

AMENDED IN SENATE JUNE 20, 2016

AMENDED IN ASSEMBLY MAY 27, 2016

AMENDED IN ASSEMBLY MAY 4, 2016

AMENDED IN ASSEMBLY MARCH 18, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

## ASSEMBLY BILL

**No. 2809**

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**Introduced by Assembly Member Rodriguez**

February 19, 2016

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An act to amend Sections 4646.5, 4648, and 4686.2 of, and to add Section 4646.45 to, of the Welfare and Institutions Code, relating to developmental services.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2809, as amended, Rodriguez. Developmental services: regional centers.

Existing law, the California Early Intervention Services Act, provides a statewide system of coordinated, comprehensive, family-centered, multidisciplinary, and interagency programs that are responsible for providing appropriate early intervention services and support to all eligible infants and toddlers, as defined, and their families and requires an eligible infant or toddler receiving services under the act to have an individualized family service plan (IFSP). The act requires these services to be provided pursuant to the existing regional center system under the Lanterman Developmental Disabilities Service Act.

Under existing law, the Lanterman Developmental Disabilities Services Act, the State Department of Developmental Services is responsible for providing various services and supports to individuals

with developmental disabilities, and for ensuring the appropriateness and quality of those services and supports. Under existing law, the department contracts with regional centers to provide services and supports to persons with developmental disabilities. The services and supports to be provided to a regional center consumer are contained in an individual program plan (IPP), developed in accordance with prescribed requirements.

This bill would require regional centers to ~~give certain information and materials~~ *provide certain information* to a consumer or his or her parents, legal guardian, conservator, or authorized representative, or both, ~~at the time of development, scheduled review, or modification of a consumer's IPP or IFSP and would require that information and those materials to be made available~~ in threshold languages, as defined.

Existing law also requires a regional center to only purchase applied behavioral analysis (ABA) services or intensive behavioral intervention services when the parent or parents of minor consumers receiving services participate in the intervention plan for the consumers. *Existing law includes completion of group instruction on the basics of behavior intervention within the definition of "parent participation."*

This bill would ~~require the regional center, when determining the extent of parent participation to consider any relevant hardships suffered by a parent or parents that may constitute a barrier to the consumer accessing those services. The bill would require the hardships to be documented in the IPP or IFSP and reviewed every six months to determine if there has been a change in circumstances. prohibit a parent's or caregiver's noncompletion of group instruction on the basics of behavior intervention from being used to deny, delay, or reduce ABA or intensive behavioral intervention services if the parent or caregiver demonstrates hardship in accessing or attending group instruction classes. The bill would require the IPP or IFSP team to review the parent's or caregiver's demonstration of hardship every 6 months.~~

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

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

- 1     ~~SECTION 1. Section 4646.45 is added to the Welfare and~~
- 2     ~~Institutions Code, immediately following Section 4646.4, to read:~~
- 3     ~~4646.45. At the time of development, scheduled review, or~~
- 4     ~~modification of a consumer's individual program plan or~~

1 individualized family service plan, the regional center shall make  
2 available, in a nontechnical, understandable form and in threshold  
3 languages, as defined in paragraph (3) of subdivision (a) of Section  
4 1810.410 of Title 9 of the California Code of Regulations, as  
5 appropriate, to the consumer or his or her parents, legal guardian,  
6 conservator, or authorized representative, or both, a document  
7 describing all of the following and the process for obtaining each  
8 exception or exemption:

9 (a) The exception described in subdivision (d) of Section  
10 4648.35.

11 (b) The exemption described in subdivision (e) of Section  
12 4648.5.

13 (c) The exemption described in subdivision (d) of Section  
14 4648.55.

15 (d) The exemption described in subparagraph (A) of paragraph  
16 (3) of subdivision (a) of Section 4686.5.

17 SEC. 2.

18 SECTION 1. Section 4646.5 of the Welfare and Institutions  
19 Code is amended to read:

20 4646.5. (a) The planning process for the individual program  
21 plan described in Section 4646 shall include all of the following:

22 (1) Gathering information and conducting assessments to  
23 determine the life goals, capabilities and strengths, preferences,  
24 barriers, and concerns or problems of the person with  
25 developmental disabilities. For children with developmental  
26 disabilities, this process should include a review of the strengths,  
27 preferences, and needs of the child and the family unit as a whole.  
28 Assessments shall be conducted by qualified individuals and  
29 performed in natural environments whenever possible. Information  
30 shall be taken from the consumer, his or her parents and other  
31 family members, his or her friends, advocates, authorized  
32 representative, if applicable, providers of services and supports,  
33 and other agencies. The assessment process shall reflect awareness  
34 of, and sensitivity to, the lifestyle and cultural background of the  
35 consumer and the family.

36 (2) A statement of goals, based on the needs, preferences, and  
37 life choices of the individual with developmental disabilities, and  
38 a statement of specific, time-limited objectives for implementing  
39 the person's goals and addressing his or her needs. These objectives  
40 shall be stated in terms that allow measurement of progress or

1 monitoring of service delivery. These goals and objectives should  
2 maximize opportunities for the consumer to develop relationships,  
3 be part of community life in the areas of community participation,  
4 housing, work, school, and leisure, increase control over his or her  
5 life, acquire increasingly positive roles in community life, and  
6 develop competencies to help accomplish these goals.

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

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

14 (5) A schedule of the type and amount of services and supports  
15 to be purchased by the regional center or obtained from generic  
16 agencies or other resources in order to achieve the individual  
17 program plan goals and objectives, and identification of the  
18 provider or providers of service responsible for attaining each  
19 objective, including, but not limited to, vendors, contracted  
20 providers, generic service agencies, and natural supports. The  
21 individual program plan shall specify the approximate scheduled  
22 start date for services and supports and shall contain timelines for  
23 actions necessary to begin services and supports, including generic  
24 services. In addition to the requirements of subdivision (h) of  
25 Section 4646, each regional center shall offer, and upon request  
26 provide, a written copy of the individual program plan to the  
27 consumer, and, when appropriate, his or her parents, legal guardian  
28 or conservator, or authorized representative within 45 days of their  
29 request in a threshold language, as defined by paragraph (3) of  
30 subdivision (a) of Section 1810.410 of Title 9 of the California  
31 Code of Regulations.

32 (6) At the beginning of each individual program plan meeting,  
33 the regional center shall provide a consumer and, when appropriate,  
34 his or her parents, legal guardian, conservator, or authorized  
35 representative information about the appeal and complaint process  
36 in threshold languages, as defined in paragraph (3) of subdivision  
37 (a) of Section 1810.410 of Title 9 of the California Code of  
38 Regulations, as appropriate. *This paragraph is in addition to, and*  
39 *independent of, any other rights, remedies, or procedures under*

1 *any other law and shall not be construed to alter, limit, or negate*  
2 *any other rights, remedies, or procedures provided for by law.*

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

19 (8) (A) The development of a transportation access plan for a  
20 consumer when all of the following conditions are met:

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

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

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

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

38 (9) A schedule of regular periodic review and reevaluation to  
39 ascertain that planned services have been provided, that objectives  
40 have been fulfilled within the times specified, and that consumers

1 and families are satisfied with the individual program plan and its  
2 implementation.

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

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

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

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

24 ~~SEC. 3.~~

25 *SEC. 2.* Section 4648 of the Welfare and Institutions Code is  
26 amended to read:

27 4648. In order to achieve the stated objectives of a consumer's  
28 individual program plan, the regional center shall conduct activities,  
29 including, but not limited to, all of the following:

30 (a) Securing needed services and supports.

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

1 independently as possible in the community, and that allow all  
2 consumers to interact with persons without disabilities in positive,  
3 meaningful ways.

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

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

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

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

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

38 (D) A regional center may vendorize a licensed facility for  
39 exclusive services to persons with developmental disabilities at a  
40 capacity equal to or less than the facility's licensed capacity. A

1 facility already licensed on January 1, 1999, shall continue to be  
2 vendorized at their full licensed capacity until the facility agrees  
3 to vendorization at a reduced capacity.

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

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

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

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

37 (A) A provider's ability to deliver quality services or supports  
38 that can accomplish all or part of the consumer's individual  
39 program plan.



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

3 (C) Where appropriate, the existence of licensing, accreditation,  
4 or professional certification.

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

17 (E) The consumer's choice of providers, or, when appropriate,  
18 the consumer's parent's, legal guardian's, authorized  
19 representative's, or conservator's choice of providers.

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

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

34 (9) (A) A regional center may, directly or through an agency  
35 acting on behalf of the center, provide placement in, purchase of,  
36 or follow-along services to persons with developmental disabilities  
37 in, appropriate community living arrangements, including, but not  
38 limited to, support service for consumers in homes they own or  
39 lease, foster family placements, health care facilities, and licensed  
40 community care facilities. In considering appropriate placement

1 alternatives for children with developmental disabilities, approval  
2 by the child's parent or guardian shall be obtained before placement  
3 is made.

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

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

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

20 (iii) A residential facility licensed as a mental health  
21 rehabilitation center by the State Department of Health Care  
22 Services or successor agency under any of the following  
23 circumstances:

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

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

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

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

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

1 plan to the department for an extension of up to 90 days. Placement  
2 shall not exceed 180 days.

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

7 (iv) The clients' rights advocate shall be notified of each  
8 admission and individual program plan meeting pursuant to this  
9 subparagraph and may participate in all individual program plan  
10 meetings unless the consumer objects on his or her own behalf.  
11 For purposes of this clause, notification to the clients' rights  
12 advocate shall include a copy of the most recent comprehensive  
13 assessment or updated assessment and the time, date, and location  
14 of the meeting, and shall be provided as soon as practicable, but  
15 not less than seven calendar days prior to the meeting.

16 (v) If a consumer is placed in an institution for mental disease  
17 by another entity, the institution for mental disease shall inform  
18 the regional center of the placement within five days of the date  
19 the consumer is admitted. If an individual's records indicate that  
20 he or she is a regional center consumer, the institution for mental  
21 disease shall make every effort to contact the local regional center  
22 or department to determine which regional center to provide notice.  
23 As soon as possible within 30 days of admission to an institution  
24 for mental disease due to an emergency pursuant to clause (ii), or  
25 within 30 days of notification of admission to an institution for  
26 mental disease by an entity other than a regional center, an  
27 assessment shall be completed by the regional center.

28 (vi) Regional centers shall complete a comprehensive assessment  
29 of any consumer residing in an institution for mental disease as of  
30 July 1, 2012, for which federal Medicaid funding is not available,  
31 and for any consumer residing in an institution for mental disease  
32 as of July 1, 2013, without regard to federal funding. The  
33 comprehensive assessment shall be completed prior to the  
34 consumer's next scheduled individual program plan meeting and  
35 shall include identification of the services and supports needed  
36 and the timeline for identifying or developing those services needed  
37 to transition the consumer back to the community. Effective  
38 October 1, 2012, the regional center shall also consider resource  
39 options identified by the statewide specialized resource service.  
40 For each individual program plan meeting convened pursuant to

1 this subparagraph, the clients' rights advocate for the regional  
2 center shall be notified of the meeting and may participate in the  
3 meeting unless the consumer objects on his or her own behalf. For  
4 purposes of this clause, notification to the clients' rights advocate  
5 shall include the time, date, and location of the meeting, and shall  
6 be provided as soon as practicable, but not less than seven calendar  
7 days prior to the meeting.

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

22 (E) Consumers are eligible to receive supplemental services  
23 including, but not limited to, additional staffing, pursuant to the  
24 process described in subdivision (d) of Section 4646. Necessary  
25 additional staffing that is not specifically included in the rates paid  
26 to the service provider may be purchased by the regional center if  
27 the additional staff are in excess of the amount required by  
28 regulation and the individual's planning team determines the  
29 additional services are consistent with the provisions of the  
30 individual program plan. Additional staff should be periodically  
31 reviewed by the planning team for consistency with the individual  
32 program plan objectives in order to determine if continued use of  
33 the additional staff is necessary and appropriate and if the service  
34 is producing outcomes consistent with the individual program plan.  
35 Regional centers shall monitor programs to ensure that the  
36 additional staff is being provided and utilized appropriately.

37 (10) Emergency and crisis intervention services including, but  
38 not limited to, mental health services and behavior modification  
39 services, may be provided, as needed, to maintain persons with  
40 developmental disabilities in the living arrangement of their own

1 choice. Crisis services shall first be provided without disrupting a  
2 person's living arrangement. If crisis intervention services are  
3 unsuccessful, emergency housing shall be available in the person's  
4 home community. If dislocation cannot be avoided, every effort  
5 shall be made to return the person to his or her living arrangement  
6 of choice, with all necessary supports, as soon as possible.

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

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

15 (13) The community support may be provided to assist  
16 individuals with developmental disabilities to fully participate in  
17 community and civic life, including, but not limited to, programs,  
18 services, work opportunities, business, and activities available to  
19 persons without disabilities. This facilitation shall include, but not  
20 be limited to, any of the following:

21 (A) Outreach and education to programs and services within  
22 the community.

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

25 (C) Developing unpaid natural supports when possible.

26 (14) When feasible and recommended by the individual program  
27 planning team, for purposes of facilitating better and cost-effective  
28 services for consumers or family members, technology, including  
29 telecommunication technology, may be used in conjunction with  
30 other services and supports. Technology in lieu of a consumer's  
31 in-person appearances at judicial proceedings or administrative  
32 due process hearings may be used only if the consumer or, when  
33 appropriate, the consumer's parent, legal guardian, conservator,  
34 or authorized representative, gives informed consent. Technology  
35 may be used in lieu of, or in conjunction with, in-person training  
36 for providers, as appropriate.

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

39 (16) Notwithstanding any other law or regulation, effective July  
40 1, 2009, regional centers shall not purchase experimental

1 treatments, therapeutic services, or devices that have not been  
2 clinically determined or scientifically proven to be effective or  
3 safe or for which risks and complications are unknown.  
4 Experimental treatments or therapeutic services include  
5 experimental medical or nutritional therapy when the use of the  
6 product for that purpose is not a general physician practice. For  
7 regional center consumers receiving these services as part of their  
8 individual program plan (IPP) or individualized family service  
9 plan (IFSP) on July 1, 2009, this prohibition shall apply on August  
10 1, 2009.

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

14 (2) Whenever the advocacy efforts of a regional center to secure  
15 or protect the civil, legal, or service rights of any of its consumers  
16 prove ineffective, the regional center or the person with  
17 developmental disabilities or his or her parents, legal guardian, or  
18 other representative may request advocacy assistance from the  
19 state council.

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

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

26 (1) Identify services and supports that are ineffective or of poor  
27 quality and provide or secure consultation, training, or technical  
28 assistance services for any agency or individual provider to assist  
29 that agency or individual provider in upgrading the quality of  
30 services or supports.

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

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

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

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

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

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

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

(h) (1) At least annually, regional centers shall provide the consumer, his or her parents, legal guardian, conservator, or authorized representative a statement of services and supports the regional center purchased for the purpose of ensuring that they are delivered. The statement shall include the type, unit, month, and cost of services and supports purchased. ~~The~~

*(2) Upon request of the consumer, or his or her legal guardian, the regional center shall make ~~that statement~~ the statement described in paragraph (1) available in threshold languages, as defined in paragraph (3) of subdivision (a) of Section 1810.410 of Title 9 of the California Code of Regulations, as appropriate, to the consumer or his or her parents, legal guardian, conservator, or authorized representative, or both. This paragraph is in addition to, and independent of, any other rights, remedies, or procedures under any other law and shall not be construed to alter, limit, or negate any other rights, remedies, or procedures provided for by law.*

~~SEC. 4.~~

SEC. 3. Section 4686.2 of the Welfare and Institutions Code is amended to read:

4686.2. (a) Effective July 1, 2009, notwithstanding any other law or regulation to the contrary, any vendor who provides applied behavioral analysis (ABA) services, or intensive behavioral intervention services or both, as defined in subdivision (d), shall:



1 (1) Conduct a behavioral assessment of each consumer to whom  
2 the vendor provides these services.

3 (2) Design an intervention plan that shall include the service  
4 type, number of hours, and parent participation needed to achieve  
5 the consumer's goals and objectives, as set forth in the consumer's  
6 individual program plan (IPP) or individualized family service  
7 plan (IFSP). The intervention plan shall also set forth the frequency  
8 at which the consumer's progress shall be evaluated and reported.

9 (3) Provide a copy of the intervention plan to the regional center  
10 for review and consideration by the planning team members.

11 (b) Effective July 1, 2009, notwithstanding any other law or  
12 regulation to the contrary, regional centers shall:

13 (1) Only purchase ABA services or intensive behavioral  
14 intervention services that reflect evidence-based practices, promote  
15 positive social behaviors, and ameliorate behaviors that interfere  
16 with learning and social interactions.

17 (2) (A) Only purchase ABA or intensive behavioral intervention  
18 services when the parent or parents of minor consumers receiving  
19 services participate in the intervention plan for the consumers,  
20 given the critical nature of parent participation to the success of  
21 the intervention plan.

22 ~~(B) In determining the extent of parent participation required~~  
23 ~~for the provision of ABA or intensive behavioral intervention~~  
24 ~~services, the IPP or IFSP planning team shall consider any relevant~~  
25 ~~hardships suffered by a parent or parents that may constitute a~~  
26 ~~barrier to the consumer accessing those services, including, but~~  
27 ~~not limited to, availability of group instruction courses, conflicts~~  
28 ~~with employment, vocational training, or educational demands,~~  
29 ~~financial hardship, or lack of transportation or child or other family~~  
30 ~~member care, and language barriers. Any hardships shall be~~  
31 ~~documented in the IPP or IFSP and reviewed every six months to~~  
32 ~~determine if there has been a change in circumstances. If the~~  
33 ~~regional center determines that the extent of parent participation~~  
34 ~~should be adjusted due to a change in circumstances, the regional~~  
35 ~~center shall provide adequate notice pursuant to subdivision (a) of~~  
36 ~~Section 4710.~~

37 *(B) A parent's or caregiver's noncompletion of group instruction*  
38 *on the basics of behavior intervention shall not be used to deny,*  
39 *delay, or reduce ABA or intensive behavioral intervention services*  
40 *if the parent or caregiver demonstrates hardship in accessing or*

1 *attending group instruction classes. The parent's or caregiver's*  
2 *demonstration of hardship shall be reviewed by the IPP or IFSP*  
3 *team every six months.*

4 (3) Not purchase either ABA or intensive behavioral intervention  
5 services for purposes of providing respite, day care, or school  
6 services.

7 (4) Discontinue purchasing ABA or intensive behavioral  
8 intervention services for a consumer when the consumer's  
9 treatment goals and objectives, as described under subdivision (a),  
10 are achieved. ABA or intensive behavioral intervention services  
11 shall not be discontinued until the goals and objectives are reviewed  
12 and updated as required in paragraph (5) and shall be discontinued  
13 only if those updated treatment goals and objectives do not require  
14 ABA or intensive behavioral intervention services.

15 (5) For each consumer, evaluate the vendor's intervention plan  
16 and number of service hours for ABA or intensive behavioral  
17 intervention no less than every six months, consistent with  
18 evidence-based practices. If necessary, the intervention plan's  
19 treatment goals and objectives shall be updated and revised.

20 (6) Not reimburse a parent for participating in a behavioral  
21 services treatment program.

22 (c) For consumers receiving ABA or behavioral intervention  
23 services on July 1, 2009, as part of their IPP or IFSP, subdivision  
24 (b) shall apply on August 1, 2009.

25 (d) For purposes of this section the following definitions shall  
26 apply:

27 (1) "Applied behavioral analysis" means the design,  
28 implementation, and evaluation of systematic instructional and  
29 environmental modifications to promote positive social behaviors  
30 and reduce or ameliorate behaviors which interfere with learning  
31 and social interaction.

32 (2) "Intensive behavioral intervention" means any form of  
33 applied behavioral analysis that is comprehensive, designed to  
34 address all domains of functioning, and provided in multiple  
35 settings for no more than 40 hours per week, across all settings,  
36 depending on the individual's needs and progress. Interventions  
37 can be delivered in a one-to-one ratio or small group format, as  
38 appropriate.

39 (3) "Evidence-based practice" means a decisionmaking process  
40 that integrates the best available scientifically rigorous research,

1 clinical expertise, and individual's characteristics. Evidence-based  
2 practice is an approach to treatment rather than a specific treatment.  
3 Evidence-based practice promotes the collection, interpretation,  
4 integration, and continuous evaluation of valid, important, and  
5 applicable individual- or family-reported, clinically-observed, and  
6 research-supported evidence. The best available evidence, matched  
7 to consumer circumstances and preferences, is applied to ensure  
8 the quality of clinical judgments and facilitates the most  
9 cost-effective care.

10 (4) "Parent participation" shall include, but shall not be limited  
11 to, the following meanings:

12 (A) Completion of group instruction on the basics of behavior  
13 intervention.

14 (B) Implementation of intervention strategies, according to the  
15 intervention plan.

16 (C) If needed, collection of data on behavioral strategies and  
17 submission of that data to the provider for incorporation into  
18 progress reports.

19 (D) Participation in any needed clinical meetings.

20 (E) Purchase of suggested behavior modification materials or  
21 community involvement if a reward system is used.