individual with a developmental disability.

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

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

32 ~~SEC. 11.~~

33 *SEC. 12.* Section 4540 of the Welfare and Institutions Code is
 34 amended to read:

35 4540. The state council, established pursuant to the federal
 36 Developmental Disabilities Assistance and Bill of Rights Act of
 37 2000 (Public Law 106-402 (42 U.S.C. 15001 et seq.)), shall do all
 38 of the following:

39 (a) Serve as an advocate for individuals with developmental
 40 disabilities and, through council members, staff, consultants, and

1 contractors and grantees, conduct advocacy, capacity building,
2 and systemic change activities.

3 (b) Develop and implement the state plan in accordance with
4 requirements issued by the United States Secretary of Health and
5 Human Services, monitor and evaluate the implementation of this
6 plan, and submit reports as the United States Secretary of Health
7 and Human Services may reasonably request. The *state* council
8 may review and comment on other plans and programs in the state
9 affecting individuals with developmental disabilities.

10 (c) Serve as the official agency responsible for planning the
11 provision of the federal funds allotted to the state under Public
12 Law 106-402 (42 U.S.C. Sec. 15001 et seq.), by conducting and
13 supporting advocacy, capacity building, and systemic change
14 activities. The council may itself conduct these activities and may
15 provide grant funding to local agencies in compliance with
16 applicable state and federal law, for those same purposes.

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

22 (e) To the extent that resources are available, implement the
23 state plan by conducting activities including, but not limited to,
24 all of the activities specified in paragraphs (1) to (11), inclusive.

25 (1) Encouraging and assisting in the establishment or
26 strengthening of self-advocacy organizations led by individuals
27 with developmental disabilities.

28 (2) Supporting and conducting geographically based outreach
29 activities to identify individuals with developmental disabilities
30 and their families who otherwise might not come to the attention
31 of the council and assist and enable the individuals and families
32 to obtain services, individualized supports, and other forms of
33 assistance, including access to special adaptation of generic
34 community services or specialized services.

35 (3) Supporting and conducting training for persons who are
36 individuals with developmental disabilities, their families, and
37 personnel, including professionals, paraprofessionals, students,
38 volunteers, and other community members, to enable those persons
39 to obtain access to, or to provide, community services,
40 individualized supports, and other forms of assistance, including

1 special adaptation of generic community services or specialized
2 services for individuals with developmental disabilities and their
3 families.

4 (4) Supporting and conducting technical assistance activities to
5 assist public and private entities to contribute to the objectives of
6 the state plan.

7 (5) Supporting and conducting activities to assist neighborhoods
8 and communities to respond positively to individuals with
9 developmental disabilities and their families.

10 (6) Supporting and conducting activities to promote interagency
11 collaboration and coordination at the state and local levels to better
12 serve, support, assist, or advocate for individuals with
13 developmental disabilities and their families.

14 (7) Coordinating with related councils, committees, and
15 programs to enhance coordination of services.

16 (8) Supporting and conducting activities to eliminate barriers
17 to access and use of community services by individuals with
18 disabilities, enhance systems design and redesign, and enhance
19 citizen participation to address issues identified in the state plan.

20 (9) Supporting and conducting activities to educate the public
21 about the capabilities, preferences, and needs of individuals with
22 developmental disabilities and their families, and to develop and
23 support coalitions that support the policy agenda of the council,
24 including training in self-advocacy, education of policymakers,
25 and citizen leadership roles.

26 (10) Supporting and conducting activities to provide information
27 to policymakers by supporting and conducting studies and analyses,
28 gathering information, and developing and disseminating model
29 policies and procedures, information, approaches, strategies,
30 findings, conclusions, and recommendations. The council may
31 provide the information directly to federal, state, and local
32 policymakers, including the Congress of the United States, the
33 federal executive branch, the Governor, the Legislature, and state
34 agencies in order to increase the abilities of those policymakers to
35 offer opportunities and enhance or adapt generic services to meet
36 the needs of, or provide specialized services to, individuals with
37 developmental disabilities and their families.

38 (11) Supporting, on a time-limited basis, activities to
39 demonstrate new approaches to serving individuals with

1 developmental disabilities that are a part of an overall strategy for
2 systemic change.

3 (f) Prepare an annual written report of its activities, its
4 recommendations, and an evaluation of the efficiency of the
5 administration of this division to the Governor and the Legislature.
6 This report shall include both the statewide and regional activities
7 of the state council. This report shall be submitted to the Legislature
8 in accordance with Section 9795 of the Government Code.

9 (g) Except as otherwise provided in this division, the state
10 council shall not engage in the administration of the day-to-day
11 operation of service programs identified in the state plan, nor in
12 the financial management and accounting of funds.

13 ~~SEC. 12.~~

14 *SEC. 13.* Section 4541 is added to the Welfare and Institutions
15 Code, immediately following Section 4540, to read:

16 4541. The state council may, in its discretion, and in addition
17 to the activities specified in subdivision (e) of Section 4540,
18 implement the state plan by conducting activities that may include,
19 but are not limited to, the following:

20 (a) Appointing an authorized representative for persons with
21 developmental disabilities according to all of the following:

22 (1) To ensure the protection of civil and service rights of persons
23 with developmental disabilities, the state council may appoint a
24 representative to assist the person in expressing his or her desires
25 and in making decisions and advocating his or her needs,
26 preferences, and choices, when the person with developmental
27 disabilities has no parent, guardian, or conservator legally
28 authorized to represent him or her and the person has either
29 requested the appointment of a representative or the rights or
30 interests of the person, as determined by the state council, will not
31 be properly protected or advocated without the appointment of a
32 representative.

33 (2) When there is no guardian or conservator, the individual's
34 choice, if expressed, including the right to reject the assistance of
35 a representative, shall be honored. If the person does not express
36 a preference, the order of preference for selection of the
37 representative shall be the person's parent, involved family
38 members, or a volunteer selected by the state council. In
39 establishing these preferences, it is the intent of the Legislature
40 that parents or involved family members shall not be required to

1 be appointed guardian or conservator in order to be selected. Unless
2 the person with developmental disabilities expresses otherwise,
3 or good cause otherwise exists, the request of the parents or
4 involved family members to be appointed the representative shall
5 be honored.

6 (3) Pursuant to this section, the state council shall appoint a
7 representative to advocate the rights and protect the interest of a
8 person residing in a developmental center for whom community
9 placement is proposed pursuant to Section 4803. The representative
10 may obtain the advocacy assistance of the regional center clients'
11 rights advocate.

12 (b) Conducting public hearings and forums and the evaluation
13 and issuance of public reports on the programs identified in the
14 state plan, as may be necessary to carry out the duties of the state
15 council.

16 (c) Identifying the denial of rights of persons with disabilities
17 and informing the appropriate local, state, or federal officials of
18 their findings, and assisting these officials in eliminating all forms
19 of discrimination against persons with developmental disabilities
20 in housing, recreation, education, health and mental health care,
21 employment, and other service programs available to the general
22 population.

23 (d) Reviewing and commenting on pertinent portions of the
24 proposed plans and budgets of all state agencies serving persons
25 with developmental disabilities ~~to include~~, *including*, but not be
26 limited to, the State Department of Education, the Department of
27 Rehabilitation, and the State Department of Developmental
28 Services, and local agencies to the extent resources allow.

29 (e) (1) Promoting systems change and implementation by
30 reviewing the policies and practices of publicly funded agencies
31 that serve or may serve persons with developmental disabilities to
32 determine if the programs are meeting their obligations, under
33 local, state, and federal laws. If the state council finds that the
34 agency is not meeting its obligations, the state council may inform
35 the director and the governing board of the noncomplying agency,
36 in writing, of its findings.

37 (2) Within 15 days, the agency shall respond, in writing, to the
38 state council's findings. Following receipt of the agency's response,
39 if the state council continues to find that the agency is not meeting

1 its obligations, the state council may pursue informal efforts to
2 resolve the issue.

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

8 (4) The state council may take any action it deems necessary to
9 resolve the problem.

10 (f) Reviewing and publicly commenting on significant
11 regulations proposed to be promulgated by any state agency in the
12 implementation of this division.

13 (g) Monitoring and evaluating the effectiveness of appeals
14 procedures established in this division.

15 (h) Providing testimony to legislative committees reviewing
16 fiscal or policy matters pertaining to persons with developmental
17 disabilities.

18 (i) Conducting, or causing to be conducted, investigations or
19 public hearings to resolve disagreements between state agencies,
20 or between state and regional or local agencies, or between persons
21 with developmental disabilities and agencies receiving state funds.
22 These investigations or public hearings shall be conducted at the
23 discretion of the state council only after all other appropriate
24 administrative procedures for appeal, as established in state and
25 federal law, have been fully utilized.

26 (j) Any other activities prescribed in statute that are consistent
27 with the purposes of the federal Developmental Disabilities
28 Assistance and Bill of Rights Act of 2000 (Public Law 106-402
29 (42 U.S.C. Sec. 15001 et seq.)) and the state plan developed
30 pursuant to subdivision (b) of Section 4540.

31 ~~SEC. 13.~~

32 *SEC. 14.* The heading of Article 6 (commencing with Section
33 4543) of Chapter 2 of Division 4.5 of the Welfare and Institutions
34 Code is amended to read:

35

36 Article 6. State Council Regional Offices and Advisory
37 Committees

38

1 ~~SEC. 14.~~

2 ~~SEC. 15.~~ Section 4543 of the Welfare and Institutions Code is
3 repealed.

4 ~~SEC. 15.~~

5 ~~SEC. 16.~~ Section 4544 of the Welfare and Institutions Code is
6 amended to read:

7 4544. (a) (1) The state council may establish regional offices
8 that are accessible to and responsive to the diverse geographic,
9 ethnic, and language needs of consumers and families throughout
10 the state. As of January 1, 2015, regional offices of the state
11 ~~council~~, *council* in existence as of December 31, 2014, shall
12 continue to exist, within the same geographic regions of the state.

13 (2) *Effective January 1, 2015, the state council shall have full*
14 *authority to establish, maintain, and operate regional offices,*
15 *including the number and location of those offices.*

16 (b) To ensure involvement of persons with developmental
17 disabilities, their families, and other members of the public at the
18 regional level and to ensure the responsiveness of the state council
19 to the geographic, ethnic, and language diversity of the state, any
20 regional office established by the *state* council may be advised by
21 a regional advisory committee. As of January 1, 2015, advisory
22 boards of the regional offices, known as area boards on
23 developmental disabilities, in existence on December 31, 2014,
24 shall thereafter be known as state council regional advisory
25 committees.

26 (c) All references to “regional office” in this chapter shall be a
27 reference to state council regional offices. All references to
28 “regional advisory committees” in this chapter shall be a reference
29 to state council regional advisory committees.

30 (d) Any state council regional offices and advisory committees
31 established by the state council shall be constituted and shall
32 operate according to policies and procedures that may be
33 established by the council.

34 ~~SEC. 16.~~

35 ~~SEC. 17.~~ Section 4545 of the Welfare and Institutions Code is
36 repealed.

37 ~~SEC. 17.~~

38 ~~SEC. 18.~~ Section 4545 is added to the Welfare and Institutions
39 Code, to read:

1 4545. The state council may periodically review the number
2 and geographic boundaries of regional offices needed to effectively
3 implement this division, by methods including, but not limited to,
4 conducting public hearings in affected regions and seeking input
5 from regional advisory committees, persons with developmental
6 disabilities, family members, service providers, advocates, and
7 other interested parties. Public notice shall be provided at least
8 120 days before any changes in the number of or boundaries of
9 regional offices.

10 ~~SEC. 18.~~

11 *SEC. 19.* Section 4546 of the Welfare and Institutions Code is
12 repealed.

13 ~~SEC. 19.~~

14 *SEC. 20.* Section 4546 is added to the Welfare and Institutions
15 Code, to read:

16 4546. The membership of any regional advisory committees
17 established or continued by the state council prior to January 1,
18 2015, shall, upon expiration of the terms of individuals who are
19 members of those committees on January 1, 2015, be determined
20 through policies and procedures established by the council.

21 ~~SEC. 20.~~

22 *SEC. 21.* Section 4547 of the Welfare and Institutions Code is
23 repealed.

24 ~~SEC. 21.~~

25 *SEC. 22.* Section 4548 of the Welfare and Institutions Code is
26 repealed.

27 ~~SEC. 22.~~

28 *SEC. 23.* Section 4548 is added to the Welfare and Institutions
29 Code, to read:

30 4548. Any regional advisory committee established shall, at
31 the request of the *state* council, do all of the following:

32 (a) Advise the *state* council and its regional office on local issues
33 and identify and provide input regarding local systemic needs
34 within its community.

35 (b) Provide input and be a source of data for the *state* council
36 to consider in the formulation of the state plan.

37 (c) Provide public information programs for consumers, families,
38 professional groups, and for the general public to increase
39 professional and public awareness of areas identified in the state
40 plan.

1 (d) Engage in other activities as requested by the *state* council.

2 ~~SEC. 23.~~

3 ~~SEC. 24.~~ The heading of Article 7 (commencing with Section
4 4550) of Chapter 2 of Division 4.5 of the Welfare and Institutions
5 Code is amended to read:

6

7 Article 7. State Council Costs and Support Services

8

9 ~~SEC. 24.~~

10 ~~SEC. 25.~~ Section 4550 of the Welfare and Institutions Code is
11 amended to read:

12 4550. The state council’s operating costs may include honoraria
13 for state council members and actual and necessary expenses for
14 state council members and regional advisory committee members,
15 as described in this article, and other administrative, professional,
16 and secretarial support services necessary to the operation of the
17 state council. Federal developmental disability funds received by
18 the state under Public Law 106-402 (42 U.S.C. Sec. 15001 et seq.),
19 shall be allotted in any one year for these operating costs. Each
20 member of the state council shall receive one hundred dollars
21 (\$100) per day for each full day of work performed directly related
22 to council business, not to exceed 50 days in any fiscal year, and
23 shall be reimbursed for any actual and necessary expenses incurred
24 in connection with the performance of their duties under this
25 division.

26 ~~SEC. 25.~~

27 ~~SEC. 26.~~ Section 4551 of the Welfare and Institutions Code is
28 repealed.

29 ~~SEC. 26.~~

30 ~~SEC. 27.~~ Section 4551 is added to the Welfare and Institutions
31 Code, to read:

32 4551. (a) Within the limit of funds allotted for these purposes,
33 the state council shall appoint an executive director. All state
34 council employees that the state council may require shall be
35 appointed by the executive director.

36 (b) The executive director of the state council shall be exempt
37 from civil service. All *state* council staff positions exempt from
38 civil service on December 31, 2014, shall remain exempt on
39 January 1, 2015 and ~~thereafter.~~ *thereafter, until the position*
40 *becomes vacant or is transitioned to a civil service position.*

1 (c) Each *person who is a member of the state council—staff*
2 ~~appointed by the Governor staff~~, *is exempt from civil service, and*
3 *is employed by the state council on December 31, 2014, shall*
4 *continue to be employed in a job classification at the same or higher*
5 *salary by the state council on January 1, 2015, and thereafter,*
6 *unless he or she resigns or is terminated from employment.*

7 (d) *The state council may transition staff positions that were*
8 *exempt from civil service on December 31, 2014, to civil service*
9 *positions. Civil service positions shall be established for any*
10 *positions that are transitioned pursuant to this subdivision.*

11 (e) *Notwithstanding any other law, a person who was a state*
12 *council employee exempt from civil service on December 31, 2014,*
13 *shall be eligible to apply for civil service examinations, including*
14 *promotional civil service examinations described in Section 18992*
15 *of the Government Code. A person receiving a passing score shall*
16 *have his or her name placed on lists resulting from these*
17 *examinations, or otherwise gain eligibility for appointment. In*
18 *evaluating minimum qualifications, experience in state council*
19 *exempt positions shall be considered state civil service experience*
20 *in a class deemed comparable by the State Personnel Board, based*
21 *on the duties and responsibilities assigned.*

22 ~~SEC. 27.~~

23 SEC. 28. Section 4552 of the Welfare and Institutions Code is
24 amended to read:

25 4552. The state council may contract for additional assistance
26 with any public or private agency or individual to carry out
27 planning, monitoring, evaluation, and other responsibilities under
28 this division. In order to comply with Public Law 106-402 (42
29 U.S.C. Sec. 15001 et seq.) regulations, all personnel employed by
30 the state council shall be solely responsible, organizationally and
31 administratively, to the state council. The state council, through
32 its executive director, shall have responsibility for the selection,
33 hiring, and supervision of all ~~this its~~ personnel.

34 ~~SEC. 28.~~

35 SEC. 29. Section 4553 of the Welfare and Institutions Code is
36 repealed.

37 ~~SEC. 29.~~

38 SEC. 30. Section 4553 is added to the Welfare and Institutions
39 Code, to read:

1 4553. To the extent provided in Public Law 106-402 (42 U.S.C.
2 Sec. 15001 et seq.), the state council shall have full authority on
3 how it uses its funds for implementation of the state plan, including
4 establishing, maintaining, and operating any regional offices.

5 ~~SEC. 30.~~

6 *SEC. 31.* Section 4560 of the Welfare and Institutions Code is
7 repealed.

8 ~~SEC. 31.~~

9 *SEC. 32.* Section 4561 of the Welfare and Institutions Code is
10 amended to read:

11 4561. (a) A state plan shall be prepared by the state council
12 not less often than once every five years, and shall be reviewed
13 and revised, as necessary, on an annual basis. All references in
14 this part to “state plan” shall be references to the state plan
15 described by Public Law 106-402 (42 U.S.C. Sec. 15001 et seq.).

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

21 ~~SEC. 32.~~

22 *SEC. 33.* Section 4562 of the Welfare and Institutions Code is
23 amended to read:

24 4562. (a) The state council shall conduct activities necessary
25 to develop and implement the state plan in the various regions of
26 the state.

27 (b) The state plan and its implementation shall be responsive
28 to the needs of the state’s diverse geographic, racial, ethnic, and
29 language communities.

30 (c) In preparing this plan, the council may utilize information
31 provided by any regional offices and regional advisory committees
32 of the state council, statewide and local entities, individuals with
33 developmental disabilities, family members, and other interested
34 parties, to help identify and prioritize actions needed to improve
35 California’s system of services and supports for persons with
36 developmental disabilities.

37 (d) The purpose of the plan shall be to ensure a coordinated
38 and comprehensive system of community services and supports
39 that is consumer and family centered and consumer and family
40 directed, and to enable individuals with developmental disabilities

1 to exercise self-determination, independence, productivity, and to
2 be integrated and included in all facets of community life.

3 ~~SEC. 33.~~

4 *SEC. 34.* Section 4563 of the Welfare and Institutions Code is
5 repealed.

6 ~~SEC. 34.~~

7 *SEC. 35.* Section 4563 is added to the Welfare and Institutions
8 Code, to read:

9 4563. The state council shall assess the extent to which services,
10 supports, and other forms of assistance are available to individuals
11 with developmental disabilities and their families throughout the
12 state and for the diverse populations of the state. The *state* council
13 shall develop goals and objectives, based on the identified needs
14 and priorities, to be included in the state plan.

15 ~~SEC. 35.~~

16 *SEC. 36.* Section 4564 of the Welfare and Institutions Code is
17 amended to read:

18 4564. The state council shall conduct public hearings on the
19 state plan and related budgetary issues prior to submission of the
20 plan pursuant to Section 4565.

21 ~~SEC. 36.~~

22 *SEC. 37.* Section 4565 of the Welfare and Institutions Code is
23 amended to read:

24 4565. (a) The state plan shall be given to the Governor, the
25 Secretary of the California Health and Human Services Agency,
26 the University Centers for Excellence in Developmental Disabilities
27 established pursuant to the federal Developmental Disabilities
28 Assistance and Bill of Rights Act of 2000, the protection and
29 advocacy agency designated by the Governor to fulfill the
30 requirements and assurances of the federal Developmental
31 Disabilities Assistance and Bill of Rights Act of 2000, and the
32 Superintendent of Public Instruction for review and comment prior
33 to its submission by the chairperson of the state council to the
34 United States Secretary of Health and Human Services.

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

1 ~~SEC. 37.~~

2 ~~SEC. 38.~~ Section 4566 of the Welfare and Institutions Code is
3 repealed.

4 ~~SEC. 38.~~

5 ~~SEC. 39.~~ Section 4626 of the Welfare and Institutions Code is
6 amended to read:

7 4626. (a) The department shall give a very high priority to
8 ensuring that regional center board members and employees act
9 in the course of their duties solely in the best interest of the regional
10 center consumers and their families without regard to the interests
11 of any other organization with which they are associated or persons
12 to whom they are related. Board members, employees, and others
13 acting on the regional center's behalf, as defined in regulations
14 issued by the department, shall be free from conflicts of interest
15 that could adversely influence their judgment, objectivity, or loyalty
16 to the regional center, its consumers, or its mission.

17 (b) In order to prevent potential conflicts of interest, a member
18 of the governing board or member of the program policy committee
19 of a regional center shall not be any of the following:

20 (1) An employee of the State Department of Developmental
21 Services or any state or local agency that provides services to a
22 regional center consumer, if employed in a capacity which includes
23 administrative or policymaking responsibility, or responsibility
24 for the regulation of the regional center.

25 (2) An employee or a member of the state council or a state
26 council regional advisory committee.

27 (3) Except as otherwise provided in subdivision (h) of Section
28 4622, an employee or member of the governing board of any entity
29 from which the regional center purchases consumer services.

30 (4) Any person who has a financial interest, as defined in Section
31 87103 of the Government Code, in regional center operations,
32 except as a consumer of regional center services.

33 (c) A person with a developmental disability who receives
34 employment services through a regional center provider shall not
35 be precluded from serving on the governing board of a regional
36 center based solely upon receipt of these employment services.

37 (d) The department shall ensure that no regional center employee
38 or board member has a conflict of interest with an entity that
39 receives regional center funding, including, but not limited to, a
40 nonprofit housing organization and an organization qualified under

1 Section 501(c)(3) of the Internal Revenue Code, that actively
2 functions in a supporting relationship to the regional center.

3 (e) The department shall develop and publish a standard
4 conflict-of-interest reporting statement. The conflict-of-interest
5 statement shall be completed by each regional center governing
6 board member and each regional center employee specified in
7 regulations, including, at a minimum, the executive director, every
8 administrator, every program director, every service coordinator,
9 and every employee who has decisionmaking or policymaking
10 authority or authority to obligate the regional center's resources.

11 (f) Every new regional center governing board member and
12 regional center executive director shall complete and file the
13 conflict-of-interest statement described in subdivision (e) with his
14 or her respective governing board within 30 days of being selected,
15 appointed, or elected. Every new regional center employee
16 referenced in subdivision (e) and every current regional center
17 employee referenced in subdivision (e) accepting a new position
18 within the regional center shall complete and file the
19 conflict-of-interest statement with his or her respective regional
20 center within 30 days of assuming the position.

21 (g) Every regional center board member and regional center
22 employee referenced in subdivision (e) shall complete and file the
23 conflict-of-interest statement by August 1 of each year.

24 (h) Every regional center board member and regional center
25 employee referenced in subdivision (e) shall complete and file a
26 subsequent conflict-of-interest statement upon any change in status
27 that creates a potential or present conflict of interest. For the
28 purposes of this subdivision, a change in status includes, but is not
29 limited to, a change in financial interests, legal commitment,
30 regional center or board position or duties, or both, or outside
31 position or duties, or both, whether compensated or not.

32 (i) The governing board shall submit a copy of the completed
33 conflict-of-interest statements of the governing board members
34 and the regional center executive director to the department within
35 10 days of receipt of the statements.

36 (j) A person who knowingly provides false information on a
37 conflict-of-interest statement required by this section shall be
38 subject to a civil penalty in an amount up to fifty thousand dollars
39 (\$50,000), in addition to any civil remedies available to the
40 department. An action for a civil penalty under this provision may

1 be brought by the department or any public prosecutor in the name
2 of the people of the State of California.

3 (k) The director of the regional center shall review the
4 conflict-of-interest statement of each regional center employee
5 referenced in subdivision (e) within 10 days of receipt of the
6 statement. If a potential or present conflict of interest is identified
7 for a regional center employee that cannot be eliminated, the
8 regional center shall, within 30 days of receipt of the statement,
9 submit to the department a copy of the conflict-of-interest statement
10 and a plan that proposes mitigation measures, including timeframes
11 and actions the regional center or the employee, or both, will take
12 to mitigate the conflict of interest.

13 (l) The department and the regional center governing board shall
14 review the conflict-of-interest statement of the regional center
15 executive director and each regional center board member to ensure
16 that no conflicts of interest exist. If a present or potential conflict
17 of interest is identified for a regional center director or a board
18 member that cannot be eliminated, the regional center governing
19 board shall, within 30 days of receipt of the statement, submit to
20 the department and the state council a copy of the
21 conflict-of-interest statement and a plan that proposes mitigation
22 measures, including timeframes and actions the regional center
23 governing board or the individual, or both, will take to mitigate
24 the conflict of interest.

25 ~~SEC. 39.~~

26 *SEC. 40.* Section 4628 of the Welfare and Institutions Code is
27 amended to read:

28 4628. If, for good reason, a contracting agency is unable to
29 meet all the criteria for a governing board established in this
30 chapter, the director may waive those criteria for a period of time,
31 not to exceed one year, with the approval of the state council.

32 ~~SEC. 40.~~

33 *SEC. 41.* Section 4629 of the Welfare and Institutions Code is
34 amended to read:

35 4629. (a) The state shall enter into five-year contracts with
36 regional centers, subject to the annual appropriation of funds by
37 the Legislature.

38 (b) The contracts shall include a provision requiring each
39 regional center to render services in accordance with applicable
40 provision of state laws and regulations.

1 (c) (1) The contracts shall include annual performance
2 objectives that shall do both of the following:

3 (A) Be specific, measurable, and designed to do all of the
4 following:

5 (i) Assist consumers to achieve life quality outcomes.

6 (ii) Achieve meaningful progress above the current baselines.

7 (iii) Develop services and supports identified as necessary to
8 meet identified needs.

9 (B) Be developed through a public process as described in the
10 department's guidelines that includes, but is not limited to, all of
11 the following:

12 (i) Providing information, in an understandable form, to the
13 community about regional center services and supports, including
14 budget information and baseline data on services and supports and
15 regional center operations.

16 (ii) Conducting a public meeting where participants can provide
17 input on performance objectives and using focus groups or surveys
18 to collect information from the community.

19 (iii) Circulating a draft of the performance objectives to the
20 community for input prior to presentation at a regional center board
21 meeting where additional public input will be taken and considered
22 before adoption of the objectives.

23 (2) In addition to the performance objectives developed pursuant
24 to this section, the department may specify in the performance
25 contract additional areas of service and support that require
26 development or enhancement by the regional center. In determining
27 those areas, the department shall consider public comments from
28 individuals and organizations within the regional center catchment
29 area, the distribution of services and supports within the regional
30 center catchment area, and review how the availability of services
31 and supports in the regional area catchment area compares with
32 other regional center catchment areas.

33 (d) Each contract with a regional center shall specify steps to
34 be taken to ensure contract compliance, including, but not limited
35 to, all of the following:

36 (1) Incentives that encourage regional centers to meet or exceed
37 performance standards.

38 (2) Levels of probationary status for regional centers that do
39 not meet, or are at risk of not meeting, performance standards. The
40 department shall require that corrective action be taken by any

1 regional center which is placed on probation. Corrective action
 2 may include, but is not limited to, mandated consultation with
 3 designated representatives of the Association of Regional Center
 4 Agencies or a management team designated by the department, or
 5 both. The department shall establish the specific timeline for the
 6 implementation of corrective action and monitor its
 7 implementation. When a regional center is placed on probation,
 8 the department shall provide the state council with a copy of the
 9 correction plan, timeline, and any other action taken by the
 10 department relating to the probationary status of the regional center.

11 (e) In order to evaluate the regional center’s compliance with
 12 its contract performance objectives and legal obligations related
 13 to those objectives, the department shall do both of the following:

14 (1) Annually assess each regional center’s achievement of its
 15 previous year’s objectives and make the assessment, including
 16 baseline data and performance objectives of the individual regional
 17 centers, available to the public. The department may make a special
 18 commendation of the regional centers that have best engaged the
 19 community in the development of contract performance objectives
 20 and have made the most meaningful progress in meeting or
 21 exceeding contract performance objectives.

22 (2) Monitor the activities of the regional center to ensure
 23 compliance with the provisions of its contracts, including, but not
 24 limited to, reviewing all of the following:

25 (A) The regional center’s public process for compliance with
 26 the procedures-sets *set* forth in paragraph (2) of subdivision (c).

27 (B) Each regional center’s performance objectives for
 28 compliance with the criteria set forth in paragraph (1) of
 29 subdivision (c).

30 (C) Any public comments on regional center performance
 31 objectives sent to the department or to the regional centers, and
 32 soliciting public input on the public process and final performance
 33 standards.

34 (f) The renewal of each contract shall be contingent upon
 35 compliance with the contract including, but not limited to, the
 36 performance objectives, as determined through the department’s
 37 evaluation.

38 ~~SEC. 41.~~

39 *SEC. 42.* Section 4635 of the Welfare and Institutions Code is
 40 amended to read:

1 4635. (a) If any regional center finds that it is unable to comply
2 with the requirements of this division or its contract with the state,
3 the regional center shall be responsible for informing the
4 department immediately that it does not expect to fulfill its
5 contractual obligations. Failure to provide the notification to the
6 department in a timely manner shall constitute grounds for possible
7 revocation or nonrenewal of the contract. If any regional center
8 makes a decision to cancel or not renew its contract with the
9 department, the regional center shall give a minimum of 90 days'
10 written notice of its decision.

11 (b) (1) If the department finds that any regional center is not
12 fulfilling its contractual obligations, the department shall make
13 reasonable efforts to resolve the problem within a reasonable period
14 of time with the cooperation of the regional center, including the
15 action described in paragraph (2) of subdivision (b) of Section
16 4629 or renegotiation of the contract.

17 (2) If the department's efforts to resolve the problem are not
18 successful, the department shall issue a letter of noncompliance.
19 The letter of noncompliance shall state the noncompliant activities
20 and establish a specific timeline for the development and
21 implementation of a corrective action plan. The department shall
22 approve the plan and monitor its implementation. Letters of
23 noncompliance shall be made available to the public upon request.
24 The letter of noncompliance shall not include privileged or
25 confidential consumer information or information that would
26 violate the privacy rights of regional center board members or
27 employees. The department shall notify the state council and shall
28 provide the state council with a copy of the corrective action plan,
29 the timeline, and any other action taken by the department relating
30 to the requirements for corrective action.

31 (c) If the department finds that any regional center continues to
32 fail in fulfilling its contractual obligations after reasonable efforts
33 have been made, and finds that other regional centers are able to
34 fulfill similar obligations under similar contracts, and finds that it
35 will be in the best interest of the persons being served by the
36 regional center, the department shall take steps to terminate the
37 contract and to negotiate with another governing board to provide
38 regional center services in the area. These findings may also
39 constitute grounds for possible nonrenewal of the contract in
40 addition to, or in lieu of, other grounds.

1 (d) If the department makes a decision to cancel or not renew
2 its contract with the regional center, the department shall give a
3 minimum of 90 days' written notice of its decision, unless it has
4 determined that the 90 days' notice would jeopardize the health
5 or safety of the regional center's consumers, or constitutes willful
6 misuse of state funds, as determined by the Attorney General.
7 Within 14 days after receipt of the notice, the regional center may
8 make a written protest to the department of the decision to
9 terminate or not renew the contract. In that case, the department
10 shall: (1) arrange to meet with the regional center and the state
11 council within 30 days after receipt of the protest to discuss the
12 decision and to provide its rationale for the termination or
13 nonrenewal of the contract, and to discuss any feasible alternatives
14 to termination or nonrenewal, including the possibility of offering
15 a limited term contract of less than one fiscal year; and (2) initiate
16 the procedures for resolving disputes contained in Section 4632.
17 To the extent allowable under state and federal law, any
18 outstanding audit exceptions or other deficiency reports, appeals,
19 or protests shall be made available and subject to discussion at the
20 meeting arranged under clause (1).

21 (e) When terminating or not renewing a regional center contract
22 and negotiating with another governing board for a regional center
23 contract, the department shall do all of the following:

24 (1) Notify the State Council on Developmental Disabilities, all
25 personnel employed by the regional center, all service providers
26 to the regional center, and all consumers of the regional center
27 informing them that it proposes to terminate or not renew the
28 contract with the regional center, and that the state will continue
29 to fulfill its obligations to ensure a continuity of services, as
30 required by state law, through a contract with a new governing
31 board.

32 (2) Issue a request for proposals prior to selecting and
33 negotiating with another governing board for a regional center
34 contract. The state council shall review all proposals and make
35 recommendations to the department.

36 (3) Request the state council and any other community agencies
37 to assist the state by locating or organizing a new governing board
38 to contract with the department to operate the regional center in
39 the area. The state council shall cooperate with the department
40 when that assistance is requested.

1 (4) Provide any assistance that may be required to ensure that
2 the transfer of responsibility to a new regional center will be
3 accomplished with minimum disruption to the clients of the service
4 program.

5 (f) In no event shall the procedures for termination or
6 nonrenewal of a regional center contract limit or abridge the state's
7 authority to contract with any duly authorized organization for the
8 purpose of service delivery, nor shall these procedures be
9 interpreted to represent a continued contractual obligation beyond
10 the limits of any fiscal year contract.

11 ~~SEC. 42.~~

12 *SEC. 43.* Section 4640.6 of the Welfare and Institutions Code
13 is amended to read:

14 4640.6. (a) In approving regional center contracts, the
15 department shall ensure that regional center staffing patterns
16 demonstrate that direct service coordination are the highest priority.

17 (b) Contracts between the department and regional centers shall
18 require that regional centers implement an emergency response
19 system that ensures that a regional center staff person will respond
20 to a consumer, or individual acting on behalf of a consumer, within
21 two hours of the time an emergency call is placed. This emergency
22 response system shall be operational 24 hours per day, 365 days
23 per year.

24 (c) Contracts between the department and regional centers shall
25 require regional centers to have service coordinator-to-consumer
26 ratios, as follows:

27 (1) An average service coordinator-to-consumer ratio of 1 to
28 62 for all consumers who have not moved from the developmental
29 centers to the community since April 14, 1993. In no case shall a
30 service coordinator for these consumers have an assigned caseload
31 in excess of 79 consumers for more than 60 days.

32 (2) An average service coordinator-to-consumer ratio of 1 to
33 45 for all consumers who have moved from a developmental center
34 to the community since April 14, 1993. In no case shall a service
35 coordinator for these consumers have an assigned caseload in
36 excess of 59 consumers for more than 60 days.

37 (3) Commencing January 1, 2004, the following
38 coordinator-to-consumer ratios shall apply:

39 (A) All consumers three years of age and younger and for
40 consumers enrolled in the Home and Community-based Services

1 Waiver program for persons with developmental disabilities, an
2 average service coordinator-to-consumer ratio of 1 to 62.

3 (B) All consumers who have moved from a developmental
4 center to the community since April 14, 1993, and have lived
5 continuously in the community for at least 12 months, an average
6 service coordinator-to-consumer ratio of 1 to 62.

7 (C) All consumers who have not moved from the developmental
8 centers to the community since April 14, 1993, and who are not
9 described in subparagraph (A), an average service
10 coordinator-to-consumer ratio of 1 to 66.

11 (4) For purposes of paragraph (3), service coordinators may
12 have a mixed caseload of consumers three years of age and
13 younger, consumers enrolled in the Home and Community-based
14 Services Waiver program for persons with developmental
15 disabilities, and other consumers if the overall average caseload
16 is weighted proportionately to ensure that overall regional center
17 average service coordinator-to-consumer ratios as specified in
18 paragraph (3) are met. For purposes of paragraph (3), in no case
19 shall a service coordinator have an assigned caseload in excess of
20 84 for more than 60 days.

21 (d) For purposes of this section, “service coordinator” means a
22 regional center employee whose primary responsibility includes
23 preparing, implementing, and monitoring consumers’ individual
24 program plans, securing and coordinating consumer services and
25 supports, and providing placement and monitoring activities.

26 (e) In order to ensure that caseload ratios are maintained
27 pursuant to this section, each regional center shall provide service
28 coordinator caseload data to the department, annually for each
29 fiscal year. The data shall be submitted in the format, including
30 the content, prescribed by the department. Within 30 days of receipt
31 of data submitted pursuant to this subdivision, the department shall
32 make a summary of the data available to the public upon request.
33 The department shall verify the accuracy of the data when
34 conducting regional center fiscal audits. Data submitted by regional
35 centers pursuant to this subdivision shall:

36 (1) Only include data on service coordinator positions as defined
37 in subdivision (d). Regional centers shall identify the number of
38 positions that perform service coordinator duties on less than a
39 full-time basis. Staffing ratios reported pursuant to this subdivision

1 shall reflect the appropriate proportionality of these staff to
2 consumers served.

3 (2) Be reported separately for service coordinators whose
4 caseload includes any of the following:

5 (A) Consumers who are three years of age and older and who
6 have not moved from the developmental center to the community
7 since April 14, 1993.

8 (B) Consumers who have moved from a developmental center
9 to the community since April 14, 1993.

10 (C) Consumers who are younger than three years of age.

11 (D) Consumers enrolled in the Home and Community-based
12 Services Waiver program.

13 (3) Not include positions that are vacant for more than 60 days
14 or new positions established within 60 days of the reporting month
15 that are still vacant.

16 (4) For purposes of calculating caseload ratios for consumers
17 enrolled in the Home and Community-based Services Waiver
18 program, vacancies shall not be included in the calculations.

19 (f) The department shall provide technical assistance and require
20 a plan of correction for any regional center that, for two consecutive
21 reporting periods, fails to maintain service coordinator caseload
22 ratios required by this section or otherwise demonstrates an
23 inability to maintain appropriate staffing patterns pursuant to this
24 section. Plans of correction shall be developed following input
25 from the state council, local organizations representing consumers,
26 family members, regional center employees, including recognized
27 labor organizations, and service providers, and other interested
28 parties.

29 (g) Contracts between the department and regional center shall
30 require the regional center to have, or contract for, all of the
31 following areas:

32 (1) Criminal justice expertise to assist the regional center in
33 providing services and support to consumers involved in the
34 criminal justice system as a victim, defendant, inmate, or parolee.

35 (2) Special education expertise to assist the regional center in
36 providing advocacy and support to families seeking appropriate
37 educational services from a school district.

38 (3) Family support expertise to assist the regional center in
39 maximizing the effectiveness of support and services provided to
40 families.

1 (4) Housing expertise to assist the regional center in accessing
2 affordable housing for consumers in independent or supportive
3 living arrangements.

4 (5) Community integration expertise to assist consumers and
5 families in accessing integrated services and supports and improved
6 opportunities to participate in community life.

7 (6) Quality assurance expertise, to assist the regional center to
8 provide the necessary coordination and cooperation with the state
9 council, in conducting quality-of-life assessments and coordinating
10 the regional center quality assurance efforts.

11 (7) Each regional center shall employ at least one consumer
12 advocate who is a person with developmental disabilities.

13 (8) Other staffing arrangements related to the delivery of
14 services that the department determines are necessary to ensure
15 maximum cost-effectiveness and to ensure that the service needs
16 of consumers and families are met.

17 (h) Any regional center proposing a staffing arrangement that
18 substantially deviates from the requirements of this section shall
19 request a waiver from the department. Prior to granting a waiver,
20 the department shall require a detailed staffing proposal, including,
21 but not limited to, how the proposed staffing arrangement will
22 benefit consumers and families served, and shall demonstrate clear
23 and convincing support for the proposed staffing arrangement from
24 constituencies served and impacted, that include, but are not limited
25 to, consumers, families, providers, advocates, and recognized labor
26 organizations. In addition, the regional center shall submit to the
27 department any written opposition to the proposal from
28 organizations or individuals, including, but not limited to,
29 consumers, families, providers, and advocates, including
30 recognized labor organizations. The department may grant waivers
31 to regional centers that sufficiently demonstrate that the proposed
32 staffing arrangement is in the best interest of consumers and
33 families served, complies with the requirements of this chapter,
34 and does not violate any contractual requirements. A waiver shall
35 be approved by the department for up to 12 months, at which time
36 a regional center may submit a new request pursuant to this
37 subdivision.

38 (i) From February 1, 2009, to June 30, 2010, inclusive, the
39 following shall not apply:

1 (1) The service coordinator-to-consumer ratio requirements of
2 paragraph (1), and subparagraph (C) of paragraph (3), of
3 subdivision (c).

4 (2) The requirements of subdivision (e). The regional centers
5 shall, instead, maintain sufficient service coordinator caseload data
6 to document compliance with the service coordinator-to-consumer
7 ratio requirements in effect pursuant to this section.

8 (3) The requirements of paragraphs (1) to (6), inclusive, of
9 subdivision (g).

10 (j) From July 1, 2010, until June 30, 2013, the following shall
11 not apply:

12 (1) The service coordinator-to-consumer ratio requirements of
13 paragraph (1), and subparagraph (C) of paragraph (3), of
14 subdivision (c).

15 (2) The requirements of paragraphs (1) to (6), inclusive, of
16 subdivision (g).

17 (k) (1) Any contract between the department and a regional
18 center entered into on and after January 1, 2003, shall require that
19 all employment contracts entered into with regional center staff
20 or contractors be available to the public for review, upon request.
21 For purposes of this subdivision, an employment contract or portion
22 thereof may not be deemed confidential nor unavailable for public
23 review.

24 (2) Notwithstanding paragraph (1), the social security number
25 of the contracting party may not be disclosed.

26 (3) The term of the employment contract between the regional
27 center and an employee or contractor shall not exceed the term of
28 the state's contract with the regional center.

29 ~~SEC. 43.~~

30 *SEC. 44.* Section 4646 of the Welfare and Institutions Code is
31 amended to read:

32 4646. (a) It is the intent of the Legislature to ensure that the
33 individual program plan and provision of services and supports
34 by the regional center system is centered on the individual and the
35 family of the individual with developmental disabilities and takes
36 into account the needs and preferences of the individual and the
37 family, where appropriate, as well as promoting community
38 integration, independent, productive, and normal lives, and stable
39 and healthy environments. It is the further intent of the Legislature
40 to ensure that the provision of services to consumers and their

1 families be effective in meeting the goals stated in the individual
2 program plan, reflect the preferences and choices of the consumer,
3 and reflect the cost-effective use of public resources.

4 (b) The individual program plan is developed through a process
5 of individualized needs determination. The individual with
6 developmental disabilities and, where appropriate, his or her
7 parents, legal guardian or conservator, or authorized representative,
8 shall have the opportunity to actively participate in the development
9 of the plan.

10 (c) An individual program plan shall be developed for any
11 person who, following intake and assessment, is found to be
12 eligible for regional center services. These plans shall be completed
13 within 60 days of the completion of the assessment. At the time
14 of intake, the regional center shall inform the consumer and, where
15 appropriate, his or her parents, legal guardian or conservator, or
16 authorized representative, of the services available through the
17 state council and the protection and advocacy agency designated
18 by the Governor pursuant to federal law, and shall provide the
19 address and telephone numbers of those agencies.

20 (d) Individual program plans shall be prepared jointly by the
21 planning team. Decisions concerning the consumer's goals,
22 objectives, and services and supports that will be included in the
23 consumer's individual program plan and purchased by the regional
24 center or obtained from generic agencies shall be made by
25 agreement between the regional center representative and the
26 consumer or, where appropriate, the parents, legal guardian,
27 conservator, or authorized representative at the program plan
28 meeting.

29 (e) Regional centers shall comply with the request of a
30 consumer, or when appropriate, the request of his or her parents,
31 legal guardian, conservator, or authorized representative, that a
32 designated representative receive written notice of all meetings to
33 develop or revise his or her individual program plan and of all
34 notices sent to the consumer pursuant to Section 4710. The
35 designated representative may be a parent or family member.

36 (f) If a final agreement regarding the services and supports to
37 be provided to the consumer cannot be reached at a program plan
38 meeting, then a subsequent program plan meeting shall be
39 convened within 15 days, or later at the request of the consumer
40 or, when appropriate, the parents, legal guardian, conservator, or

1 authorized representative or when agreed to by the planning team.
2 Additional program plan meetings may be held with the agreement
3 of the regional center representative and the consumer or, where
4 appropriate, the parents, legal guardian, conservator, or authorized
5 representative.

6 (g) An authorized representative of the regional center and the
7 consumer or, when appropriate, his or her parent, legal guardian,
8 conservator, or authorized representative shall sign the individual
9 program plan prior to its implementation. If the consumer or, when
10 appropriate, his or her parent, legal guardian, conservator, or
11 authorized representative, does not agree with all components of
12 the plan, he or she may indicate that disagreement on the plan.
13 Disagreement with specific plan components shall not prohibit the
14 implementation of services and supports agreed to by the consumer
15 or, when appropriate, his or her parent, legal guardian, conservator,
16 or authorized representative. If the consumer or, when appropriate,
17 his or her parent, legal guardian, conservator, or authorized
18 representative, does not agree with the plan in whole or in part, he
19 or she shall be sent written notice of the fair hearing rights, as
20 required by Section 4701.

21 (h) (1) A regional center shall communicate in the consumer's
22 native language, or, when appropriate, the native language of his
23 or her family, legal guardian, conservator, or authorized
24 representative, during the planning process for the individual
25 program plan, including during the program plan meeting, and
26 including providing alternative communication services, as required
27 by Sections 11135 to 11139.7, inclusive, of the Government Code
28 and implementing regulations.

29 (2) A regional center shall provide alternative communication
30 services, including providing a copy of the individual program
31 plan in the native language of the consumer or his or her family,
32 legal guardian, conservator, or authorized representative, or both,
33 as required by Sections 11135 to 11139.7, inclusive, of the
34 Government Code and implementing regulations.

35 (3) The native language of the consumer or his or her family,
36 legal guardian, conservator, or authorized representative, or both,
37 shall be documented in the individual program plan.

38 ~~SEC. 44.~~

39 *SEC. 45.* Section 4646.5 of the Welfare and Institutions Code
40 is amended to read:

1 4646.5. (a) The planning process for the individual program
2 plan described in Section 4646 shall include all of the following:

3 (1) Gathering information and conducting assessments to
4 determine the life goals, capabilities and strengths, preferences,
5 barriers, and concerns or problems of the person with
6 developmental disabilities. For children with developmental
7 disabilities, this process should include a review of the strengths,
8 preferences, and needs of the child and the family unit as a whole.
9 Assessments shall be conducted by qualified individuals and
10 performed in natural environments whenever possible. Information
11 shall be taken from the consumer, his or her parents and other
12 family members, his or her friends, advocates, authorized
13 representative, if applicable, providers of services and supports,
14 and other agencies. The assessment process shall reflect awareness
15 of, and sensitivity to, the lifestyle and cultural background of the
16 consumer and the family.

17 (2) A statement of goals, based on the needs, preferences, and
18 life choices of the individual with developmental disabilities, and
19 a statement of specific, time-limited objectives for implementing
20 the person's goals and addressing his or her needs. These objectives
21 shall be stated in terms that allow measurement of progress or
22 monitoring of service delivery. These goals and objectives should
23 maximize opportunities for the consumer to develop relationships,
24 be part of community life in the areas of community participation,
25 housing, work, school, and leisure, increase control over his or her
26 life, acquire increasingly positive roles in community life, and
27 develop competencies to help accomplish these goals.

28 (3) When developing individual program plans for children,
29 regional centers shall be guided by the principles, process, and
30 services and support parameters set forth in Section 4685.

31 (4) When developing an individual program plan for a transition
32 age youth or working age adult, the planning team shall consider
33 the Employment First Policy described in Chapter 14 (commencing
34 with Section 4868).

35 (5) A schedule of the type and amount of services and supports
36 to be purchased by the regional center or obtained from generic
37 agencies or other resources in order to achieve the individual
38 program plan goals and objectives, and identification of the
39 provider or providers of service responsible for attaining each
40 objective, including, but not limited to, vendors, contracted

1 providers, generic service agencies, and natural supports. The
2 individual program plan shall specify the approximate scheduled
3 start date for services and supports and shall contain timelines for
4 actions necessary to begin services and supports, including generic
5 services.

6 (6) When agreed to by the consumer, the parents, legally
7 appointed guardian, or authorized representative of a minor
8 consumer, or the legally appointed conservator of an adult
9 consumer or the authorized representative, including those
10 appointed pursuant to subdivision (a) of Section 4541, subdivision
11 (b) of Section 4701.6, and subdivision (e) of Section 4705, a review
12 of the general health status of the adult or child, including medical,
13 dental, and mental health needs, shall be conducted. This review
14 shall include a discussion of current medications, any observed
15 side effects, and the date of the last review of the medication.
16 Service providers shall cooperate with the planning team to provide
17 any information necessary to complete the health status review. If
18 any concerns are noted during the review, referrals shall be made
19 to regional center clinicians or to the consumer's physician, as
20 appropriate. Documentation of health status and referrals shall be
21 made in the consumer's record by the service coordinator.

22 (7) (A) The development of a transportation access plan for a
23 consumer when all of the following conditions are met:

24 (i) The regional center is purchasing private, specialized
25 transportation services or services from a residential, day, or other
26 provider, excluding vouchered service providers, to transport the
27 consumer to and from day or work services.

28 (ii) The planning team has determined that a consumer's
29 community integration and participation could be safe and
30 enhanced through the use of public transportation services.

31 (iii) The planning team has determined that generic
32 transportation services are available and accessible.

33 (B) To maximize independence and community integration and
34 participation, the transportation access plan shall identify the
35 services and supports necessary to assist the consumer in accessing
36 public transportation and shall comply with Section 4648.35. These
37 services and supports may include, but are not limited to, mobility
38 training services and the use of transportation aides. Regional
39 centers are encouraged to coordinate with local public
40 transportation agencies.

1 (8) A schedule of regular periodic review and reevaluation to
 2 ascertain that planned services have been provided, that objectives
 3 have been fulfilled within the times specified, and that consumers
 4 and families are satisfied with the individual program plan and its
 5 implementation.

6 (b) For all active cases, individual program plans shall be
 7 reviewed and modified by the planning team, through the process
 8 described in Section 4646, as necessary, in response to the person’s
 9 achievement or changing needs, and no less often than once every
 10 three years. If the consumer or, where appropriate, the consumer’s
 11 parents, legal guardian, authorized representative, or conservator
 12 requests an individual program plan review, the individual program
 13 shall be reviewed within 30 days after the request is submitted.

14 (c) (1) The department, with the participation of representatives
 15 of a statewide consumer organization, the Association of Regional
 16 Center Agencies, an organized labor organization representing
 17 service coordination staff, and the state council shall prepare
 18 training material and a standard format and instructions for the
 19 preparation of individual program plans, which embody an
 20 approach centered on the person and family.

21 (2) Each regional center shall use the training materials and
 22 format prepared by the department pursuant to paragraph (1).

23 (3) The department shall biennially review a random sample of
 24 individual program plans at each regional center to ensure that
 25 these plans are being developed and modified in compliance with
 26 Section 4646 and this section.

27 ~~SEC. 45. Section 4648 of the Welfare and Institutions Code is~~
 28 ~~amended to read:~~

29 ~~4648. In order to achieve the stated objectives of a consumer’s~~
 30 ~~individual program plan, the regional center shall conduct activities,~~
 31 ~~including, but not limited to, all of the following:~~

32 ~~(a) Securing needed services and supports:~~

33 ~~(1) It is the intent of the Legislature that services and supports~~
 34 ~~assist individuals with developmental disabilities in achieving the~~
 35 ~~greatest self-sufficiency possible and in exercising personal~~
 36 ~~choices. The regional center shall secure services and supports~~
 37 ~~that meet the needs of the consumer, as determined in the~~
 38 ~~consumer’s individual program plan, and within the context of the~~
 39 ~~individual program plan, the planning team shall give highest~~
 40 ~~preference to those services and supports which would allow~~

1 minors with developmental disabilities to live with their families,
2 adult persons with developmental disabilities to live as
3 independently as possible in the community, and that allow all
4 consumers to interact with persons without disabilities in positive,
5 meaningful ways.

6 (2) ~~In implementing individual program plans, regional centers,~~
7 ~~through the planning team, shall first consider services and supports~~
8 ~~in natural community, home, work, and recreational settings.~~
9 ~~Services and supports shall be flexible and individually tailored~~
10 ~~to the consumer and, where appropriate, his or her family.~~

11 (3) ~~A regional center may, pursuant to vendorization or a~~
12 ~~contract, purchase services or supports for a consumer from any~~
13 ~~individual or agency that the regional center and consumer or,~~
14 ~~when appropriate, his or her parents, legal guardian, or conservator,~~
15 ~~or authorized representatives, determines will best accomplish all~~
16 ~~or any part of that consumer's program plan.~~

17 (A) ~~Vendorization or contracting is the process for identification,~~
18 ~~selection, and utilization of service vendors or contractors, based~~
19 ~~on the qualifications and other requirements necessary in order to~~
20 ~~provide the service.~~

21 (B) ~~A regional center may reimburse an individual or agency~~
22 ~~for services or supports provided to a regional center consumer if~~
23 ~~the individual or agency has a rate of payment for vendored or~~
24 ~~contracted services established by the department, pursuant to this~~
25 ~~division, and is providing services pursuant to an emergency~~
26 ~~vendorization or has completed the vendorization procedures or~~
27 ~~has entered into a contract with the regional center and continues~~
28 ~~to comply with the vendorization or contracting requirements. The~~
29 ~~director shall adopt regulations governing the vendorization process~~
30 ~~to be utilized by the department, regional centers, vendors and the~~
31 ~~individual or agency requesting vendorization.~~

32 (C) ~~Regulations shall include, but not be limited to: the vendor~~
33 ~~application process, and the basis for accepting or denying an~~
34 ~~application; the qualification and requirements for each category~~
35 ~~of services that may be provided to a regional center consumer~~
36 ~~through a vendor; requirements for emergency vendorization;~~
37 ~~procedures for termination of vendorization; the procedure for an~~
38 ~~individual or an agency to appeal any vendorization decision made~~
39 ~~by the department or regional center.~~

1 ~~(D) A regional center may vendorize a licensed facility for~~
2 ~~exclusive services to persons with developmental disabilities at a~~
3 ~~capacity equal to or less than the facility's licensed capacity. A~~
4 ~~facility already licensed on January 1, 1999, shall continue to be~~
5 ~~vendorized at their full licensed capacity until the facility agrees~~
6 ~~to vendorization at a reduced capacity.~~

7 ~~(E) Effective July 1, 2009, notwithstanding any other law or~~
8 ~~regulation to the contrary, a regional center shall not newly vendor~~
9 ~~a State Department of Social Services licensed 24-hour residential~~
10 ~~care facility with a licensed capacity of 16 or more beds, unless~~
11 ~~the facility qualifies for receipt of federal funds under the Medicaid~~
12 ~~Program.~~

13 ~~(4) Notwithstanding subparagraph (B) of paragraph (3), a~~
14 ~~regional center may contract or issue a voucher for services and~~
15 ~~supports provided to a consumer or family at a cost not to exceed~~
16 ~~the maximum rate of payment for that service or support~~
17 ~~established by the department. If a rate has not been established~~
18 ~~by the department, the regional center may, for an interim period,~~
19 ~~contract for a specified service or support with, and establish a~~
20 ~~rate of payment for, any provider of the service or support~~
21 ~~necessary to implement a consumer's individual program plan.~~
22 ~~Contracts may be negotiated for a period of up to three years, with~~
23 ~~annual review and subject to the availability of funds.~~

24 ~~(5) In order to ensure the maximum flexibility and availability~~
25 ~~of appropriate services and supports for persons with~~
26 ~~developmental disabilities, the department shall establish and~~
27 ~~maintain an equitable system of payment to providers of services~~
28 ~~and supports identified as necessary to the implementation of a~~
29 ~~consumers' individual program plan. The system of payment shall~~
30 ~~include provision for a rate to ensure that the provider can meet~~
31 ~~the special needs of consumers and provide quality services and~~
32 ~~supports in the least restrictive setting as required by law.~~

33 ~~(6) The regional center and the consumer, or when appropriate,~~
34 ~~his or her parents, legal guardian, conservator, or authorized~~
35 ~~representative, including those appointed pursuant to subdivision~~
36 ~~(a) of Section 4541, subdivision (b) of Section 4701.6, or~~
37 ~~subdivision (e) of Section 4705, shall, pursuant to the individual~~
38 ~~program plan, consider all of the following when selecting a~~
39 ~~provider of consumer services and supports:~~

1 ~~(A) A provider's ability to deliver quality services or supports~~
2 ~~that can accomplish all or part of the consumer's individual~~
3 ~~program plan.~~

4 ~~(B) A provider's success in achieving the objectives set forth~~
5 ~~in the individual program plan.~~

6 ~~(C) When appropriate, the existence of licensing, accreditation,~~
7 ~~or professional certification.~~

8 ~~(D) The cost of providing services or supports of comparable~~
9 ~~quality by different providers, if available, shall be reviewed, and~~
10 ~~the least costly available provider of comparable service, including~~
11 ~~the cost of transportation, who is able to accomplish all or part of~~
12 ~~the consumer's individual program plan, consistent with the~~
13 ~~particular needs of the consumer and family as identified in the~~
14 ~~individual program plan, shall be selected. In determining the least~~
15 ~~costly provider, the availability of federal financial participation~~
16 ~~shall be considered. The consumer shall not be required to use the~~
17 ~~least costly provider if it will result in the consumer moving from~~
18 ~~an existing provider of services or supports to more restrictive or~~
19 ~~less integrated services or supports.~~

20 ~~(E) The consumer's choice of providers, or, when appropriate,~~
21 ~~the consumer's parent's, legal guardian's, authorized~~
22 ~~representative's, or conservator's choice of providers.~~

23 ~~(7) No service or support provided by any agency or individual~~
24 ~~shall be continued unless the consumer or, when appropriate, his~~
25 ~~or her parents, legal guardian, or conservator, or authorized~~
26 ~~representative, including those appointed pursuant to subdivision~~
27 ~~(a) of Section 4541, subdivision (b) of Section 4701.6, or~~
28 ~~subdivision (c) of Section 4705, is satisfied and the regional center~~
29 ~~and the consumer or, when appropriate, the person's parents or~~
30 ~~legal guardian or conservator agree that planned services and~~
31 ~~supports have been provided, and reasonable progress toward~~
32 ~~objectives have been made.~~

33 ~~(8) Regional center funds shall not be used to supplant the~~
34 ~~budget of any agency that has a legal responsibility to serve all~~
35 ~~members of the general public and is receiving public funds for~~
36 ~~providing those services.~~

37 ~~(9) (A) A regional center may, directly or through an agency~~
38 ~~acting on behalf of the center, provide placement in, purchase of,~~
39 ~~or follow-along services to persons with developmental disabilities~~
40 ~~in, appropriate community living arrangements, including, but not~~

1 limited to, support service for consumers in homes they own or
2 lease, foster family placements, health care facilities, and licensed
3 community care facilities. In considering appropriate placement
4 alternatives for children with developmental disabilities, approval
5 by the child's parent or guardian shall be obtained before placement
6 is made.

7 (B) Effective July 1, 2012, notwithstanding any other law or
8 regulation, a regional center shall not purchase residential services
9 from a State Department of Social Services licensed 24-hour
10 residential care facility with a licensed capacity of 16 or more
11 beds. This prohibition on regional center purchase of residential
12 services shall not apply to any of the following:

13 (i) A residential facility with a licensed capacity of 16 or more
14 beds that has been approved to participate in the department's
15 Home and Community Based Services Waiver or another existing
16 waiver program or certified to participate in the Medi-Cal program.

17 (ii) A residential facility service provider that has a written
18 agreement and specific plan prior to July 1, 2012, with the
19 vendoring regional center to downsize the existing facility by
20 transitioning its residential services to living arrangements of 15
21 beds or less or restructure the large facility to meet federal
22 Medicaid eligibility requirements on or before June 30, 2013.

23 (iii) A residential facility licensed as a mental health
24 rehabilitation center by the State Department of Mental Health or
25 successor agency under any of the following circumstances:

26 (I) The facility is eligible for Medicaid reimbursement.

27 (II) The facility has a department-approved plan in place by
28 June 30, 2013, to transition to a program structure eligible for
29 federal Medicaid funding, and this transition will be completed by
30 June 30, 2014. The department may grant an extension for the date
31 by which the transition will be completed if the facility
32 demonstrates that it has made significant progress toward transition;
33 and states with specificity the timeframe by which the transition
34 will be completed and the specified steps that will be taken to
35 accomplish the transition. A regional center may pay for the costs
36 of care and treatment of a consumer residing in the facility on June
37 30, 2012, until June 30, 2013, inclusive, and, if the facility has a
38 department-approved plan in place by June 30, 2013, may continue
39 to pay the costs under this subparagraph until June 30, 2014, or

1 until the end of any period during which the department has granted
2 an extension:

3 ~~(III) There is an emergency circumstance in which the regional~~
4 ~~center determines that it cannot locate alternate federally eligible~~
5 ~~services to meet the consumer's needs. Under such an emergency~~
6 ~~circumstance, an assessment shall be completed by the regional~~
7 ~~center as soon as possible and within 30 days of admission. An~~
8 ~~individual program plan meeting shall be convened immediately~~
9 ~~following the assessment to determine the services and supports~~
10 ~~needed for stabilization and to develop a plan to transition the~~
11 ~~consumer from the facility into the community. If transition is not~~
12 ~~expected within 90 days of admission, an individual program plan~~
13 ~~meeting shall be held to discuss the status of transition and to~~
14 ~~determine if the consumer is still in need of placement in the~~
15 ~~facility. Commencing October 1, 2012, this determination shall~~
16 ~~be made after also considering resource options identified by the~~
17 ~~statewide specialized resource service. If it is determined that~~
18 ~~emergency services continue to be necessary, the regional center~~
19 ~~shall submit an updated transition plan that can cover a period of~~
20 ~~up to 90 days. In no event shall placements under these emergency~~
21 ~~circumstances exceed 180 days.~~

22 ~~(C) (i) Effective July 1, 2012, notwithstanding any other law~~
23 ~~or regulation, a regional center shall not purchase new residential~~
24 ~~services from, or place a consumer in, institutions for mental~~
25 ~~disease, as described in Part 5 (commencing with Section 5900)~~
26 ~~of Division 5, for which federal Medicaid funding is not available.~~
27 ~~Effective July 1, 2013, this prohibition applies regardless of the~~
28 ~~availability of federal funding.~~

29 ~~(ii) The prohibition described in clause (i) shall not apply to~~
30 ~~emergencies, as determined by the regional center, when a regional~~
31 ~~center cannot locate alternate services to meet the consumer's~~
32 ~~needs. As soon as possible within 30 days of admission due to an~~
33 ~~emergency, an assessment shall be completed by the regional~~
34 ~~center. An individual program plan meeting shall be convened~~
35 ~~immediately following the assessment, to determine the services~~
36 ~~and supports needed for stabilization and to develop a plan to~~
37 ~~transition the consumer from the facility to the community. If~~
38 ~~transition is not expected within 90 days of admission, an~~
39 ~~emergency program plan meeting shall be held to discuss the status~~
40 ~~of the transition and to determine if the consumer is still in need~~

1 of placement in the facility. If emergency services continue to be
2 necessary, the regional center shall submit an updated transition
3 plan to the department for an extension of up to 90 days. Placement
4 shall not exceed 180 days.

5 (iii) To the extent feasible, prior to any admission, the regional
6 center shall consider resource options identified by the statewide
7 specialized resource service established pursuant to subdivision
8 (b) of Section 4418.25.

9 (iv) The clients' rights advocate shall be notified of each
10 admission and individual program planning meeting pursuant to
11 this subparagraph and may participate in all individual program
12 planning meetings unless the consumer objects on his or her own
13 behalf.

14 (v) Regional centers shall complete a comprehensive assessment
15 of any consumer residing in an institution for mental disease as of
16 July 1, 2012, for which federal Medicaid funding is not available,
17 and for any consumer residing in an institution for mental disease
18 as of July 1, 2013, without regard to federal funding. The
19 comprehensive assessment shall be completed prior to the
20 consumer's next scheduled individual program plan meeting and
21 shall include identification of the services and supports needed
22 and the timeline for identifying or developing those services needed
23 to transition the consumer back to the community. Effective
24 October 1, 2012, the regional center shall also consider resource
25 options identified by the statewide specialized resource service.
26 For each individual program plan meeting convened pursuant to
27 this subparagraph, the clients' rights advocate for the regional
28 center shall be notified of the meeting and may participate in the
29 meeting unless the consumer objects on his or her own behalf.

30 (D) A person with developmental disabilities placed by the
31 regional center in a community living arrangement shall have the
32 rights specified in this division. These rights shall be brought to
33 the person's attention by any means necessary to reasonably
34 communicate these rights to each resident, provided that, at a
35 minimum, the Director of Developmental Services prepare,
36 provide, and require to be clearly posted in all residential facilities
37 and day programs a poster using simplified language and pictures
38 that is designed to be more understandable by persons with
39 intellectual disabilities and that the rights information shall also
40 be available through the regional center to each residential facility

1 and day program in alternative formats, including, but not limited
2 to, other languages, braille, and audio tapes, when necessary to
3 meet the communication needs of consumers.

4 ~~(E) Consumers are eligible to receive supplemental services~~
5 ~~including, but not limited to, additional staffing, pursuant to the~~
6 ~~process described in subdivision (d) of Section 4646. Necessary~~
7 ~~additional staffing that is not specifically included in the rates paid~~
8 ~~to the service provider may be purchased by the regional center if~~
9 ~~the additional staff are in excess of the amount required by~~
10 ~~regulation and the individual's planning team determines the~~
11 ~~additional services are consistent with the provisions of the~~
12 ~~individual program plan. Additional staff should be periodically~~
13 ~~reviewed by the planning team for consistency with the individual~~
14 ~~program plan objectives in order to determine if continued use of~~
15 ~~the additional staff is necessary and appropriate and if the service~~
16 ~~is producing outcomes consistent with the individual program plan.~~
17 ~~Regional centers shall monitor programs to ensure that the~~
18 ~~additional staff is being provided and utilized appropriately.~~

19 ~~(10) Emergency and crisis intervention services including, but~~
20 ~~not limited to, mental health services and behavior modification~~
21 ~~services, may be provided, as needed, to maintain persons with~~
22 ~~developmental disabilities in the living arrangement of their own~~
23 ~~choice. Crisis services shall first be provided without disrupting a~~
24 ~~person's living arrangement. If crisis intervention services are~~
25 ~~unsuccessful, emergency housing shall be available in the person's~~
26 ~~home community. If dislocation cannot be avoided, every effort~~
27 ~~shall be made to return the person to his or her living arrangement~~
28 ~~of choice, with all necessary supports, as soon as possible.~~

29 ~~(11) Among other service and support options, planning teams~~
30 ~~shall consider the use of paid roommates or neighbors, personal~~
31 ~~assistance, technical and financial assistance, and all other service~~
32 ~~and support options which would result in greater self-sufficiency~~
33 ~~for the consumer and cost-effectiveness to the state.~~

34 ~~(12) When facilitation as specified in an individual program~~
35 ~~plan requires the services of an individual, the facilitator shall be~~
36 ~~of the consumer's choosing.~~

37 ~~(13) The community support may be provided to assist~~
38 ~~individuals with developmental disabilities to fully participate in~~
39 ~~community and civic life, including, but not limited to, programs,~~
40 ~~services, work opportunities, business, and activities available to~~

1 persons without disabilities. This facilitation shall include, but not
2 be limited to, any of the following:

3 (A) Outreach and education to programs and services within
4 the community.

5 (B) Direct support to individuals that would enable them to
6 more fully participate in their community.

7 (C) Developing unpaid natural supports when possible.

8 (14) When feasible and recommended by the individual program
9 planning team, for purposes of facilitating better and cost-effective
10 services for consumers or family members, technology, including
11 telecommunication technology, may be used in conjunction with
12 other services and supports. Technology in lieu of a consumer's
13 in-person appearances at judicial proceedings or administrative
14 due process hearings may be used only if the consumer or, when
15 appropriate, the consumer's parent, legal guardian, conservator,
16 or authorized representative, gives informed consent. Technology
17 may be used in lieu of, or in conjunction with, in-person training
18 for providers, as appropriate.

19 (15) Other services and supports may be provided as set forth
20 in Sections 4685, 4686, 4687, 4688, and 4689, when necessary.

21 (16) Notwithstanding any other law or regulation, effective July
22 1, 2009, regional centers shall not purchase experimental
23 treatments, therapeutic services, or devices that have not been
24 clinically determined or scientifically proven to be effective or
25 safe or for which risks and complications are unknown.
26 Experimental treatments or therapeutic services include
27 experimental medical or nutritional therapy when the use of the
28 product for that purpose is not a general physician practice. For
29 regional center consumers receiving these services as part of their
30 individual program plan (IPP) or individualized family service
31 plan (IFSP) on July 1, 2009, this prohibition shall apply on August
32 1, 2009.

33 (b) (1) Advocacy for, and protection of, the civil, legal, and
34 service rights of persons with developmental disabilities as
35 established in this division.

36 (2) Whenever the advocacy efforts of a regional center to secure
37 or protect the civil, legal, or service rights of any of its consumers
38 prove ineffective, the regional center or the person with
39 developmental disabilities or his or her parents, legal guardian, or

1 other representative may request advocacy assistance from the
2 state council.

3 (e) The regional center may assist consumers and families
4 directly, or through a provider, in identifying and building circles
5 of support within the community.

6 (d) In order to increase the quality of community services and
7 protect consumers, the regional center shall, when appropriate,
8 take either of the following actions:

9 (1) Identify services and supports that are ineffective or of poor
10 quality and provide or secure consultation, training, or technical
11 assistance services for any agency or individual provider to assist
12 that agency or individual provider in upgrading the quality of
13 services or supports.

14 (2) Identify providers of services or supports that may not be
15 in compliance with local, state, and federal statutes and regulations
16 and notify the appropriate licensing or regulatory authority to
17 investigate the possible noncompliance.

18 (e) When necessary to expand the availability of needed services
19 of good quality, a regional center may take actions that include,
20 but are not limited to, the following:

21 (1) Soliciting an individual or agency by requests for proposals
22 or other means, to provide needed services or supports not presently
23 available.

24 (2) Requesting funds from the Program Development Fund,
25 pursuant to Section 4677, or community placement plan funds
26 designated from that fund, to reimburse the startup costs needed
27 to initiate a new program of services and supports.

28 (3) Using creative and innovative service delivery models,
29 including, but not limited to, natural supports.

30 (f) Except in emergency situations, a regional center shall not
31 provide direct treatment and therapeutic services, but shall utilize
32 appropriate public and private community agencies and service
33 providers to obtain those services for its consumers.

34 (g) When there are identified gaps in the system of services and
35 supports or when there are identified consumers for whom no
36 provider will provide services and supports contained in his or her
37 individual program plan, the department may provide the services
38 and supports directly.

39 (h) At least annually, regional centers shall provide the
40 consumer, his or her parents, legal guardian, conservator, or

1 ~~authorized representative a statement of services and supports the~~
2 ~~regional center purchased for the purpose of ensuring that they are~~
3 ~~delivered. The statement shall include the type, unit, month, and~~
4 ~~cost of services and supports purchased.~~

5 *SEC. 46. Section 4648 of the Welfare and Institutions Code is*
6 *amended to read:*

7 4648. In order to achieve the stated objectives of a consumer's
8 individual program plan, the regional center shall conduct activities,
9 including, but not limited to, all of the following:

10 (a) Securing needed services and supports.

11 (1) It is the intent of the Legislature that services and supports
12 assist individuals with developmental disabilities in achieving the
13 greatest self-sufficiency possible and in exercising personal
14 choices. The regional center shall secure services and supports
15 that meet the needs of the consumer, as determined in the
16 consumer's individual program plan, and within the context of the
17 individual program plan, the planning team shall give highest
18 preference to those services and supports which would allow
19 minors with developmental disabilities to live with their families,
20 adult persons with developmental disabilities to live as
21 independently as possible in the community, and that allow all
22 consumers to interact with persons without disabilities in positive,
23 meaningful ways.

24 (2) In implementing individual program plans, regional centers,
25 through the planning team, shall first consider services and supports
26 in natural community, home, work, and recreational settings.
27 Services and supports shall be flexible and individually tailored
28 to the consumer and, where appropriate, his or her family.

29 (3) A regional center may, pursuant to vendorization or a
30 contract, purchase services or supports for a consumer from any
31 individual or agency ~~which~~ *that* the regional center and consumer
32 or, ~~where~~ *when* appropriate, his or her parents, legal guardian, or
33 conservator, or authorized representatives, determines will best
34 accomplish all or any part of that consumer's program plan.

35 (A) Vendorization or contracting is the process for identification,
36 selection, and utilization of service vendors or contractors, based
37 on the qualifications and other requirements necessary in order to
38 provide the service.

39 (B) A regional center may reimburse an individual or agency
40 for services or supports provided to a regional center consumer if

1 the individual or agency has a rate of payment for vendored or
2 contracted services established by the department, pursuant to this
3 division, and is providing services pursuant to an emergency
4 vendorization or has completed the vendorization procedures or
5 has entered into a contract with the regional center and continues
6 to comply with the vendorization or contracting requirements. The
7 director shall adopt regulations governing the vendorization process
8 to be utilized by the department, regional centers, ~~vendors~~ *vendors*,
9 and the individual or agency requesting vendorization.

10 (C) Regulations shall include, but not be limited to: the vendor
11 application process, and the basis for accepting or denying an
12 application; the qualification and requirements for each category
13 of services that may be provided to a regional center consumer
14 through a vendor; requirements for emergency vendorization;
15 procedures for termination of vendorization; the procedure for an
16 individual or an agency to appeal any vendorization decision made
17 by the department or regional center.

18 (D) A regional center may vendorize a licensed facility for
19 exclusive services to persons with developmental disabilities at a
20 capacity equal to or less than the facility's licensed capacity. A
21 facility already licensed on January 1, 1999, shall continue to be
22 vendorized at their full licensed capacity until the facility agrees
23 to vendorization at a reduced capacity.

24 (E) Effective July 1, 2009, notwithstanding any other ~~provision~~
25 ~~of law or regulation to the contrary~~, *regulation*, a regional center
26 shall not newly vendor a State Department of Social Services
27 licensed 24-hour residential care facility with a licensed capacity
28 of 16 or more beds, unless the facility qualifies for receipt of federal
29 funds under the Medicaid Program.

30 (4) Notwithstanding subparagraph (B) of paragraph (3), a
31 regional center may contract or issue a voucher for services and
32 supports provided to a consumer or family at a cost not to exceed
33 the maximum rate of payment for that service or support
34 established by the department. If a rate has not been established
35 by the department, the regional center may, for an interim period,
36 contract for a specified service or support with, and establish a
37 rate of payment for, any provider of the service or support
38 necessary to implement a consumer's individual program plan.
39 Contracts may be negotiated for a period of up to three years, with
40 annual review and subject to the availability of funds.

1 (5) In order to ensure the maximum flexibility and availability
2 of appropriate services and supports for persons with
3 developmental disabilities, the department shall establish and
4 maintain an equitable system of payment to providers of services
5 and supports identified as necessary to the implementation of a
6 consumers' individual program plan. The system of payment shall
7 include *a* provision for a rate to ensure that the provider can meet
8 the special needs of consumers and provide quality services and
9 supports in the least restrictive setting as required by law.

10 (6) The regional center and the consumer, or ~~where~~ *when*
11 appropriate, his or her parents, legal guardian, conservator, or
12 authorized representative, including those appointed pursuant to
13 subdivision ~~(d)~~ *(a)* of Section ~~4548, 4541~~, subdivision (b) of
14 Section 4701.6, or subdivision (e) of Section 4705, shall, pursuant
15 to the individual program plan, consider all of the following when
16 selecting a provider of consumer services and supports:

17 (A) A provider's ability to deliver quality services or supports
18 ~~which~~ *that* can accomplish all or part of the consumer's individual
19 program plan.

20 (B) A provider's success in achieving the objectives set forth
21 in the individual program plan.

22 (C) Where appropriate, the existence of licensing, accreditation,
23 or professional certification.

24 (D) The cost of providing services or supports of comparable
25 quality by different providers, if available, shall be reviewed, and
26 the least costly available provider of comparable service, including
27 the cost of transportation, who is able to accomplish all or part of
28 the consumer's individual program plan, consistent with the
29 particular needs of the consumer and family as identified in the
30 individual program plan, shall be selected. In determining the least
31 costly provider, the availability of federal financial participation
32 shall be considered. The consumer shall not be required to use the
33 least costly provider if it will result in the consumer moving from
34 an existing provider of services or supports to more restrictive or
35 less integrated services or supports.

36 (E) The consumer's choice of providers, or, ~~where~~ *when*
37 appropriate, the consumer's parent's, legal guardian's, authorized
38 representative's, or conservator's choice of providers.

39 (7) No service or support provided by any agency or individual
40 shall be continued unless the consumer or, ~~where~~ *when* appropriate,

1 his or her parents, legal guardian, or conservator, or authorized
2 representative, including those appointed pursuant to subdivision
3 ~~(d)~~ (a) of Section ~~4548~~; 4541, subdivision (b) of Section 4701.6,
4 or subdivision (e) of Section 4705, is satisfied and the regional
5 center and the consumer or, when appropriate, the person's parents
6 or legal guardian or conservator agree that planned services and
7 supports have been provided, and reasonable progress toward
8 objectives have been made.

9 (8) Regional center funds shall not be used to supplant the
10 budget of any agency that has a legal responsibility to serve all
11 members of the general public and is receiving public funds for
12 providing those services.

13 (9) (A) A regional center may, directly or through an agency
14 acting on behalf of the center, provide placement in, purchase of,
15 or follow-along services to persons with developmental disabilities
16 in, appropriate community living arrangements, including, but not
17 limited to, support service for consumers in homes they own or
18 lease, foster family placements, health care facilities, and licensed
19 community care facilities. In considering appropriate placement
20 alternatives for children with developmental disabilities, approval
21 by the child's parent or guardian shall be obtained before placement
22 is made.

23 (B) Effective July 1, 2012, notwithstanding any other law or
24 ~~regulation to the contrary~~, *regulation*, a regional center shall not
25 purchase residential services from a State Department of Social
26 Services licensed 24-hour residential care facility with a licensed
27 capacity of 16 or more beds. This prohibition on regional center
28 purchase of residential services shall not apply to any of the
29 following:

30 (i) A residential facility with a licensed capacity of 16 or more
31 beds that has been approved to participate in the department's
32 Home and Community Based Services Waiver or another existing
33 waiver program or certified to participate in the Medi-Cal program.

34 (ii) A residential facility service provider that has a written
35 agreement and specific plan prior to July 1, 2012, with the
36 vendoring regional center to downsize the existing facility by
37 transitioning its residential services to living arrangements of 15
38 beds or less or restructure the large facility to meet federal
39 Medicaid eligibility requirements on or before June 30, 2013.

1 (iii) A residential facility licensed as a mental health
2 rehabilitation center by the State Department of Mental Health or
3 successor agency under any of the following circumstances:

4 (I) The facility is eligible for Medicaid reimbursement.

5 (II) The facility has a department-approved plan in place by
6 June 30, 2013, to transition to a program structure eligible for
7 federal Medicaid funding, and this transition will be completed by
8 June 30, 2014. The department may grant an extension for the date
9 by which the transition will be completed if the facility
10 demonstrates that it has made significant progress toward transition,
11 and states with specificity the timeframe by which the transition
12 will be completed and the specified steps that will be taken to
13 accomplish the transition. A regional center may pay for the costs
14 of care and treatment of a consumer residing in the facility on June
15 30, 2012, until June 30, 2013, inclusive, and, if the facility has a
16 department-approved plan in place by June 30, 2013, may continue
17 to pay the costs under this subparagraph until June 30, 2014, or
18 until the end of any period during which the department has granted
19 an extension.

20 (III) There is an emergency circumstance in which the regional
21 center determines that it cannot locate alternate federally eligible
22 services to meet the consumer's needs. Under such an emergency
23 circumstance, an assessment shall be completed by the regional
24 center as soon as possible and within 30 days of admission. An
25 individual program plan meeting shall be convened immediately
26 following the assessment to determine the services and supports
27 needed for stabilization and to develop a plan to transition the
28 consumer from the facility into the community. If transition is not
29 expected within 90 days of admission, an individual program plan
30 meeting shall be held to discuss the status of transition and to
31 determine if the consumer is still in need of placement in the
32 facility. Commencing October 1, 2012, this determination shall
33 be made after also considering resource options identified by the
34 statewide specialized resource service. If it is determined that
35 emergency services continue to be necessary, the regional center
36 shall submit an updated transition plan that can cover a period of
37 up to 90 days. In no event shall placements under these emergency
38 circumstances exceed 180 days.

39 (C) (i) Effective July 1, 2012, notwithstanding any other law
40 ~~or regulation to the contrary~~, *regulation*, a regional center shall

1 not purchase new residential services from, or place a consumer
2 in, institutions for mental disease, as described in Part 5
3 (commencing with Section 5900) of Division 5, for which federal
4 Medicaid funding is not available. Effective July 1, 2013, this
5 prohibition applies regardless of the availability of federal funding.

6 (ii) The prohibition described in clause (i) shall not apply to
7 emergencies, as determined by the regional center, when a regional
8 center cannot locate alternate services to meet the consumer's
9 needs. As soon as possible within 30 days of admission due to an
10 emergency, an assessment shall be completed by the regional
11 center. An individual program plan meeting shall be convened
12 immediately following the assessment, to determine the services
13 and supports needed for stabilization and to develop a plan to
14 transition the consumer from the facility to the community. If
15 transition is not expected within 90 days of admission, an
16 emergency program plan meeting shall be held to discuss the status
17 of the transition and to determine if the consumer is still in need
18 of placement in the facility. If emergency services continue to be
19 necessary, the regional center shall submit an updated transition
20 plan to the department for an extension of up to 90 days. Placement
21 shall not exceed 180 days.

22 (iii) To the extent feasible, prior to any admission, the regional
23 center shall consider resource options identified by the statewide
24 specialized resource service established pursuant to subdivision
25 (b) of Section 4418.25.

26 (iv) The clients' rights advocate shall be notified of each
27 admission and individual program planning meeting pursuant to
28 this subparagraph and may participate in all individual program
29 planning meetings unless the consumer objects on his or her own
30 behalf. For purposes of this clause, notification to the clients' rights
31 advocate shall include a copy of the most recent comprehensive
32 assessment or updated assessment and the time, date, and location
33 of the meeting, and shall be provided as soon as practicable, but
34 not less than seven calendar days prior to the meeting.

35 (v) Regional centers shall complete a comprehensive assessment
36 of any consumer residing in an institution for mental disease as of
37 July 1, 2012, for which federal Medicaid funding is not available,
38 and for any consumer residing in an institution for mental disease
39 as of July 1, 2013, without regard to federal funding. The
40 comprehensive assessment shall be completed prior to the

1 consumer's next scheduled individual program plan meeting and
2 shall include identification of the services and supports needed
3 and the timeline for identifying or developing those services needed
4 to transition the consumer back to the community. Effective
5 October 1, 2012, the regional center shall also consider resource
6 options identified by the statewide specialized resource service.
7 For each individual program plan meeting convened pursuant to
8 this subparagraph, the clients' rights advocate for the regional
9 center shall be notified of the meeting and may participate in the
10 meeting unless the consumer objects on his or her own behalf. For
11 purposes of this clause, notification to the clients' rights advocate
12 shall include the time, date, and location of the meeting, and shall
13 be provided as soon as practicable, but not less than seven calendar
14 days prior to the meeting.

15 (D) ~~Each~~ A person with developmental disabilities placed by
16 the regional center in a community living arrangement shall have
17 the rights specified in this division. These rights shall be brought
18 to the person's attention by any means necessary to reasonably
19 communicate these rights to each resident, provided that, at a
20 minimum, the Director of Developmental Services prepare,
21 provide, and require to be clearly posted in all residential facilities
22 and day programs a poster using simplified language and pictures
23 that is designed to be more understandable by persons with
24 ~~cognitive~~ *intellectual* disabilities and that the rights information
25 shall also be available through the regional center to each
26 residential facility and day program in alternative formats,
27 including, but not limited to, other languages, braille, and
28 audiotapes, when necessary to meet the communication needs of
29 consumers.

30 (E) Consumers are eligible to receive supplemental services
31 including, but not limited to, additional staffing, pursuant to the
32 process described in subdivision (d) of Section 4646. Necessary
33 additional staffing that is not specifically included in the rates paid
34 to the service provider may be purchased by the regional center if
35 the additional staff are in excess of the amount required by
36 regulation and the individual's planning team determines the
37 additional services are consistent with the provisions of the
38 individual program plan. Additional staff should be periodically
39 reviewed by the planning team for consistency with the individual
40 program plan objectives in order to determine if continued use of

1 the additional staff is necessary and appropriate and if the service
2 is producing outcomes consistent with the individual program plan.
3 Regional centers shall monitor programs to ensure that the
4 additional staff is being provided and utilized appropriately.

5 (10) Emergency and crisis intervention services including, but
6 not limited to, mental health services and behavior modification
7 services, may be provided, as needed, to maintain persons with
8 developmental disabilities in the living arrangement of their own
9 choice. Crisis services shall first be provided without disrupting a
10 person's living arrangement. If crisis intervention services are
11 unsuccessful, emergency housing shall be available in the person's
12 home community. If dislocation cannot be avoided, every effort
13 shall be made to return the person to his or her living arrangement
14 of choice, with all necessary supports, as soon as possible.

15 (11) Among other service and support options, planning teams
16 shall consider the use of paid roommates or neighbors, personal
17 assistance, technical and financial assistance, and all other service
18 and support options which would result in greater self-sufficiency
19 for the consumer and cost-effectiveness to the state.

20 (12) When facilitation as specified in an individual program
21 plan requires the services of an individual, the facilitator shall be
22 of the consumer's choosing.

23 (13) The community support may be provided to assist
24 individuals with developmental disabilities to fully participate in
25 community and civic life, including, but not limited to, programs,
26 services, work opportunities, business, and activities available to
27 persons without disabilities. This facilitation shall include, but not
28 be limited to, any of the following:

29 (A) Outreach and education to programs and services within
30 the community.

31 (B) Direct support to individuals ~~which~~ *that* would enable them
32 to more fully participate in their community.

33 (C) Developing unpaid natural supports when possible.

34 (14) When feasible and recommended by the individual program
35 planning team, for purposes of facilitating better and cost-effective
36 services for consumers or family members, technology, including
37 telecommunication technology, may be used in conjunction with
38 other services and supports. Technology in lieu of a consumer's
39 in-person appearances at judicial proceedings or administrative
40 due process hearings may be used only if the consumer or, when

1 appropriate, the consumer's parent, legal guardian, conservator,
2 or authorized representative, gives informed consent. Technology
3 may be used in lieu of, or in conjunction with, in-person training
4 for providers, as appropriate.

5 (15) Other services and supports may be provided as set forth
6 in Sections 4685, 4686, 4687, 4688, and 4689, when necessary.

7 (16) Notwithstanding any other ~~provision of law or regulation~~
8 ~~to the contrary~~, *regulation*, effective July 1, 2009, regional centers
9 shall not purchase experimental treatments, therapeutic services,
10 or devices that have not been clinically determined or scientifically
11 proven to be effective or safe or for which risks and complications
12 are unknown. Experimental treatments or therapeutic services
13 include experimental medical or nutritional therapy when the use
14 of the product for that purpose is not a general physician practice.
15 For regional center consumers receiving these services as part of
16 their individual program plan (IPP) or individualized family service
17 plan (IFSP) on July 1, 2009, this prohibition shall apply on August
18 1, 2009.

19 (b) (1) Advocacy for, and protection of, the civil, legal, and
20 service rights of persons with developmental disabilities as
21 established in this division.

22 (2) Whenever the advocacy efforts of a regional center to secure
23 or protect the civil, legal, or service rights of any of its consumers
24 prove ineffective, the regional center or the person with
25 developmental disabilities or his or her parents, legal guardian, or
26 other representative may request ~~the area board to initiate action~~
27 ~~under the provisions defining area board advocacy functions~~
28 ~~established in this division~~. *advocacy assistance from the state*
29 *council*.

30 (c) The regional center may assist consumers and families
31 directly, or through a provider, in identifying and building circles
32 of support within the community.

33 (d) In order to increase the quality of community services and
34 protect consumers, the regional center shall, when appropriate,
35 take either of the following actions:

36 (1) Identify services and supports that are ineffective or of poor
37 quality and provide or secure consultation, training, or technical
38 assistance services for any agency or individual provider to assist
39 that agency or individual provider in upgrading the quality of
40 services or supports.

1 (2) Identify providers of services or supports that may not be
2 in compliance with local, state, and federal statutes and regulations
3 and notify the appropriate licensing or regulatory authority, or
4 request the area board authority to investigate the possible
5 noncompliance.

6 (e) When necessary to expand the availability of needed services
7 of good quality, a regional center may take actions that include,
8 but are not limited to, the following:

9 (1) Soliciting an individual or agency by requests for proposals
10 or other means, to provide needed services or supports not presently
11 available.

12 (2) Requesting funds from the Program Development Fund,
13 pursuant to Section 4677, or community placement plan funds
14 designated from that fund, to reimburse the startup costs needed
15 to initiate a new program of services and supports.

16 (3) Using creative and innovative service delivery models,
17 including, but not limited to, natural supports.

18 (f) Except in emergency situations, a regional center shall not
19 provide direct treatment and therapeutic services, but shall utilize
20 appropriate public and private community agencies and service
21 providers to obtain those services for its consumers.

22 (g) ~~Where~~ When there are identified gaps in the system of
23 services and supports or ~~where~~ when there are identified consumers
24 for whom no provider will provide services and supports contained
25 in his or her individual program plan, the department may provide
26 the services and supports directly.

27 (h) At least annually, regional centers shall provide the
28 consumer, his or her parents, legal guardian, conservator, or
29 authorized representative a statement of services and supports the
30 regional center purchased for the purpose of ensuring that they are
31 delivered. The statement shall include the type, unit, month, and
32 cost of services and supports purchased.

33 ~~SEC. 46.~~

34 *SEC. 47.* Section 4649 of the Welfare and Institutions Code is
35 amended to read:

36 4649. Regional centers shall cooperate with the state council
37 in joint efforts to inform the public of services available to persons
38 with developmental disabilities and of their unmet needs, provide
39 materials and education programs to community groups and
40 agencies with interest in, or responsibility for, persons with

1 developmental disabilities, and develop resource materials, if
2 necessary, containing information about local agencies, facilities,
3 and service providers offering services to persons with
4 developmental disabilities.

5 ~~SEC. 47.~~

6 *SEC. 48.* Section 4650 of the Welfare and Institutions Code is
7 amended to read:

8 4650. Regional centers shall be responsible for developing an
9 annual plan and program budget to be submitted to the director no
10 later than September 1 of each fiscal year. An information copy
11 shall be submitted to the state council by the same date.

12 ~~SEC. 48.~~

13 *SEC. 49.* Section 4659 of the Welfare and Institutions Code is
14 amended to read:

15 4659. (a) Except as otherwise provided in subdivision (b) or
16 (e), the regional center shall identify and pursue all possible sources
17 of funding for consumers receiving regional center services. These
18 sources shall include, but not be limited to, both of the following:

19 (1) Governmental or other entities or programs required to
20 provide or pay the cost of providing services, including Medi-Cal,
21 Medicare, the Civilian Health and Medical Program for Uniform
22 Services, school districts, and federal supplemental security income
23 and the state supplementary program.

24 (2) Private entities, to the maximum extent they are liable for
25 the cost of services, aid, insurance, or medical assistance to the
26 consumer.

27 (b) Any revenues collected by a regional center pursuant to this
28 section shall be applied against the cost of services prior to use of
29 regional center funds for those services. This revenue shall not
30 result in a reduction in the regional center's purchase of services
31 budget, except as it relates to federal supplemental security income
32 and the state supplementary program.

33 (c) Effective July 1, 2009, notwithstanding any other law or
34 regulation, regional centers shall not purchase any service that
35 would otherwise be available from Medi-Cal, Medicare, the
36 Civilian Health and Medical Program for Uniform Services,
37 In-Home Support Services, California Children's Services, private
38 insurance, or a health care service plan when a consumer or a
39 family meets the criteria of this coverage but chooses not to pursue
40 that coverage. If, on July 1, 2009, a regional center is purchasing

1 that service as part of a consumer's individual program plan (IPP),
2 the prohibition shall take effect on October 1, 2009.

3 (d) (1) Effective July 1, 2009, notwithstanding any other law
4 or regulation, a regional center shall not purchase medical or dental
5 services for a consumer three years of age or older unless the
6 regional center is provided with documentation of a Medi-Cal,
7 private insurance, or a health care service plan denial and the
8 regional center determines that an appeal by the consumer or family
9 of the denial does not have merit. If, on July 1, 2009, a regional
10 center is purchasing the service as part of a consumer's IPP, this
11 provision shall take effect on August 1, 2009. Regional centers
12 may pay for medical or dental services during the following
13 periods:

14 (A) While coverage is being pursued, but before a denial is
15 made.

16 (B) Pending a final administrative decision on the administrative
17 appeal if the family has provided to the regional center a
18 verification that an administrative appeal is being pursued.

19 (C) Until the commencement of services by Medi-Cal, private
20 insurance, or a health care service plan.

21 (2) When necessary, the consumer or family may receive
22 assistance from the regional center, the Clients' Rights Advocate
23 funded by the department, or the state council in pursuing these
24 appeals.

25 (e) This section shall not impose any additional liability on the
26 parents of children with developmental disabilities, or to restrict
27 eligibility for, or deny services to, any individual who qualifies
28 for regional center services but is unable to pay.

29 (f) In order to best utilize generic resources, federally funded
30 programs, and private insurance programs for individuals with
31 developmental disabilities, the department and regional centers
32 shall engage in the following activities:

33 (1) Within existing resources, the department shall provide
34 training to regional centers, no less than once every two years, in
35 the availability and requirements of generic, federally funded and
36 private programs available to persons with developmental
37 disabilities, including, but not limited to, eligibility requirements,
38 the application process and covered services, and the appeal
39 process.

1 (2) Regional centers shall disseminate information and training
2 to all service coordinators regarding the availability and
3 requirements of generic, federally ~~funded~~ *funded*, and private
4 insurance programs on the local level.

5 ~~SEC. 49.~~

6 *SEC. 50.* Section 4662 of the Welfare and Institutions Code is
7 amended to read:

8 4662. In the case of an emergency situation involving matters
9 upon which prompt action is necessary due to the disruption or
10 threatened disruption of regional center services, an emergency
11 meeting may be called without complying with the advanced notice
12 requirement of Section 4661. For the purposes of this article,
13 “emergency situation” means any activity which severely impairs
14 public health, safety, or both, as determined by a majority of the
15 members of the regional center board. In these situations, advance
16 notice shall be provided if practicable. In addition, the state council
17 shall be notified by telephone of each emergency meeting. The
18 minutes of an emergency meeting, including a description of any
19 actions taken at the meeting, shall be mailed immediately to those
20 persons described in Section 4661.

21 ~~SEC. 50.~~

22 *SEC. 51.* Section 4669.2 of the Welfare and Institutions Code
23 is amended to read:

24 4669.2. (a) Notwithstanding any other law, and provided that
25 there shall be no reduction in direct service to persons eligible for
26 services under this article, a regional center, with the approval of
27 the State Department of Developmental Services, and in
28 consultation with the state council, consumer and vendor advisory
29 committees, and local advocacy organizations, may explore and
30 implement any regional center service delivery alternative included
31 in this section for consumers living in the community, as follows:

32 (1) Alternative service coordination for consumers.

33 (2) Technical and financial support to consumers, and where
34 appropriate, their families, to provide or secure their own services
35 in lieu of services that regional centers would otherwise provide,
36 purchase, or secure. These programs shall be cost-effective in the
37 aggregate, and shall be limited to consumers who are at imminent
38 risk of moving to a more restrictive setting.

39 (3) Procedures whereby regional centers may negotiate levels
40 of payment with providers for delivery of specific services to a

1 group of consumers through a mutually agreed upon contract with
2 a specific term and a guaranteed reimbursement amount. Contracted
3 services may be for any specific service or combination of services
4 across vendor categories.

5 (4) Procedures whereby consumers, regional center
6 representatives, the state council, and local service providers may
7 jointly examine and make recommendations to the department for
8 reduced reporting and recording requirements of regional centers.
9 The recommendations shall be made available upon request.

10 (5) Proposals to reduce reporting and recordkeeping
11 requirements at a regional center.

12 (6) Procedures whereby a regional center may lease a facility
13 and contract for the provision of services in that facility for regional
14 center clients.

15 (7) Procedures that encourage innovative approaches to the
16 sharing of administrative resources between regional centers and
17 other public and private agencies serving persons with
18 developmental disabilities.

19 (8) Proposals for a regional center to purchase a facility for its
20 own office space if it can be shown to be cost-effective. Funds
21 from a regional center's purchase of services budget shall not be
22 used for this purchase.

23 (b) Consultation pursuant to subdivision (a) shall occur during
24 the development of the proposal prior to the public hearing
25 conducted in accordance with Section 4669.75 and after the
26 completion of the public hearing.

27 (c) The regional center shall annually submit to the State
28 Department of Developmental Services a report on the
29 implementation of the service delivery options approved by the
30 department under this section. The report shall review the effects
31 of the proposal, if applicable, upon the regional center purchase
32 of service budget and the state budget, the impact on other regional
33 center services, and the impact on consumers served under the
34 proposal. This report shall be completed within 90 days of the end
35 of each fiscal year.

36 ~~SEC. 51.~~

37 *SEC. 52.* Section 4677 of the Welfare and Institutions Code is
38 amended to read:

39 4677. (a) (1) All parental fees collected by or for regional
40 centers shall be remitted to the State Treasury to be deposited in

1 the Developmental Disabilities Program Development Fund, which
2 is hereby created and hereinafter called the Program Development
3 Fund. The purpose of the Program Development Fund shall be to
4 provide resources needed to initiate new programs, and to expand
5 or convert existing programs. Within the context of, and consistent
6 with, approved priorities for program development in the state
7 plan, program development funds shall promote integrated
8 residential, work, instructional, social, civic, volunteer, and
9 recreational services and supports that increase opportunities for
10 self-determination and maximum independence of persons with
11 developmental disabilities. Notwithstanding any other law or
12 regulation, commencing July 1, 2009, parental fees remitted to the
13 State Treasury shall be deposited in accordance with Section 4784.

14 (2) In no event shall an allocation from the Program
15 Development Fund be granted for more than 24 months.

16 (b) (1) The State Council on Developmental Disabilities shall,
17 at least once every five years, request from all regional centers
18 information on the types and amounts of services and supports
19 needed, but currently unavailable.

20 (2) The state council shall work collaboratively with the
21 department and the Association of Regional Center Agencies to
22 develop standardized forms and protocols that shall be used by all
23 regional centers and the state council in collecting and reporting
24 this information. In addition to identifying services and supports
25 that are needed, but currently unavailable, the forms and protocols
26 shall also solicit input and suggestions on alternative and innovative
27 service delivery models that would address consumer needs.

28 (3) In addition to the information provided pursuant to paragraph
29 (2), the state council may utilize information from other sources,
30 including, but not limited to, public hearings, quality assurance
31 assessments conducted pursuant to Section 4571, regional center
32 reports on alternative service delivery submitted to the department
33 pursuant to Section 4669.2, and the annual report on self-directed
34 services produced pursuant to Section 4685.7.

35 (4) The department shall provide additional information, as
36 requested by the state council.

37 (5) Based on the information provided by the regional centers
38 and other agencies, the state council shall develop an assessment
39 of the need for new, expanded, or converted community services
40 and support, and make that assessment available to the public. The

1 assessment shall include a discussion of the type and amount of
2 services and supports necessary but currently unavailable including
3 the impact on consumers with common characteristics, including,
4 but not limited to, disability, specified geographic regions, age,
5 and ethnicity, face distinct challenges. The assessment shall
6 highlight alternative and innovative service delivery models
7 identified through their assessment process.

8 (6) This needs assessment shall be conducted at least once every
9 five years and updated annually. The assessment shall be included
10 in the state plan and shall be provided to the department and to the
11 appropriate committees of the Legislature. The assessment and
12 annual updates shall be made available to the public. The State
13 Council on Developmental Disabilities, in consultation with the
14 department, shall make a recommendation to the Department of
15 Finance as to the level of funding for program development to be
16 included in the Governor's Budget, based upon this needs
17 assessment.

18 (c) Parental fee schedules shall be evaluated pursuant to Section
19 4784 and adjusted annually, as needed, by the department, with
20 the approval of the state council. The July 1, 2009, parental fee
21 adjustment shall be exempt from this approval requirement. Fees
22 for out-of-home care shall bear an equitable relationship to the
23 cost of the care and the ability of the family to pay.

24 (d) In addition to parental fees and General Fund appropriations,
25 the Program Development Fund may be augmented by federal
26 funds available to the state for program development purposes,
27 when these funds are allotted to the Program Development Fund
28 in the state plan. The Program Development Fund is hereby
29 appropriated to the department, and subject to any allocations that
30 may be made in the annual Budget Act. In no event shall any of
31 these funds revert to the General Fund.

32 (e) The department may allocate funds from the Program
33 Development Fund for any legal purpose, provided that requests
34 for proposals and allocations are approved by the state council in
35 consultation with the department, and are consistent with the
36 priorities for program development in the state plan. Allocations
37 from the Program Development Fund shall take into consideration
38 the following factors:

1 (1) The future fiscal impact of the allocations on other state
2 supported services and supports for persons with developmental
3 disabilities.

4 (2) (A) The information on priority services and supports
5 needed, but currently unavailable, submitted by the regional
6 centers.

7 (B) Consistent with the level of need as determined in the state
8 plan, excess parental fees may be used for purposes other than
9 programs specified in subdivision (a) only when specifically
10 appropriated to the State Department of Developmental Services
11 for those purposes.

12 (f) Under no circumstances shall the deposit of federal moneys
13 into the Program Development Fund be construed as requiring the
14 State Department of Developmental Services to comply with a
15 definition of “developmental disabilities” and “services for persons
16 with developmental disabilities” other than as specified in
17 subdivisions (a) and (b) of Section 4512 for the purposes of
18 determining eligibility for developmental services or for allocating
19 parental fees and state general funds deposited in the Program
20 Development Fund.

21 ~~SEC. 52.~~

22 *SEC. 53.* Section 4685.8 of the Welfare and Institutions Code
23 is amended to read:

24 4685.8. (a) The department shall implement a statewide
25 Self-Determination Program. The Self-Determination Program
26 shall be available in every regional center catchment area to provide
27 participants and their families, within an individual budget,
28 increased flexibility and choice, and greater control over decisions,
29 resources, and needed and desired services and supports to
30 implement their IPP. The statewide Self-Determination Program
31 shall be phased in over three years, and during this phase-in period,
32 shall serve up to 2,500 regional center consumers, inclusive of the
33 remaining participants in the self-determination pilot projects
34 authorized pursuant to Section 13 of Chapter 1043 of the Statutes
35 of 1998, as amended, and Article 4 (commencing with Section
36 4669.2) of Chapter 5. Following the phase-in period, the program
37 shall be available on a voluntary basis to all regional center
38 consumers who are eligible for the Self-Determination Program.
39 The program shall be available to individuals who reflect the
40 disability, ethnic, and geographic diversity of the state.

1 (b) The department in establishing the statewide program shall
2 do both of the following:

3 (1) For the first three years of the Self-Determination Program,
4 determine, as part of the contracting process described in Sections
5 4620 and 4629, the number of participants each regional center
6 shall serve in its Self-Determination Program. To ensure that the
7 program is available on an equitable basis to participants in all
8 regional center catchment areas, the number of Self-Determination
9 Program participants in each regional center shall be based on the
10 relative percentage of total consumers served by the regional
11 centers minus any remaining participants in the self-determination
12 pilot projects authorized pursuant to Section 13 of Chapter 1043
13 of the Statutes of 1998, as amended, and Article 4 (commencing
14 with Section 4669.2) of Chapter 5 or another equitable basis.

15 (2) Ensure all of the following:

16 (A) Oversight of expenditure of self-determined funds and the
17 achievement of participant outcomes over time.

18 (B) Increased participant control over which services and
19 supports best meet ~~their~~ *his or her* needs and the IPP objectives.
20 A participant's unique support system may include the purchase
21 of existing service offerings from service providers or local
22 businesses, hiring his or her own support workers, or negotiating
23 unique service arrangements with local community resources.

24 (C) Comprehensive person-centered planning, including an
25 individual budget and services that are outcome based.

26 (D) Consumer and family training to ensure understanding of
27 the principles of self-determination, the planning process, and the
28 management of budgets, services, and staff.

29 (E) Choice of independent facilitators who can assist with the
30 person-centered planning process and choice of financial
31 management services providers vendored by regional centers who
32 can assist with payments and provide employee-related services.

33 (F) Innovation that will more effectively allow participants to
34 achieve their goals.

35 (c) For purposes of this section, the following definitions ~~shall~~
36 apply:

37 (1) "Financial management services" means services or
38 functions that assist the participant to manage and direct the
39 distribution of funds contained in the individual budget, and ensure
40 that the participant has the financial resources to implement his or

1 her IPP throughout the year. These may include bill paying services
2 and activities that facilitate the employment of service and support
3 workers by the participant, including, but not limited to, fiscal
4 accounting, tax withholding, compliance with relevant state and
5 federal employment laws, assisting the participant in verifying
6 provider qualifications, including criminal background checks,
7 and expenditure reports. The financial management services
8 provider shall meet the requirements of Sections 58884, 58886,
9 and 58887 of Title 17 of the California Code of Regulations and
10 other specific qualifications established by the department. The
11 costs of financial management services shall be paid by the
12 participant out of his or her individual budget, except for the cost
13 of obtaining the criminal background check specified in subdivision
14 (w).

15 (2) “Independent facilitator” means a person, selected and
16 directed by the participant, who is not otherwise providing services
17 to the participant pursuant to his or her IPP and is not employed
18 by a person providing services to the participant. The independent
19 facilitator may assist the participant in making informed decisions
20 about the individual budget, and in locating, accessing, and
21 coordinating services and supports consistent with the participant’s
22 IPP. He or she is available to assist in identifying immediate and
23 long-term needs, developing options to meet those needs, leading,
24 participating, or advocating on behalf of the participant in the
25 person-centered planning process and development of the IPP, and
26 obtaining identified services and supports. The cost of the
27 independent facilitator, if any, shall be paid by the participant out
28 of his or her individual budget. An independent facilitator shall
29 receive training in the principles of self-determination, the
30 person-centered planning process, and the other responsibilities
31 described in this paragraph at his or her own cost.

32 (3) “Individual budget” means the amount of regional center
33 purchase of service funding available to the participant for the
34 purchase of services and supports necessary to implement the IPP.
35 The individual budget shall be determined using a fair, equitable,
36 and transparent methodology.

37 (4) “IPP” means individual program plan, as described in Section
38 4646.

39 (5) “Participant” means an individual, and when appropriate,
40 his or her parents, legal guardian or conservator, or authorized

1 representative, who has been deemed eligible for, and has
2 voluntarily agreed to participate in, the Self-Determination
3 Program.

4 (6) “Self-determination” means a voluntary delivery system
5 consisting of a defined and comprehensive mix of services and
6 supports, selected and directed by a participant through
7 person-centered planning, in order to meet the objectives in his or
8 her IPP. Self-determination services and supports are designed to
9 assist the participant to achieve personally defined outcomes in
10 community settings that promote inclusion. The Self-Determination
11 Program shall only fund services and supports provided pursuant
12 to this division that the federal Centers for Medicare and Medicaid
13 Services determines are eligible for federal financial participation.

14 (d) Participation in the Self-Determination Program is fully
15 voluntary. A participant may choose to participate in, and may
16 choose to leave, the Self-Determination Program at any time. A
17 regional center shall not require or prohibit participation in the
18 Self-Determination Program as a condition of eligibility for, or
19 the delivery of, services and supports otherwise available under
20 this division. Participation in the Self-Determination Program shall
21 be available to any regional center consumer who meets the
22 following eligibility requirements:

23 (1) The participant has a developmental disability, as defined
24 in Section 4512, and is receiving services pursuant to this division.

25 (2) The consumer does not live in a licensed long-term health
26 care facility, as defined in paragraph (44) of subdivision (a) of
27 Section 54302 of Title 17 of the California Code of Regulations.
28 An individual, and when appropriate his or her parent, legal
29 guardian or conservator, or authorized representative, who is not
30 eligible to participate in the Self-Determination Program pursuant
31 to this paragraph may request that the regional center provide
32 person-centered planning services in order to make arrangements
33 for transition to the Self-Determination Program, provided that he
34 or she is reasonably expected to transition to the community within
35 90 days. In that case, the regional center shall initiate
36 person-centered planning services within 60 days of that request.

37 (3) The participant agrees to all of the following terms and
38 conditions:

39 (A) The participant shall receive an orientation to the
40 Self-Determination Program prior to enrollment, which includes

1 the principles of self-determination, the role of the independent
2 facilitator and the financial management services provider,
3 person-centered planning, and development of a budget.

4 (B) The participant shall utilize the services and supports
5 available within the Self-Determination Program only when generic
6 services and supports are not available.

7 (C) The participant shall only purchase services and supports
8 necessary to implement his or her IPP and shall comply with any
9 and all other terms and conditions for participation in the
10 Self-Determination Program described in this section.

11 (D) The participant shall manage Self-Determination Program
12 services and supports within his or her individual budget.

13 (E) The participant shall utilize the services of a financial
14 management services provider of his or her own choosing and who
15 is vendored by a regional center.

16 (F) The participant may utilize the services of an independent
17 facilitator of his or her own choosing for the purpose of providing
18 services and functions as described in paragraph (2) of subdivision
19 (c). If the participant elects not to use an independent facilitator,
20 he or she may use his or her regional center service coordinator to
21 provide the services and functions described in paragraph (2) of
22 subdivision (c).

23 (e) A participant who is not Medi-Cal eligible may participate
24 in the Self-Determination Program and receive self-determination
25 services and supports if all other program eligibility requirements
26 are met and the services and supports are otherwise eligible for
27 federal financial participation.

28 (f) An individual receiving services and supports under a
29 self-determination pilot project authorized pursuant to Section 13
30 of Chapter 1043 of the Statutes of 1998, as amended, or pursuant
31 to Article 4 (commencing with Section 4669.2) of Chapter 5, may
32 elect to continue to receive self-determination services and supports
33 pursuant to this section or the regional center shall provide for the
34 participant’s transition from the self-determination pilot program
35 to other services and supports. This transition shall include the
36 development of a new IPP that reflects the services and supports
37 necessary to meet the individual’s needs. The regional center shall
38 ensure that there is no gap in services and supports during the
39 transition period.

1 (g) The additional federal financial participation funds generated
2 by the former participants of the self-determination pilot projects
3 authorized pursuant to Section 13 of Chapter 1043 of the Statutes
4 of 1998, as amended, or pursuant to Article 4 (commencing with
5 Section 4669.2) of Chapter 5, shall be used as follows:

6 (1) First, to offset the cost to the department for the criminal
7 background check conducted pursuant to subdivision (w), and
8 other administrative costs incurred by the department in
9 implementing the Self-Determination Program.

10 (2) With the remaining funds, to offset the costs to the regional
11 centers in implementing the Self-Determination Program,
12 including, but not limited to, operations costs for caseload ratio
13 enhancement, training for regional center staff, costs associated
14 with the participant's initial person-centered planning meeting,
15 the development of the participant's initial individual budget, and
16 the costs associated with training consumers and family members.

17 (h) If at any time during participation in the Self-Determination
18 Program a regional center determines that a participant is no longer
19 eligible to continue in, or a participant voluntarily chooses to exit,
20 the Self-Determination Program, the regional center shall provide
21 for the participant's transition from the Self-Determination Program
22 to other services and supports. This transition shall include the
23 development of a new IPP that reflects the services and supports
24 necessary to meet the individual's needs. The regional center shall
25 ensure that there is no gap in services and supports during the
26 transition period.

27 (i) An individual determined to be ineligible for or who
28 voluntarily exits the Self-Determination Program shall be permitted
29 to return to the Self-Determination Program upon meeting all
30 applicable eligibility criteria and upon approval of the participant's
31 planning team, as described in subdivision (j) of Section 4512. An
32 individual who has voluntarily exited the Self-Determination
33 Program shall not return to the program for at least 12 months.
34 During the first three years of the program, the individual's right
35 to return to the program is conditioned on his or her regional center
36 not having reached the participant cap imposed by paragraph (1)
37 of subdivision (b).

38 (j) An individual who participates in the Self-Determination
39 Program may elect to continue to receive self-determination
40 services and supports if he or she transfers to another regional

1 center catchment area, provided that he or she remains eligible for
2 the Self-Determination Program pursuant to subdivision (d). The
3 balance of the participant's individual budget shall be reallocated
4 to the regional center to which he or she transfers.

5 (k) The IPP team shall utilize the person-centered planning
6 process to develop the IPP for a participant. The IPP shall detail
7 the goals and objectives of the participant that are to be met through
8 the purchase of participant-selected services and supports. The
9 IPP team shall determine the individual budget to ensure the budget
10 assists the participant to achieve the outcomes set forth in his or
11 her IPP and ensures his or her health and safety. The completed
12 individual budget shall be attached to the IPP.

13 (l) The participant shall implement his or her IPP, including
14 choosing and purchasing the services and supports allowable under
15 this section necessary to implement the plan. A participant is
16 exempt from the cost control restrictions regarding the purchases
17 of services and supports pursuant to Sections 4648.5 and 4686.5.
18 A regional center shall not prohibit the purchase of any service or
19 support that is otherwise allowable under this section.

20 (m) A participant shall have all the rights established in Sections
21 4646 to 4646.6, inclusive, and Chapter 7 (commencing with Section
22 4700).

23 (n) (1) Except as provided in paragraph (4), the IPP team shall
24 determine the initial and any revised individual budget for the
25 participant using the following methodology:

26 (A) (i) Except as specified in clause (ii), for a participant who
27 is a current consumer of the regional center, his or her individual
28 budget shall be the total amount of the most recently available 12
29 months of purchase of service expenditures for the participant.

30 (ii) An adjustment may be made to the amount specified in
31 clause (i) if both of the following occur:

32 (I) The IPP team determines that an adjustment to this amount
33 is necessary due to a change in the participant's circumstances,
34 needs, or resources that would result in an increase or decrease in
35 purchase of service expenditures, or the IPP team identifies prior
36 needs or resources that were unaddressed in the IPP, which would
37 have resulted in an increase or decrease in purchase of service
38 expenditures.

39 (II) The regional center certifies on the individual budget
40 document that regional center expenditures for the individual

1 budget, including any adjustment, would have occurred regardless
2 of the individual's participation in the Self-Determination Program.

3 (iii) For purposes of clauses (i) and (ii), the amount of the
4 individual budget shall not be increased to cover the cost of the
5 independent facilitator or the financial management services.

6 (B) For a participant who is either newly eligible for regional
7 center services or who does not have 12 months of purchase service
8 expenditures, his or her individual budget shall be calculated as
9 follows:

10 (i) The IPP team shall identify the services and supports needed
11 by the participant and available resources, as required by Section
12 4646.

13 (ii) The regional center shall calculate the cost of providing the
14 services and supports to be purchased by the regional center by
15 using the average cost paid by the regional center for each service
16 or support unless the regional center determines that the consumer
17 has a unique need that requires a higher or lower cost. The regional
18 center shall certify on the individual budget document that this
19 amount would have been expended using regional center purchase
20 of service funds regardless of the individual's participation in the
21 Self-Determination Program.

22 (iii) For purposes of clauses (i) and (ii), the amount of the
23 individual budget shall not be increased to cover the cost of the
24 independent facilitator or the financial management services.

25 (2) The amount of the individual budget shall be available to
26 the participant each year for the purchase of program services and
27 supports. An individual budget shall be calculated no more than
28 once in a 12-month period, unless revised to reflect a change in
29 circumstances, needs, or resources of the participant using the
30 process specified in clause (ii) of subparagraph (A) of paragraph
31 (1).

32 (3) The individual budget shall be assigned to uniform budget
33 categories developed by the department in consultation with
34 stakeholders and distributed according to the timing of the
35 anticipated expenditures in the IPP and in a manner that ensures
36 that the participant has the financial resources to implement his or
37 her IPP throughout the year.

38 (4) The department, in consultation with stakeholders, may
39 develop alternative methodologies for individual budgets that are
40 computed in a fair, transparent, and equitable manner and are based

1 on consumer characteristics and needs, and that include a method
2 for adjusting individual budgets to address a participant's change
3 in circumstances or needs.

4 (o) Annually, participants may transfer up to 10 percent of the
5 funds originally distributed to any budget category set forth in
6 paragraph (3) of subdivision (n) to another budget category or
7 categories. Transfers in excess of 10 percent of the original amount
8 allocated to any budget category may be made upon the approval
9 of the regional center or the participant's IPP team.

10 (p) Consistent with the implementation date of the IPP, the IPP
11 team shall annually ascertain from the participant whether there
12 are any circumstances or needs that require a change to the annual
13 individual budget. Based on that review, the IPP team shall
14 calculate a new individual budget consistent with the methodology
15 identified in subdivision (n).

16 (q) (1) On or before December 31, 2014, the department shall
17 apply for federal Medicaid funding for the Self-Determination
18 Program by doing one or more of the following:

19 (A) Applying for a state plan amendment.

20 (B) Applying for an amendment to a current home- and
21 community-based waiver for individuals with developmental
22 disabilities.

23 (C) Applying for a new waiver.

24 (D) Seeking to maximize federal financial participation through
25 other means.

26 (2) To the extent feasible, the state plan amendment, waiver, or
27 other federal request described in paragraph (1) shall incorporate
28 the eligibility requirements, benefits, and operational requirements
29 set forth in this section. Except for the provisions of subdivisions
30 (k), (m), (p), and this subdivision, the department may modify
31 eligibility requirements, benefits, and operational requirements as
32 needed to secure approval of federal funding.

33 (3) Contingent upon approval of federal funding, the
34 Self-Determination Program shall be established.

35 (r) (1) The department, as it determines necessary, may adopt
36 regulations to implement the procedures set forth in this section.
37 Any regulations shall be adopted in accordance with the
38 requirements of Chapter 3.5 (commencing with Section 11340) of
39 Part 1 of Division 3 of Title 2 of the Government Code.

1 (2) Notwithstanding paragraph (1) and Chapter 3.5 (commencing
2 with Section 11340) of Part 1 of Division 3 of Title 2 of the
3 Government Code, and only to the extent that all necessary federal
4 approvals are obtained, the department, without taking any further
5 regulatory action, shall implement, interpret, or make specific this
6 section by means of program directives or similar instructions until
7 the time regulations are adopted. It is the intent of the Legislature
8 that the department be allowed this temporary authority as
9 necessary to implement program changes only until completion
10 of the regulatory process.

11 (s) The department, in consultation with stakeholders, shall
12 develop informational materials about the Self-Determination
13 Program. The department shall ensure that regional centers are
14 trained in the principles of self-determination, the mechanics of
15 the Self-Determination Program, and the rights of consumers and
16 families as candidates for, and participants in, the
17 Self-Determination Program.

18 (t) Each regional center shall be responsible for implementing
19 the Self-Determination Program as a term of its contract under
20 Section 4629. As part of implementing the program, the regional
21 center shall do both of the following:

22 (1) Contract with local consumer or family-run organizations
23 to conduct outreach through local meetings or forums to consumers
24 and their families to provide information about the
25 Self-Determination Program and to help ensure that the program
26 is available to a diverse group of participants, with special outreach
27 to underserved communities.

28 (2) Collaborate with the local consumer or family-run
29 organizations identified in paragraph (1) to jointly conduct training
30 about the Self-Determination Program.

31 (u) The financial management services provider shall provide
32 the participant and the regional center service coordinator with a
33 monthly individual budget statement that describes the amount of
34 funds allocated by budget category, the amount spent in the
35 previous 30-day period, and the amount of funding that remains
36 available under the participant's individual budget.

37 (v) Only the financial management services provider is required
38 to apply for vendorization in accordance with Subchapter 2
39 (commencing with Section 54300) of Chapter 3 of Division 2 of
40 Title 17 of the California Code of Regulations, for the

1 Self-Determination Program. All other service and support
2 providers shall not be on the federal debarment list and shall have
3 applicable state licenses, certifications, or other state required
4 documentation, including documentation of any other qualifications
5 required by the department, but are exempt from the vendorization
6 requirements set forth in Title 17 of the California Code of
7 Regulations when serving participants in the Self-Determination
8 Program.

9 (w) To protect the health and safety of participants in the
10 Self-Determination Program, the department shall require a
11 criminal background check in accordance with all of the following:

12 (1) The department shall issue a program directive that identifies
13 nonvendored providers of services and supports who shall obtain
14 a criminal background check pursuant to this subdivision. At a
15 minimum, these staff shall include both of the following:

16 (A) Individuals who provide direct personal care services to a
17 participant.

18 (B) Other nonvendored providers of services and supports for
19 whom a criminal background check is requested by a participant
20 or the participant's financial management service.

21 (2) Subject to the procedures and requirements of this
22 subdivision, the department shall administer criminal background
23 checks consistent with the department's authority and the process
24 described in Sections 4689.2 to 4689.6, inclusive.

25 (3) The department shall electronically submit to the Department
26 of Justice fingerprint images and related information required by
27 the Department of Justice of nonvendored providers of services
28 and supports, as specified in paragraph (1), for the purposes of
29 obtaining information as to the existence and content of a record
30 of state or federal convictions and state or federal arrests and also
31 information as to the existence and content of a record of state or
32 federal arrests for which the Department of Justice establishes that
33 the person is free on bail or on his or her recognizance pending
34 trial or appeal.

35 (4) When received, the Department of Justice shall forward to
36 the Federal Bureau of Investigation requests for federal summary
37 criminal history information received pursuant to this section. The
38 Department of Justice shall review the information returned from
39 the Federal Bureau of Investigation and compile and disseminate
40 a response to the department.

1 (5) The Department of Justice shall provide a state or federal
2 response to the department pursuant to paragraph (1) of subdivision
3 (p) of Section 11105 of the Penal Code.

4 (6) The department shall request from the Department of Justice
5 subsequent notification service, as provided pursuant to Section
6 11105.2 of the Penal Code, for persons described in paragraph (1).

7 (7) The Department of Justice shall charge a fee sufficient to
8 cover the cost of processing the request described in this
9 subdivision.

10 (8) The fingerprints of any provider of services and supports
11 who is required to obtain a criminal background check shall be
12 submitted to the Department of Justice prior to employment. The
13 costs of the fingerprints and the financial management service's
14 administrative cost authorized by the department shall be paid by
15 the services and supports provider or his or her employing agency.
16 Any administrative costs incurred by the department pursuant to
17 this subdivision shall be offset by the funds specified in subdivision
18 (g).

19 (9) If the criminal record information report shows a criminal
20 history, the department shall take the steps specified in Section
21 4689.2. The department may prohibit a provider of services and
22 supports from becoming employed, or continuing to be employed,
23 based on the criminal background check, as authorized in Section
24 4689.6. The provider of services and supports who has been denied
25 employment shall have the rights set forth in Section 4689.6.

26 (10) The department may utilize a current department-issued
27 criminal record clearance to enable a provider to serve more than
28 one participant, as long as the criminal record clearance has been
29 processed through the department and no subsequent arrest
30 notifications have been received relative to the cleared applicant.

31 (11) Consistent with subdivision (h) of Section 4689.2, the
32 participant or financial management service that denies or
33 terminates employment based on written notification from the
34 department shall not incur civil liability or unemployment insurance
35 liability.

36 (x) To ensure the effective implementation of the
37 Self-Determination Program and facilitate the sharing of best
38 practices and training materials commencing with the
39 implementation of the Self-Determination Program, local and
40 statewide advisory committees shall be established as follows:

1 (1) Each regional center shall establish a local volunteer advisory
2 committee to provide oversight of the Self-Determination Program.
3 The regional center and the State Council on Developmental
4 Disabilities shall each appoint one-half of the membership of the
5 committee. The committee shall consist of the regional center
6 clients' rights advocate, consumers, family members, and other
7 advocates, and community leaders. A majority of the committee
8 shall be consumers and their family members. The committee shall
9 reflect the multicultural diversity and geographic profile of the
10 catchment area. The committee shall review the development and
11 ongoing progress of the Self-Determination Program, including
12 whether the program advances the principles of self-determination
13 and is operating consistent with the requirements of this section,
14 and may make ongoing recommendations for improvement to the
15 regional center and the department.

16 (2) The State Council on Developmental Disabilities shall form
17 a volunteer committee, to be known as the Statewide
18 Self-Determination Advisory Committee, comprised of the chairs
19 of the 21 local advisory committees or their designees. The council
20 shall convene the Statewide Self-Determination Advisory
21 Committee twice annually, or more frequently in the sole discretion
22 of the council. The Statewide Self-Determination Advisory
23 Committee shall meet by teleconference or other means established
24 by the council, to identify self-determination best practices,
25 effective consumer and family training materials, implementation
26 concerns, systemic issues, ways to enhance the program, and
27 recommendations regarding the most effective method for
28 participants to learn of individuals who are available to provide
29 services and supports. The council shall synthesize information
30 received from the Statewide Self-Determination Advisory
31 Committee, local advisory committees, and other sources, shall
32 share the information with consumers, families, regional centers,
33 and the department, and shall make recommendations, as
34 appropriate, to increase the program's effectiveness in furthering
35 the principles of self-determination.

36 (y) Commencing January 10, 2017, the department shall
37 annually provide the following information to the appropriate
38 policy and fiscal committees of the Legislature:

39 (1) Number and characteristics of participants, by regional
40 center.

- 1 (2) Types and amount of services and supports purchased under
2 the Self-Determination Program, by regional center.
- 3 (3) Range and average of individual budgets, by regional center,
4 including adjustments to the budget to address the adjustments
5 permitted in clause (ii) of subparagraph (A) of paragraph (1) of
6 subdivision (n).
- 7 (4) The number and outcome of appeals concerning individual
8 budgets, by regional center.
- 9 (5) The number and outcome of fair hearing appeals, by regional
10 center.
- 11 (6) The number of participants who voluntarily withdraw from
12 the Self-Determination Program and a summary of the reasons
13 why, by regional center.
- 14 (7) The number of participants who are subsequently determined
15 to no longer be eligible for the Self-Determination Program and a
16 summary of the reasons why, by regional center.
- 17 (z) (1) The State Council on Developmental Disabilities, in
18 collaboration with the protection and advocacy agency identified
19 in Section 4900 and the federally funded University Centers for
20 Excellence in Developmental Disabilities Education, Research,
21 and Service, may work with regional centers to survey participants
22 regarding participant satisfaction under the Self-Determination
23 Program, *Program* and, when data is available, the traditional
24 service delivery system, including the proportion of participants
25 who report that their choices and decisions are respected and
26 supported and who report that they are able to recruit and hire
27 qualified service providers, and to identify barriers to participation
28 and recommendations for improvement.
- 29 (2) The council, in collaboration with the protection and
30 advocacy agency identified in Section 4900 and the federally
31 funded University Centers for Excellence in Developmental
32 Disabilities Education, Research, and Service, shall issue a report
33 to the Legislature, in compliance with Section 9795 of the
34 Government Code, no later than three years following the approval
35 of the federal funding on the status of the Self-Determination
36 Program authorized by this section, and provide recommendations
37 to enhance the effectiveness of the program. This review shall
38 include the program's effectiveness in furthering the principles of
39 self-determination, including all of the following:

1 (A) Freedom, which includes the ability of adults with
2 developmental disabilities to exercise the same rights as all ~~citizens;~~
3 *citizens* to establish, with freely chosen supporters, family and
4 friends, where they want to live, with whom they want to live, how
5 their time will be occupied, and who supports them; ~~and, for~~
6 ~~families;~~ *and for families* to have the freedom to receive unbiased
7 assistance of their own choosing when developing a plan and to
8 select all personnel and supports to further the life goals of a minor
9 child.

10 (B) Authority, which includes the ability of a person with a
11 disability, or family, to control a certain sum of dollars in order to
12 purchase services and supports of their choosing.

13 (C) Support, which includes the ability to arrange resources and
14 personnel, both formal and informal, that will assist a person with
15 a disability to live a life in his or her community that is rich in
16 community participation and contributions.

17 (D) Responsibility, which includes the ability of participants to
18 take responsibility for decisions in their own lives and to be
19 accountable for the use of public dollars, and to accept a valued
20 role in their community through, for example, competitive
21 employment, organizational affiliations, spiritual development,
22 and general caring of others in their community.

23 (E) Confirmation, which includes confirmation of the critical
24 role of participants and their families in making decisions in their
25 own lives and designing and operating the system that they rely
26 on.

27 ~~SEC. 53.~~

28 *SEC. 54.* Section 4701 of the Welfare and Institutions Code is
29 amended to read:

30 4701. "Adequate notice" means a written notice informing the
31 applicant, recipient, and authorized representative of at least all of
32 the following:

33 (a) The action that the service agency proposes to take, including
34 a statement of the basic facts upon which the service agency is
35 relying.

36 (b) The reason or reasons for that action.

37 (c) The effective date of that action.

38 (d) The specific law, regulation, or policy supporting the action.

39 (e) The responsible state agency with whom a state appeal may
40 be filed, including the address of the state agency director.

- 1 (f) That if a fair hearing is requested, the claimant has the
2 following rights:
- 3 (1) The opportunity to be present in all proceedings and to
4 present written and oral evidence.
- 5 (2) The opportunity to confront and cross-examine witnesses.
- 6 (3) The right to appear in person with counsel or other
7 representatives of his or her own choosing.
- 8 (4) The right to access to records pursuant to Article 5
9 (commencing with Section 4725).
- 10 (5) The right to an interpreter.
- 11 (g) Information on availability of advocacy assistance, including
12 referral to the developmental center or regional center clients'
13 rights advocate, the State Council on Developmental Disabilities,
14 publicly funded legal services corporations, and other publicly or
15 privately funded advocacy organizations, including the protection
16 and advocacy system required under federal Public Law 95-602,
17 the Developmental Disabilities Assistance and Bill of Rights Act
18 (42 U.S.C.A. Sec. 6000 et seq.).
- 19 (h) The fair hearing procedure, including deadlines, access to
20 service agency records under Article 5 (commencing with Section
21 4725), the opportunity to request an informal meeting to resolve
22 the issue or issues, and the opportunity to request mediation which
23 shall be voluntary for both the claimant and the service agency.
- 24 (i) If the claimant has requested an informal meeting,
25 information that it shall be held within 10 days of the date the
26 hearing request form is received by the service agency.
- 27 (j) The option of requesting mediation prior to a fair hearing,
28 as provided in Section 4711.5. This section shall not preclude the
29 claimant or his or her authorized representative from proceeding
30 directly to a fair hearing in the event that mediation is unsuccessful.
- 31 (k) The fair hearing shall be completed and a final administrative
32 decision rendered within 90 days of the date the hearing request
33 form is received by the service agency, unless the fair hearing
34 request has been withdrawn or the time period has been extended
35 in accordance with this chapter.
- 36 (l) Prior to a voluntary informal meeting, voluntary mediation
37 or a fair hearing, the claimant or his or her authorized representative
38 shall have the right to examine any or all documents contained in
39 the individual's service agency file. Access to records shall be
40 provided pursuant to Article 5 (commencing with Section 4725).

1 (m) An explanation that a request for mediation may constitute
2 a waiver of the rights of a medicaid home and community-based
3 waiver participant to receive a fair hearing decision within 90 days
4 of the date the hearing request form is received by the service
5 agency, as specified in subdivision (c) of Section 4711.5.

6 (n) That if a request for a fair hearing by a recipient is
7 postmarked or received by a service agency no later than 10 days
8 after receipt of the notice of the proposed action mailed pursuant
9 to subdivision (a) of Section 4710, current services shall continue
10 as provided in Section 4715. The notice shall be in clear,
11 nontechnical language in English. If the claimant or authorized
12 representative does not comprehend English, the notice shall be
13 provided in any other language as the claimant or authorized
14 representative comprehends.

15 (o) A statement indicating whether the recipient is a participant
16 in the home and community-based services waiver.

17 ~~SEC. 54.~~

18 *SEC. 55.* Section 4702.6 of the Welfare and Institutions Code
19 is amended to read:

20 4702.6. "Hearing request form" means a document that shall
21 include the name, address, and birth date of the claimant, date of
22 request, reason for the request, and name, address, and relationship
23 to the claimant of the authorized representative, if any, and whether
24 the claimant is a participant in the medicaid home and
25 community-based waiver. The hearing request form shall also
26 indicate whether the claimant or his or her authorized representative
27 is requesting mediation. A copy of the appointment of the
28 authorized representative, by the claimant or the State Council on
29 Developmental Disabilities if any, shall also be included.

30 ~~SEC. 55.~~

31 *SEC. 56.* Section 4705 of the Welfare and Institutions Code is
32 amended to read:

33 4705. (a) (1) Every service agency shall, as a condition of
34 continued receipt of state funds, have an agency fair hearing
35 procedure for resolving conflicts between the service agency and
36 recipients of, or applicants for, service. The State Department of
37 Developmental Services shall promulgate regulations to implement
38 this chapter by July 1, 1999, which shall be binding on every
39 service agency.

1 (2) Any public or private agency receiving state funds for the
2 purpose of serving persons with developmental disabilities not
3 otherwise subject to the provisions of this chapter shall, as a
4 condition of continued receipt of state funds, adopt and periodically
5 review a written internal grievance procedure.

6 (b) An agency that employs a fair hearing procedure mandated
7 by any other statute shall be considered to have an approved
8 procedure for purposes of this chapter.

9 (c) The service agency's mediation and fair hearing procedure
10 shall be stated in writing, in English and any other language that
11 may be appropriate to the needs of the consumers of the agency's
12 service. A copy of the procedure and a copy of the provisions of
13 this chapter shall be prominently displayed on the premises of the
14 service agency.

15 (d) All recipients and applicants, and persons having legal
16 responsibility for recipients or applicants, shall be informed
17 verbally of, and shall be notified in writing in a language which
18 they comprehend of, the service agency's mediation and fair
19 hearing procedure when they apply for service, when they are
20 denied service, when notice of service modification is given
21 pursuant to Section 4710, and upon request.

22 (e) If, in the opinion of any person, the rights or interests of a
23 claimant who has not personally authorized a representative will
24 not be properly protected or advocated, the State Council on
25 Developmental Disabilities and the clients' right advocate assigned
26 to the regional center or developmental center shall be notified,
27 and the State Council on Developmental Disabilities may appoint
28 a person or agency as representative, pursuant to subparagraph
29 (A) of paragraph (2) of subdivision (e) of Section 4540, to assist
30 the claimant in the mediation and fair hearing procedure. The
31 appointment shall be in writing to the authorized representative
32 and a copy of the appointment shall be immediately mailed to the
33 service agency director.

34 ~~SEC. 56.~~

35 *SEC. 57.* Section 4775 of the Welfare and Institutions Code is
36 amended to read:

37 4775. The Legislature finds that the method of appropriating
38 funds for numerous programs for the developmentally disabled
39 affects the availability and distribution of services and must be
40 related to statewide planning. Therefore, the process for

1 determining levels of funding of programs must involve
2 consideration of the state plan established pursuant to Chapter 3
3 (commencing with Section 4561) of this division and the
4 participation of citizens who may be directly affected by funding
5 decisions.

6 ~~SEC. 57.~~

7 *SEC. 58.* Section 4830 of the Welfare and Institutions Code is
8 amended to read:

9 4830. As used in this chapter:

10 (a) “Continuum” means a coordinated multicomponent services
11 system within geographic regions of the state whose design shall
12 support the sequential developmental needs of persons so that the
13 pattern of these services provides an unbroken chain of experience,
14 maximum personal ~~growth~~ *growth*, and liberty.

15 (b) “Normalization” means making available programs, methods,
16 and titles that are culturally normative, and patterns and conditions
17 of everyday life that are as close as possible to the norms and
18 patterns of the mainstream of society.

19 (c) “Designated agency” means the legal entity selected by the
20 State Department of Developmental Services to be responsible for
21 organizing or providing services within each continuum or both.

22 ~~SEC. 58.~~

23 *SEC. 59.* Section 4831 of the Welfare and Institutions Code is
24 amended to read:

25 4831. The State Department of Developmental Services may
26 develop the design and phase-in plan for continuums and may
27 designate one or more designated agencies to implement
28 community living continuums throughout the state, after
29 consideration of a recommendation from the State Council on
30 Developmental Disabilities in conjunction with recommendations
31 from the appropriate regional center.

32 ~~SEC. 59.~~

33 *SEC. 60.* Section 4832 of the Welfare and Institutions Code is
34 amended to read:

35 4832. (a) The State Council on Developmental Disabilities
36 may review and evaluate existing and proposed community living
37 arrangement programs within the various regions of the state and
38 may make a recommendation to the Director of Developmental
39 Services concerning programs that should be considered as the
40 most appropriate agency to be designated as responsible for the

1 implementation of the community living continuum within their
2 area. These programs shall include, but not be limited to, those
3 that have been funded through the issuance of Mental Retardation
4 Private Institutions' Fund grants, state council program
5 development grants, and model state hospital programs.
6 Consideration shall be given to all of the following:

7 (1) Private nonprofit corporations.

8 (2) Public agencies.

9 (3) A joint powers agreement agency.

10 (b) At least one-third of the board of directors, public or ~~private~~
11 *private*, or an advisory committee in the event a public agency is
12 selected, shall be composed of consumer representatives, including
13 members of the immediate family of the consumer.

14 (c) A person shall not serve as a director or advisory committee
15 member who has a financial interest, as defined in Section 87103
16 of the Government Code, in designated agency operations, except
17 with respect to any interest as a consumer of a designated agency
18 or regional center services.

19 ~~SEC. 60.~~

20 *SEC. 61.* Section 4835 of the Welfare and Institutions Code is
21 amended to read:

22 4835. (a) The Director of Developmental Services may
23 establish uniform operational procedures, performance and
24 evaluation—~~standards~~ *standards*, and utilization criteria for
25 designated agencies pursuant to this chapter.

26 (b) These standards and criteria shall be developed with
27 participation by consumer organizations, the State Council on
28 Developmental Disabilities, the Association of Regional Center
29 Agencies, the State Department of Social Services, the State
30 Department of Health Care Services, the State Department of
31 Education, and the Department of Rehabilitation, and consultations
32 with individuals with experience in developmental services
33 programming.

O