

Senate Bill No. 1039

CHAPTER 414

An act to amend Sections 4500.5, 4501, 4508, 4512, 4590, 4593, 4595, 4598, 4629, 4646, 4646.5, 4647, 4648, 4660, 4661, 4664, 4666, 4677, 4701.6, 4705, 4710.8, 4791, and 4803 of, to amend, repeal, and add Sections 4622 and 4625 of, and to add Sections 4414, 4418.3, 4434, 4519.5, 4542, 4602, 4640.8, and 4731 to, the Welfare and Institutions Code, relating to human services, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1997. Filed
with Secretary of State September 22, 1997.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1039, M. Thompson. Disabilities: regional centers.

Existing law requires the State Department of Developmental Services to contract with regional centers for the provision of various services and supports to persons with developmental disabilities.

This bill would require the department, the State Council on Developmental Disabilities, area boards on developmental disabilities, and regional centers to make their best efforts to ensure representation by persons with developmental disabilities (consumers) and family members representing California's multicultural diversity when convening any task force or advisory group.

This bill would require certain services, including planning and review, for the transition process from a developmental center to a community living arrangement.

This bill would state the intent of the Legislature that the department ensure that regional centers meet their obligations in providing services to persons with developmental disabilities.

Under existing law, consumers may be released from state hospitals for provisional placement, with consent from specified persons, for not to exceed 6 months.

This bill would instead provide that consumers may be released from developmental centers for provisional placement, with consent from specified persons, for not to exceed 12 months.

This bill would require the Health and Welfare Agency to contract with an independent consultant to conduct an evaluation of the policies and procedures used by the department and regional centers in providing services and supports to consumers. The bill would appropriate \$500,000 from the General Fund to the Health and Welfare Agency for this purpose.

This bill would provide for the appointment of a representative to assist a consumer with regard to his or her rights and interests under specified circumstances.

Existing law sets forth a procedure under which area boards on developmental disabilities are required, to the extent that resources are available, to review the policies and practices of publicly funded agencies that serve consumers to determine if the programs are meeting their obligations under law.

This bill would revise this procedure.

This bill would provide that consumers in regional centers are eligible to receive supplemental services including additional staffing.

Existing law contains requirements that must be met by an agency seeking to contract with the department as a regional center. One of these requirements is that a minimum of 50% of the members of the governing board shall be persons with developmental disabilities or their parents or legal guardians.

This bill would revise these requirements on July 1, 1999.

Existing law requires the department to enter into 5-year contracts with regional centers, subject to specified requirements and limitations.

This bill would require that each contract include a provision requiring a regional center to render services in accordance with applicable provisions of state laws and regulations, as well as specified annual performance objectives.

Existing law requires the department to perform various duties in order to ensure regional center contract compliance.

This bill would impose additional requirements on the department concerning its duties for ensuring regional center contract compliance.

Existing law sets forth provisions governing meetings of the board of directors of each regional center, and requires these meetings to be open and public.

This bill would revise these requirements.

Existing law requires that the services and supports to which a consumer is entitled are to be determined in accordance with his or her individual program plan.

Existing law establishes a process for developing this plan.

This bill would modify provisions relating to the process for development of individual program plans, as well as provisions relating to the contents of these plans.

This bill would also establish a complaint process for consumers and their representatives who believe that any right to which the consumer is entitled has been abused, punitively withheld, or improperly denied by a regional center, developmental center, or service provider, except that this process would not apply to certain



disputes for which an appeal procedure exists in law. This provision would be operative on January 1, 1998.

Existing law imposes certain requirements applicable in the event of an unallocated reduction in a regional center’s budget, or if an individual regional center notifies the department that it will be unable to provide services and supports to eligible consumers throughout the fiscal year within the level of funding available in the contract, including a requirement that the regional center implement modifications of its plan upon approval of the department.

This bill would require that if the required plan modification is significant, the department shall require the regional center to hold an additional public hearing to review and comment upon the modification.

Existing law requires the State Council on Developmental Disabilities to request from all regional centers information on priority services needed, but currently unavailable.

This bill would, instead, require that the council request information, not less than once every 3 years, from all regional centers on the types and amounts of services and supports needed, but currently unavailable.

This bill would make related changes.

This bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

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

SECTION 1. Section 4414 is added to the Welfare and Institutions Code, to read:

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

SEC. 2. Section 4418.3 is added to the Welfare and Institutions Code, to read:

4418.3. (a) It is the intent of the Legislature to ensure that the transition process from a developmental center to a community living arrangement is based upon the individual’s needs, developed through the individual program plan process, and ensures that needed services and supports will be in place at the time the individual moves.

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



(c) As part of the transition process and during the development of the individual program plan, the consumer shall be afforded the opportunity to visit a variety of community living arrangements that could meet his or her needs. If the visits are not feasible, as determined by the planning team, a family member or other representative of the consumer may conduct the visits.

(d) Once the individual program plan is completed and providers of services and supports are identified and agreed to, pursuant to subdivision (b) of Section 4646.5, and no less than 15 days prior to the move, unless otherwise ordered by a court, a transition conference shall be held. Participants in the transition conference shall include, but not be limited to, the consumer, where appropriate the consumer's parents, legal guardian, conservator, or authorized representative, a regional center representative, a developmental center representative, and a representative of each provider of primary services and supports identified in the individual program plan. This meeting may take place in the catchment area to which the consumer is moving. If necessary, conferees may participate by telephone or video conference. The purpose of this conference shall be to ensure a smooth transition from the developmental center to the community.

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

SEC. 3. Section 4434 is added to the Welfare and Institutions Code, to read:

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

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

(c) The contract between the department and individual regional centers required by Chapter 5 (commencing with Section 4620) of Division 4.5 shall include a provision requiring each regional center to render services in accordance with applicable provisions of state



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

(d) As part of its responsibility to monitor regional centers, the department shall collect and review printed materials issued by the regional centers, including, but not limited to, purchase of service policies and other policies and guidelines utilized by regional centers when determining the services needs of a consumer, instructions and training materials for regional center staff, board meeting agendas and minutes, and general policy and notifications provided to all providers and consumers and families. The department shall take appropriate and necessary steps to prevent regional centers from utilizing a policy or guideline that violates any provision of Division 4.5 (commencing with Section 4500) or any regulation adopted thereunder.

SEC. 4. Section 4500.5 of the Welfare and Institutions Code is amended to read:

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

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

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

(c) It is the intent of the Legislature, in enacting the act that added this section, to update existing law; clarify the role of consumers and their families in determining service needs; and to describe more



fully service options available to consumers and their families, pursuant to the individual program plan. Nothing in these provisions shall be construed to expand the existing entitlement to services for persons with developmental disabilities set forth in this division.

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

SEC. 5. Section 4501 of the Welfare and Institutions Code is amended to read:

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

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

An array of services and supports should be established which is sufficiently complete to meet the needs and choices of each person with developmental disabilities, regardless of age or degree of disability, and at each stage of life and to support their integration into the mainstream life of the community. To the maximum extent feasible, services and supports should be available throughout the state to prevent the dislocation of persons with developmental disabilities from their home communities.

Services and supports should be available to enable persons with developmental disabilities to approximate the pattern of everyday living available to people without disabilities of the same age. Consumers of services and supports, and where appropriate, their parents, legal guardian, or conservator, should be empowered to make choices in all life areas. These include promoting opportunities for individuals with developmental disabilities to be integrated into the mainstream of life in their home communities, including supported living and other appropriate community living arrangements. In providing these services, consumers and their families, when appropriate, should participate in decisions affecting their own lives, including, but not limited to, where and with whom they live, their relationships with people in their community, the way in which they spend their time, including education, employment, and leisure, the pursuit of their own personal future, and program



planning and implementation. The contributions made by parents and family members in support of their children and relatives with developmental disabilities are important and those relationships should also be respected and fostered, to the maximum extent feasible, so that consumers and their families can build circles of support within the community.

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

SEC. 6. Section 4508 of the Welfare and Institutions Code is amended to read:

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

SEC. 7. Section 4512 of the Welfare and Institutions Code is amended to read:

4512. As used in this part:

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



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

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



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

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

(f) “Circle of support” means a committed group of community members, which may include family members, meeting regularly with an individual with developmental disabilities in order to share experiences, promote autonomy and community involvement, and assist the individual in establishing and maintaining natural supports. Such a circle of support generally includes a plurality of members who neither provide nor receive services or supports for persons with developmental disabilities and who do not receive payment for participation in the circle of support.

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

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

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

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

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



SEC. 7.5. Section 4519.5 is added to the Welfare and Institutions Code, to read:

4519.5. (a) The Health and Welfare Agency shall contract with an independent consultant to conduct an evaluation of the policies and procedures used by the Department of Developmental Services and regional centers in providing services and supports to persons with developmental disabilities and for determining and monitoring the transfer of persons with developmental disabilities living in developmental centers to a community placement. The agency shall report to the appropriate policy committees and the fiscal committees of the Legislature by March 15, 1998, on the results of the evaluation and shall convene at least two public hearings to disseminate and discuss the evaluation results. The evaluation shall include the identification of any barriers to the provision of safe, secure, and stable community living arrangements for individuals with developmental disabilities.

(b) The sum of five hundred thousand dollars (\$500,000) is hereby appropriated from the General Fund to the Health and Welfare Agency to implement this section.

SEC. 8. Section 4542 is added to the Welfare and Institutions Code, to read:

4542. When convening any task force or advisory group, the state council shall make its best effort to ensure representation by consumers and family members representing California's multicultural diversity.

SEC. 8.5. Section 4590 of the Welfare and Institutions Code is amended to read:

4590. Area boards shall protect and advocate the rights of all persons in the area with developmental disabilities.

The area board shall have the authority to pursue legal, administrative, and other appropriate remedies to insure the protection of the legal, civil, and service rights of persons who require services or who are receiving services in the area. In carrying out this responsibility, area boards may appoint a representative to assist the person in expressing his or her desires and in making decisions and advocating his or her needs, preferences, and choices, where the person with developmental disabilities has no parent, guardian, or conservator legally authorized to represent him or her and the person has either requested the appointment of a representative or the rights or interests of the person, as determined by the area board, will not be properly protected or advocated without the appointment of a representative. Where there is no guardian or conservator, the person's choice, if expressed, including the right to reject the assistance of a representative, shall be honored. If the person does not express a preference, the order of preference for selection of the representative shall be the person's parent, involved family member, or a volunteer selected by the area board. In



establishing these preferences, it is not the intent of the Legislature that parents or involved family members be required to be appointed guardian or conservator in order to be selected. Unless the consumer expresses otherwise or good cause otherwise exists, the request of the parents or involved family members to be appointed the representative shall be honored.

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

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

SEC. 9. Section 4593 of the Welfare and Institutions Code is amended to read:

4593. To the extent that resources are available, area boards shall review the policies and practices of publicly funded agencies that serve or may serve persons with developmental disabilities to determine if the programs are meeting their obligations under local, state, and federal statutes. A regional center may notify the area board when the regional center believes a publicly funded program is failing to meet its obligations in serving persons with developmental disabilities. The regional center may provide the area board with a comprehensive summary of the issues and the statute or regulation alleged to be violated. If the area board finds that the agency is not meeting its obligations, the area board shall inform, in writing, the director and the managing board of the noncomplying agency of its findings.

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

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

If the problem has not been resolved within 30 days following the public hearing, the area board may provide the state council with its findings and may request authorization to initiate legal action. An area board shall not initiate legal action without prior authorization from the state council. However, the area board may assist any other



person, agency, or organization that may pursue litigation related to the area board's findings.

SEC. 10. Section 4595 of the Welfare and Institutions Code is amended to read:

4595. The executive director of the state council shall review the findings developed pursuant to Section 4593 and may conduct additional factfinding investigations. The executive director shall report his or her findings to the state council within 30 days and shall recommend a course of action to be pursued by the council, the area board, or other state administrative or legislative officials.

The state council shall review the report of the executive director and shall take such action as it deems necessary to resolve the problem. If the council authorizes the area board to initiate legal action, the state council shall make available to the area board legal assistance through the legal services provisions of Public Law 94-103.

The state plan shall include an annual allotment of federal funds from Public Law 94-103 to be utilized for such legal assistance to area boards.

SEC. 11. Section 4598 of the Welfare and Institutions Code is amended to read:

4598. The Organization of Area Boards shall consist of the respective chairpersons or their designees from among the volunteer board members of the individual boards established under the provisions of this chapter. The purposes of this organization shall include activities to resolve common problems, improve coordination, exchange information between areas, and provide advice and recommendations to state agencies, the Legislature, and the state council.

SEC. 12. Section 4602 is added to the Welfare and Institutions Code, to read:

4602. When convening any task force or advisory group, the area boards shall make its best effort to ensure representation by consumers and family members representing the community's multicultural diversity.

SEC. 13. Section 4622 of the Welfare and Institutions Code is amended to read:

4622. (a) The state shall contract only with agencies, the governing boards of which conform to all of the following criteria:

(1) The governing board shall be composed of individuals with demonstrated interest in, or knowledge of, developmental disabilities.

(2) The membership of the governing board shall include persons with legal, management, public relations, and developmental disability program skills.

(3) The membership of the governing board shall include representatives of the various categories of disability to be served by the regional center.



(4) The governing board shall reflect the geographic and ethnic characteristics of the area to be served by the regional center.

(5) (A) A minimum of 50 percent of the members of the governing board shall be persons with developmental disabilities or their parents or legal guardians.

(B) By July 1, 1993, persons with developmental disabilities shall comprise no less than 5 percent of each governing board, or the governing board shall issue a finding to the department and the local area board as to why this is not achievable.

(C) By July 1, 1994, persons with developmental disabilities shall comprise no less than 10 percent of each governing board, or the governing board shall issue a finding to the department and the local area board as to why this is not achievable.

(D) By July 1, 1995, persons with developmental disabilities shall comprise no less than 15 percent of each governing board, or the governing board shall issue a finding to the department and the local area board as to why this is not achievable.

(E) By July 1, 1996, persons with developmental disabilities shall comprise no less than 25 percent of each governing board, or the governing board shall issue a finding to the department and the local area board as to why this is not achievable.

(F) The regional center shall provide necessary training and support to these board members to facilitate their understanding and participation.

(G) The governing board shall appoint a consumers' advisory committee composed of persons with developmental disabilities representing the various categories of disability served by the regional center. A consumers' advisory committee shall remain in existence at least until the regional center has achieved a governing board membership of which persons with developmental disabilities make up at least 25 percent.

(6) Members of the governing board shall not be permitted to serve longer than six consecutive years.

(7) The governing board shall appoint an advisory committee composed of a wide variety of persons representing the various categories of providers from which the regional center purchases client services. The advisory committee shall provide advice, guidance, recommendations, and technical assistance to the regional center board in order to assist the regional center in carrying out its mandated functions. The advisory committee shall designate one of its members to serve as a member of the regional center board.

(8) The governing board shall annually review the performance of the director of the regional center.

(9) No member of the board who is an employee or member of the governing board of a provider from which the regional center purchases client services shall do any of the following:

(A) Serve as an officer of the board.



(B) Vote on any fiscal matter affecting the purchase of services from any regional center provider.

(C) Vote on any issue other than as described in subparagraph (B), in which the member has a financial interest, as defined in Section 87103 of the Government Code, and determined by the regional center board. The member shall provide a list of his or her financial interests, as defined in Section 87103, to the regional center board.

(b) Nothing in this section shall prevent the appointment to a regional center governing board of a person who meets the criteria for more than one of the categories listed above.

(c) This section shall become inoperative on July 1, 1999, and, as of January 1, 2000, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2000, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 13.5. Section 4622 is added to the Welfare and Institutions Code, to read:

4622. The state shall contract only with agencies, the governing boards of which conform to all of the following criteria:

(a) The governing board shall be composed of individuals with demonstrated interest in, or knowledge of, developmental disabilities.

(b) The membership of the governing board shall include persons with legal, management, public relations, and developmental disability program skills.

(c) The membership of the governing board shall include representatives of the various categories of disability to be served by the regional center.

(d) The governing board shall reflect the geographic and ethnic characteristics of the area to be served by the regional center.

(e) A minimum of 50 percent of the members of the governing board shall be persons with developmental disabilities or their parents or legal guardians. No less than 25 percent of the members of the governing board shall be persons with developmental disabilities.

(f) Members of the governing board shall not be permitted to serve more than six years within each eight-year period.

(g) The regional center shall provide necessary training and support to these board members to facilitate their understanding and participation. As part of its monitoring responsibility, the department shall review and approve the method by which training and support are provided to board members to ensure maximum understanding and participation by board members.

(h) The governing board may appoint a consumers' advisory committee composed of persons with developmental disabilities representing the various categories of disability served by the regional center.



(i) The governing board shall appoint an advisory committee composed of a wide variety of persons representing the various categories of providers from which the regional center purchases client services. The advisory committee shall provide advice, guidance, recommendations, and technical assistance to the regional center board in order to assist the regional center in carrying out its mandated functions. The advisory committee shall designate one of its members to serve as a member of the regional center board.

(j) The governing board shall annually review the performance of the director of the regional center.

(k) No member of the board who is an employee or member of the governing board of a provider from which the regional center purchases client services shall do any of the following:

(1) Serve as an officer of the board.

(2) Vote on any fiscal matter affecting the purchase of services from any regional center provider.

(3) Vote on any issue other than as described in paragraph (2), in which the member has a financial interest, as defined in Section 87103 of the Government Code, and determined by the regional center board. The member shall provide a list of his or her financial interests, as defined in Section 87103, to the regional center board.

Nothing in this section shall prevent the appointment to a regional center governing board of a person who meets the criteria for more than one of the categories listed above.

This section shall become operative on July 1, 1999.

SEC. 14. Section 4625 of the Welfare and Institutions Code is amended to read:

4625. The department shall not contract with any new regional center contracting agency unless the governing board of the agency is composed of individuals as specified in paragraphs (1) to (6), inclusive, of Section 4622.

This section shall become inoperative on July 1, 1999, and, as of January 1, 2000, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2000, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 14.5. Section 4625 is added to the Welfare and Institutions Code, to read:

4625. The department shall not contract with any new regional center contracting agency unless the governing board of the agency is composed of individuals as specified in subdivisions (a) to (f), inclusive, of Section 4622.

This section shall become operative on July 1, 1999.

SEC. 15. Section 4629 of the Welfare and Institutions Code is amended to read:

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



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

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

(1) Be specific, measurable, and designed to do all of the following:

(A) Assist consumers to achieve life quality outcomes.

(B) Achieve meaningful progress above the current baselines.

(C) Develop services and supports identified as necessary to meet identified needs.

(2) Be developed through a public process that includes, but is not limited to, all of the following:

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

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

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

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

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

(2) Levels of probationary status for regional centers that do not meet, or are at risk of not meeting, performance standards. The department shall require that corrective action be taken by any regional center which is placed on probation. Corrective action may include, but is not limited to, mandated consultation with designated representatives of the Association of Regional Center Agencies or a management team designated by the department, or both. The implementation of corrective action shall occur in a timely manner and shall be monitored by the department.

(e) In order to evaluate the regional center's compliance with its contract performance objectives, the department shall do both of the following:

(1) Annually assess each regional center's achievement of its previous year's objectives and make the assessment, including baseline data and performance objectives of the individual regional centers, available to the public. The department may make a special commendation of the regional centers that have best engaged the community in the development of contract performance objectives



and have made the most meaningful progress in meeting or exceeding contract performance objectives.

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

(A) The regional center's public process for compliance with the procedures sets forth in paragraph (2) of subdivision (c).

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

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

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

SEC. 16. Section 4640.8 is added to the Welfare and Institutions Code, to read:

4640.8. When convening any task force or advisory group, a regional center shall make its best effort to ensure representation by consumers and family members representing the community's multicultural diversity.

SEC. 17. Section 4646 of the Welfare and Institutions Code is amended to read:

4646. (a) It is the intent of the Legislature to ensure that the individual program plan and provision of services and supports by the regional center system is centered on the individual and the family of the individual with developmental disabilities and takes into account the needs and preferences of the individual and the family, where appropriate, as well as promoting community integration, independent, productive, and normal lives, and stable and healthy environments. It is the further intent of the Legislature to ensure that the provision of services to consumers and their families be effective in meeting the goals stated in the individual program plan, reflect the preferences and choices of the consumer, and reflect the cost-effective use of public resources.

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

(c) An individual program plan shall be developed for any person who, following intake and assessment, is found to be eligible for regional center services. These plans shall be completed within 60 days of the completion of the assessment. At the time of intake, the



regional center shall inform the consumer and, where appropriate, his or her parents, legal guardian or conservator, of the services available through the local area board and the protection and advocacy agency designated by the Governor pursuant to federal law, and shall provide the address and telephone numbers of those agencies.

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

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

(f) If a final agreement regarding the services and supports to be provided to the consumer cannot be reached at a program plan meeting, then a subsequent program plan meeting shall be convened within 15 days, or later at the request of the consumer or, when appropriate, the parents, legal guardian, conservator, or authorized representative or when agreed to by the planning team. Additional program plan meetings may be held with the agreement of the regional center representative and the consumer or, where appropriate, the parents, legal guardian, conservator, or authorized representative.

(g) An authorized representative of the regional center and the consumer or, where appropriate, his or her parents, legal guardian, or conservator, shall sign the individual program plan prior to its implementation. If the consumer or, where appropriate, his or her parents, legal guardian, or conservator, does not agree with all components of the plan, they may indicate that disagreement on the plan. Disagreement with specific plan components shall not prohibit the implementation of services and supports agreed to by the consumer or, where appropriate, his or her parents, legal guardian, or conservator. If the consumer or, where appropriate, his or her parents, legal guardian, or conservator, does not agree with the plan in whole or in part, he or she shall be sent written notice of the fair hearing rights, as required by Section 4701.

SEC. 18. Section 4646.5 of the Welfare and Institutions Code is amended to read:



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

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

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

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

(4) A schedule of the type and amount of services and supports to be purchased by the regional center or obtained from generic agencies or other resources in order to achieve the individual program plan goals and objectives, and identification of the provider or providers of service responsible for attaining each objective, including, but not limited to, vendors, contracted providers, generic service agencies, and natural supports. The plan shall specify the approximate scheduled start date for services and supports and shall contain timelines for actions necessary to begin services and supports, including generic services.

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

(b) For all active cases, individual program plans shall be reviewed and modified by the planning team, through the process described in Section 4646, as necessary, in response to the person's



achievement or changing needs, and no less often than once every three years. If the consumer or, where appropriate, the consumer's parents, legal guardian, or conservator requests an individual program plan review, the individual program shall be reviewed within 30 days after the request is submitted.

(c) (1) The department, with the participation of representatives of a statewide consumer organization, the Association of Regional Center Agencies, an organized labor organization representing service coordination staff, and the Organization of Area Boards shall prepare training material and a standard format and instructions for the preparation of individual program plans, which embodies an approach centered on the person and family.

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

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

SEC. 19. Section 4647 of the Welfare and Institutions Code is amended to read:

4647. (a) Pursuant to Section 4640.7, service coordination shall include those activities necessary to implement an individual program plan, including, but not limited to, participation in the individual program plan process; assurance that the planning team considers all appropriate options for meeting each individual program plan objective; securing, through purchasing or by obtaining from generic agencies or other resources, services and supports specified in the person's individual program plan; coordination of service and support programs; collection and dissemination of information; and monitoring implementation of the plan to ascertain that objectives have been fulfilled and to assist in revising the plan as necessary.

(b) The regional center shall assign a service coordinator who shall be responsible for implementing, overseeing, and monitoring each individual program plan. The service coordinator may be an employee of the regional center or may be a qualified individual or employee of an agency with whom the regional center has contracted to provide service coordination services, or persons described in Section 4647.2. No person shall continue to serve as a service coordinator for any individual program plan unless there is agreement by all parties that the person should continue to serve as service coordinator.

(c) Where appropriate, a consumer or the consumer's parents or other family members, legal guardian, or conservator, may perform all or part of the duties of the service coordinator described in this section if the regional center director agrees and it is feasible.



(d) If any person described in subdivision (c) is designated as the service coordinator, that person shall not deviate from the agreed-upon program plan and shall provide any reasonable information and reports required by the regional center director.

(e) If any person described in subdivision (c) is designated as the service coordinator, the regional center shall provide ongoing information and support as necessary, to assist the person to perform all or part of the duties of service coordinator.

SEC. 20. Section 4648 of the Welfare and Institutions Code is amended to read:

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

(a) Securing needed services and supports.

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

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

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

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

(B) A regional center may reimburse an individual or agency for services or supports provided to a regional center consumer if the individual or agency has a rate of payment for vendored or contracted services established by the department, pursuant to this division, and is providing services pursuant to an emergency vendorization or has completed the vendorization procedures or has



entered into a contract with the regional center and continues to comply with the vendorization or contracting requirements. The director shall adopt regulations governing the vendorization process to be utilized by the department, regional centers, vendors and the individual or agency requesting vendorization.

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

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

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

(6) The regional center and the consumer, or where appropriate, his or her parents, legal guardian, conservator, or authorized representative shall, pursuant to the individual program plan, consider all of the following when selecting a provider of consumer services and supports:

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

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

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

(D) The cost of providing services or supports of comparable quality by different providers, if available.



(E) The consumer's or, where appropriate, the parents, legal guardian, or conservator of a consumer's choice of providers.

(7) No service or support provided by any agency or individual shall be continued unless the consumer or, where appropriate, his or her parents, legal guardian, or conservator, is satisfied and the regional center and the consumer or, when appropriate, the person's parents or legal guardian or conservator agree that planned services and supports have been provided, and reasonable progress toward objectives have been made.

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

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

(B) Each person with developmental disabilities placed by the regional center in a community living arrangement shall have the rights specified in this division. These rights shall be brought to the person's attention by any means the director may designate by regulation.

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

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



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

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

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

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

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

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

(C) Developing unpaid natural supports when possible.

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

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

(2) Whenever the advocacy efforts of a regional center to secure or protect the civil, legal, or service rights of any of its consumers prove ineffective, the regional center or the person with developmental disabilities or his or her parents, legal guardian, or other representative may request the area board to initiate action under the provisions defining area board advocacy functions established in this division.

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

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

(1) Identify services and supports that are ineffective or of poor quality and provide or secure consultation, training, or technical assistance services for any agency or individual provider to assist that



agency or individual provider in upgrading the quality of services or supports.

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

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

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

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

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

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

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

SEC. 21. Section 4660 of the Welfare and Institutions Code is amended to read:

4660. All meetings of the board of directors of each regional center shall be scheduled, open, and public, and all persons shall be permitted to attend any meeting, except as otherwise provided in this section. Regional center board meetings shall be held in accordance with all of the following provisions:

(a) Each regional center shall provide a copy of this article to each member of the regional center governing board upon his or her assumption of board membership.

(b) As used in this article, board meetings include meetings conducted by any committee of the governing board which exercises authority delegated to it by that governing board. However, board meetings shall not be deemed to include board retreats planned solely for educational purposes.

(c) At each regional center board meeting, time shall be allowed for public input on all properly noticed agenda items prior to board action on that item. Time shall be allowed for public input on any issue not included on the agenda.



(d) Any person attending an open and public meeting of a regional center shall have the right to record the proceedings on a tape recorder, video recorder, or other sound, visual, or written transcription recording device, in the absence of a reasonable finding of the regional center governing board that such recording constitutes, or would constitute, a disruption of the proceedings.

SEC. 22. Section 4661 of the Welfare and Institutions Code is amended to read:

4661. (a) Regional centers shall mail notice of their meetings to any person who requests notice in writing. Notice shall be mailed at least seven days in advance of each meeting. The notice shall include the date, time, and location of, and a specific agenda for, the meeting, which shall include an identification of all substantive topic areas to be discussed, and no item shall be added to the agenda subsequent to the provision of this notice. The notice requirement shall not preclude the regional center board from taking action on any urgent request made by the department, not related to purchase of service reductions, for which the board makes a specific finding that notice could not have been provided at least seven days before the meeting, or on new items brought before the board at meetings by members of the public.

(b) The regional center shall maintain all recordings and written comments submitted as testimony on agenda items for no less than two years. These materials shall be made available for review by any person, upon request.

(c) Any action taken by a board that is found by a court of competent jurisdiction to have substantially violated any provision of this article shall be deemed null and void.

SEC. 23. Section 4664 of the Welfare and Institutions Code is amended to read:

4664. The governing board of a regional center may hold a closed session regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the regional center in the litigation. Litigation shall be considered pending when any of the following circumstances exist:

(a) An adjudicatory proceeding to which the regional center is a party has been initiated formally.

(b) A point has been reached where, based upon existing facts and circumstances and the advice of legal counsel, it is determined that there is a significant exposure to litigation against the regional center.

(c) Based on existing facts and circumstances, the regional center has decided to initiate or is deciding whether to initiate litigation.

Prior to holding a closed session pursuant to this section, the regional center governing board shall state publicly to which subdivision it is pursuant.

SEC. 24. Section 4666 of the Welfare and Institutions Code is amended to read:



4666. No regional center shall conduct any meeting, conference, or other function in any facility that prohibits the admittance of any person, or persons, on the basis of race, religious creed, color, national origin, ancestry, sex, or disability.

SEC. 25. Section 4677 of the Welfare and Institutions Code is amended to read:

4677. (a) All parental fees collected by or for regional centers shall be remitted to the State Treasury to be deposited in the Developmental Disabilities Program Development Fund, which is hereby created and hereinafter called the Program Development Fund. The purpose of the Program Development Fund shall be to provide resources needed to initiate new programs, consistent with approved priorities for program development in the state plan.

In no event shall an allocation from the Program Development Fund be granted for more than 24 months.

(b) The State Council on Developmental Disabilities shall, not less than once every three years, request from all regional centers information on the types and amounts of services and supports needed, but currently unavailable. Based on the information provided by the regional centers and other agencies, the State Council on Developmental Disabilities shall develop an assessment of the level of need for new community services and support, and make that assessment available to the public. This needs assessment shall be included in the state plan. The State Council on Developmental Disabilities, in consultation with the State Department of Developmental Services, shall make a recommendation to the Department of Finance as to the level of funding for program development to be included in the Governor's Budget, based upon this needs assessment.

(c) Parental fee schedules shall be evaluated pursuant to Section 4784 and adjusted annually by the department, with the approval of the state council. Fees for out-of-home care shall bear an equitable relationship to the cost of the care and the ability of the family to pay.

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

(e) The department may allocate funds from the Program Development Fund for any legal purpose, provided that requests for proposals and allocations are approved by the state council in consultation with the department, and are consistent with the priorities for program development in the state plan. Allocations



from the Program Development Fund shall take into consideration the following factors:

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

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

Consistent with the level of need as determined in the state plan, excess parental fees may be used for purposes other than new program development only when specifically appropriated to the State Department of Developmental Services for those purposes.

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

SEC. 26. Section 4701.6 of the Welfare and Institutions Code is amended to read:

4701.6. “Authorized representative” means the conservator of an adult, the guardian, conservator, or parent or person having legal custody of a minor claimant, or a person or agency appointed pursuant to Section 4590 or subdivision (e) of Section 4705 and authorized in writing by the claimant or by the legal guardian, conservator, or parent or person having legal custody of a minor claimant to act for or represent the claimant under this chapter.

SEC. 27. Section 4705 of the Welfare and Institutions Code is amended to read:

4705. (a) Every service agency shall, as a condition of continued receipt of state funds, have an agency fair hearing procedure for resolving conflicts between the service agency and recipients of, or applicants for, service. The State Department of Developmental Services shall promulgate regulations to implement this chapter by October 1, 1983, which shall be binding on every service agency.

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

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

(c) The service agency’s fair hearing procedure shall be stated in writing, in English and any other language that may be appropriate



to the needs of the consumers of the agency's service. A copy of the procedure and a copy of the provisions of this chapter shall be prominently displayed on the premises of the service agency.

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

(e) If, in the opinion of any person, the rights or interests of a claimant who has not personally authorized a representative will not be properly protected or advocated, the local area board and the clients' right advocate assigned to the regional center shall be notified, and the area board may appoint a person or agency as representative, pursuant to Section 4590, to assist the claimant in the appeals procedure. The appointment shall be in writing to the authorized representative and a copy of the appointment shall be immediately mailed to the service agency director.

SEC. 28. Section 4710.8 of the Welfare and Institutions Code is amended to read:

4710.8. (a) At the informal meeting, the claimant shall have the rights stated pursuant to subdivision (a) of Section 4710.6.

(b) The informal meeting shall be held at a time and place reasonably convenient to the claimant and the authorized representative.

(c) The informal meeting shall be conducted in the English language. However, if the claimant, the claimant's guardian or conservator, the parent of a minor claimant, or the authorized representative does not understand English, an interpreter shall be provided who is competent and acceptable to both the person requiring the interpreter and the service agency director or the director's designee. Any cost of an interpreter shall be borne by the service agency.

(d) The notification of the decision shall state that the decision shall go into effect 10 days after receipt of the decision by the claimant or authorized representative and that it shall be the final administrative decision unless the claimant appeals to the responsible state agency. The notification shall state that if the claimant or the authorized representative disagrees with the decision of the service agency director or designee, he or she may appeal the decision by submitting a written request for a fair hearing to the service agency within 10 days of the receipt of the decision of the service agency director.

(e) Nothing in this section shall preclude a process of mediation mutually agreed to by both parties. That mediation shall not affect the time limitations set forth in this chapter.



SEC. 29. Section 4731 is added to the Welfare and Institutions Code, to read:

4731. (a) Each consumer or any representative acting on behalf of any consumer, who believes that any right to which the consumer is entitled has been abused, punitively withheld, or improperly or unreasonably denied by a regional center, developmental center, or service provider, may pursue a complaint as provided in this section.

(b) Initial referral of any complaint taken pursuant to this section shall be to the clients' rights advocate assigned to the regional center from which the consumer receives case management services. If the consumer resides in a state developmental center, the complaint shall be made to the clients' rights advocate assigned to that state developmental center. The clients' rights advocate shall, within 10 working days of receiving a complaint, investigate the complaint and send a written proposed resolution to the complainant and to the regional center, developmental center, or service provider.

(c) If the complainant expresses dissatisfaction with the action taken or proposed by the clients' rights advocate, the complainant shall be referred, by the clients' rights advocate, within five working days, to the director of the state developmental center or of the regional center.

(d) If the complaint is not resolved to the satisfaction of the complainant within ten working days of receipt by the director of the state developmental center or regional center, it shall be referred by that director to the State Department of Developmental Services. The director shall, within 45 days of receiving a complaint, issue a written administrative decision and send a copy of the decision to the complainant.

(e) The department shall annually compile the number of complaints filed, by each regional center catchment area, the subject matter of each complaint, and a summary of each decision. Copies shall be made available to any person upon request.

(f) This section shall not be used to resolve disputes concerning the nature, scope, or amount of services and supports that should be included in an individual program plan, for which there is an appeal procedure established in this division, or disputes regarding rates or audit appeals for which there is an appeal procedure established in regulations. Those disputes shall be resolved through the appeals procedure established by this division or in regulations.

(g) All consumers or, where appropriate, their parents, legal guardian, conservator, or authorized representative, shall be notified in writing in a language which they comprehend, of the right to file a complaint pursuant to this section when they apply for services from a regional center or are admitted to a developmental center, and at each regularly scheduled planning meeting.

(h) This section shall become operative on January 1, 1998.



SEC. 30. Section 4791 of the Welfare and Institutions Code is amended to read:

4791. (a) The Legislature finds that when the state faces an unprecedented fiscal crisis, the services set forth in this division are necessary to enable persons with developmental disabilities to live in the least restrictive setting.

(b) In order to ensure that services to eligible consumers are available throughout the fiscal year, regional centers shall administer their contracts within the level of funding available within the annual Budget Act.

(c) To carry out the intent of this provision, and notwithstanding Chapter 5 and Section 4643, each regional center contract shall include provisions which ensure the regional center will provide services to eligible consumers within the funds available in the contract throughout the fiscal year. Regional centers shall implement innovative, cost-effective methods of services delivery, which may include, but not be limited to, the use of vouchers, consumer or parent services coordinators, increased administrative efficiencies, and alternative sources of payment for services.

(d) In the event of an unallocated reduction, the Budget Act of each fiscal year shall determine the distribution of any unallocated reduction within the regional center budget item.

(e) In the event of an unallocated reduction in the regional center budget, or if an individual regional center notifies the department that the regional center will be unable to provide services and supports to eligible consumers throughout the fiscal year within the level of funding available in their contract, the following shall apply:

(1) The department shall provide the regional center or regional centers with guidelines, technical assistance, and a variety of options for reducing operations and purchase of service costs.

(2) Within 30 days of the enactment of the Budget Act or after the date a regional center notifies the department of a projected deficit in its purchase of services budget, each impacted regional center shall develop and submit a plan to the department describing in detail how it intends to absorb any unallocated reduction and shall achieve savings necessary to provide services to eligible consumers throughout the fiscal year within the limitations of the funds allocated. Prior to adopting the plan, each regional center shall hold a public hearing in order to receive comment on the plan. The regional centers shall provide notice to the community at least 10 days in advance of the public hearing. The regional center shall summarize and respond to the public testimony in their plan.

(3) The plan submitted to the department may include, but not be limited to:

(A) Innovative and cost-effective methods of services delivery that include, but are not limited to, the use of vouchers; the use of consumers and parents as service coordinators; alternative methods



of case management; the use of volunteer teams, made up of consumers, parents, other family members, and advocates, to conduct the monitoring activities described in Section 4648.1; increased administrative efficiencies; alternative sources of payment for services; use of available assessments in determining eligibility; and alternative nonresidential rate methodologies or service delivery models, or both. In addition, the regional center shall take into account, in identifying the consumer's service needs, the family's responsibility for providing similar services to a child without disabilities.

(B) The maximization of all alternative funding sources, including federal and generic funding sources.

(C) Assurances that all other operations expenditure reductions are considered before any reductions are made in nonsupervisory, service coordination staff.

(4) The regional centers shall implement components of their plans upon approval of the department. The department shall review and approve, or require modification of portions of the regional centers' plan, within 30 days of receipt of the plan. If the required modification is significant, the department shall require the regional center to hold an additional public hearing to review and comment on the modification.

(f) Notwithstanding any other provision of law, in any fiscal year in which an unallocated reduction is made in the regional center budget, the director may adopt, amend, repeal, or suspend regulations as necessary to permit program flexibility and allow regional centers to achieve cost savings or innovative approaches to service delivery, including, but not limited, to those specified in subparagraph (A) of paragraph (1) of subdivision (e) without adversely affecting consumer health and safety or placing persons with disabilities in a more restrictive environment. Furthermore, any such regulatory change shall not authorize categorical reductions; changes in service delivery shall have an exemption process. It is the intent of the Legislature that any such action be deemed an emergency necessary for the immediate preservation of the public peace, health, and safety, or general welfare for purposes of subdivision (b) of Section 11346.1 of the Government Code.

(g) Notwithstanding any other provision of law, the State Director of the Department of Developmental Services may require one or more regional centers to take any actions he or she determines to be necessary to ensure reductions are made in the regional center operations budget, including, but not limited to, the following:

(1) Require a regional center to centralize billing and other fiscal and administrative functions.

(2) Require a regional center to reduce office space through the decentralization of service coordinators by allowing service



coordinators to work in their homes and in community-based programs.

(3) Require a regional center to freeze or reduce levels of pay for administrative and managerial employees.

(4) Require a regional center to contract for specified functions currently conducted directly by the regional center.

(5) Require regional centers to seek Medi-Cal provider status for regional center staff performing reimbursable activities.

(h) Notwithstanding any other provisions of law, the director may terminate a regional center contract if he or she determines that the regional center is unable or unwilling to make the necessary reductions in its operations budget or if the action is necessary to avoid reductions in the purchase of services for regional center consumers.

(i) Notwithstanding any other provisions of law, the department may directly operate a regional center after the termination of a contract.

(j) If the director determines that regional centers cannot provide services throughout the fiscal year within the funds provided by the Budget Act, he or she shall immediately report to the Governor and the appropriate fiscal committees of the Legislature and recommend actions to secure additional funds or reduce expenditures, including any actions which require the suspension of the entitlement to service set forth in this division.

(k) Developing and implementing the plan shall be considered a contractual obligation pursuant to Section 4635 of the Welfare and Institutions Code. Accordingly, the department shall make reasonable efforts to assist regional centers in fulfilling their contractual obligations and provide technical assistance, as necessary. In addition, a regional center's failure to develop and implement the plan may be considered grounds for contract termination or nonrenewal. If at any time the director of the department determines that a regional center's plan does not adequately address a funding deficiency during the fiscal year, the director may require the use of operational funds to reduce the deficiency in purchase of services funds.

(l) This section shall become inoperative on July 1, 2000, and, as of January 1, 2001, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2001, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 31. Section 4803 of the Welfare and Institutions Code is amended to read:

4803. If a regional center recommends that a person be admitted to a community care facility or health facility as a developmentally disabled resident, the employee or designee of the regional center responsible for making such recommendations shall certify in writing that neither the person recommended for admission to a community



care facility or health facility, nor the parent of a minor or conservator of an adult, if appropriate, nor the person or agency appointed pursuant to Section 4590 or subdivision (e) of Section 4705 has made an objection to the admission to the person making the recommendation. The regional center shall transmit the certificate, or a copy thereof, to the community care facility or health facility.

A community care facility or health facility shall not admit any adult as a developmentally disabled patient on recommendation of a regional center unless a copy of the certificate has been transmitted pursuant to this section.

Any person who, knowing that objection to a community care facility or health facility admission has been made, certifies that no objection has been made, shall be guilty of a misdemeanor.

Objections to proposed placements shall be resolved by a fair hearing procedure pursuant to Section 4700.

SEC. 32. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure the health and safety of persons with developmental disabilities being served in state developmental centers and in the community at the earliest possible time, it is necessary that this act take effect immediately.

