

AMENDED IN SENATE MAY 31, 2011

AMENDED IN SENATE APRIL 27, 2011

AMENDED IN SENATE APRIL 14, 2011

SENATE BILL

No. 382

Introduced by Senator Liu
(Principal coauthor: Senator Emmerson)
(Coauthor: Assembly Member Jeffries)

February 15, 2011

An act to amend Sections 4629, 4646.5, and 4648 of, and to add Sections 4639.1, 4639.2, ~~4639.3~~, and 4639.4 to, the Welfare and Institutions Code, relating to developmental services.

LEGISLATIVE COUNSEL'S DIGEST

SB 382, as amended, Liu. Developmental services: regional centers: complaints.

The Lanterman Developmental Disabilities Services Act authorizes the State Department of Developmental Services to contract with regional centers to provide services and supports to individuals with developmental disabilities. That law authorizes the department to enter into 5-year contracts with regional centers, subject to an annual appropriation of funds by the Legislature. The act requires the contracts to specify that each regional center include annual performance objectives that will meet certain standards and allows the department to specify additional areas of support that require development or enhancement. The act requires corrective action if a regional center fails to meet the performance standards.

This bill would ~~require~~ *authorize* the department to specify additional areas of support requiring development or enhancement, as specified.

This bill would require the department to develop processes and procedures, as specified, to address issues of retaliation against regional center employees and vendors and would require those processes and procedures to be included in the regional center standard agreement contracts.

This bill would require a regional center to report annually to the department the total number of complaints it has received within a fiscal year and would require the department to report the information to the Legislature, as specified. The bill would require the department, in addition to all other audits and reviews, ~~at least once every 36 months~~, to conduct a review of each regional center's compliance with the procedures for developing individual program plans, as specified, and to utilize the results of the review to develop annual performance objectives. The bill would also, beginning July 1, 2013, require each regional center to post on its Internet Web site a directory of vendorized service providers, and negotiated rates, if applicable, and to update that list annually.

The act provides that the regional centers purchase needed services for individuals with developmental disabilities through approved service providers that are identified through a process of vendorization. The act requires services and supports of comparable quality that are offered at different costs by different providers to be assessed and the lower cost provider used unless specified determinations are made.

This bill would require the determination of comparability to be made by the program planning team and to include specified criteria.

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

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

- 1 SECTION 1. Section 4629 of the Welfare and Institutions Code
- 2 is amended to read:
- 3 4629. (a) The state shall enter into five-year contracts with
- 4 regional centers, subject to the annual appropriation of funds by
- 5 the Legislature.
- 6 (b) The contracts shall include a provision requiring each
- 7 regional center to render services in accordance with applicable
- 8 state laws and regulations.
- 9 (c) (1) The contracts shall include annual performance
- 10 objectives that shall do both of the following:

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

- 3 (i) Assist consumers to achieve life quality outcomes.
- 4 (ii) Achieve meaningful progress above the current baselines.
- 5 (iii) Develop services and supports identified as necessary to
6 meet identified needs.

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

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

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

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

21 (2) In addition to the performance objectives developed pursuant
22 to this section, the department ~~shall~~ *may* specify in the performance
23 contract additional areas of service and support that require
24 development or enhancement by the regional center, including,
25 but not limited to, the requirements of subdivision (c) of Section
26 4639.2 and subdivision (d) of Section 4639.3. In determining those
27 areas, the department shall consider public comments from
28 individuals and organizations within the regional center catchment
29 area, the subject and results of fair hearing decisions, the
30 distribution of services and supports within the regional center
31 catchment area, and review how the availability of services and
32 supports in the regional ~~area~~ *center* catchment area compares with
33 other regional center catchment areas.

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

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

39 (2) Levels of probationary status for regional centers that do
40 not meet, or are at risk of not meeting, performance standards. The

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

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

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

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

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

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

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

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

1 SEC. 2. Section 4639.1 is added to the Welfare and Institutions
2 Code, to read:

3 4639.1. (a) No later than July 1, 2012, the State Department
4 of Developmental Services shall develop processes and procedures
5 to address issues of retaliation against regional center employees
6 and vendors. These processes and procedures shall be included in
7 the regional center standard agreement contract after development.
8 At a minimum, the processes and procedures shall include the
9 following:

10 (1) For the purposes of the contract, a definition of “retaliation.”

11 (2) A statement that the regional center shall not engage in acts
12 of retaliation.

13 (3) A requirement for the regional center to report all allegations
14 of retaliation to its board members and to the department, although
15 the department shall not be required to investigate the allegation
16 unless received directly from the party making the allegation.

17 (4) A process for corrective action by the regional center and a
18 process for verification of corrective action by the department.

19 (5) (A) A provision of notice to employees and vendors, made
20 by the regional center, of the processes and procedures that are
21 developed, detailing to whom they can make a complaint of
22 retaliation and who will investigate the complaint.

23 (B) The provision of notice shall specify that the department
24 will not investigate a complaint of retaliation unless the
25 complainant directly files that complaint with the department. The
26 provision of notice shall also specify the department’s policy on
27 responding to whistleblower complaints and the right to make a
28 complaint directly to the department.

29 (C) The provision of notice shall specify all applicable
30 prohibitions against retaliation under federal and state law,
31 including, but not limited to, prohibitions pursuant to Section
32 12653 of the Government Code or Section 1102.5 of the Labor
33 Code.

34 (D) The provision of notice may be disseminated in the same
35 manner as other notices disseminated to stakeholders concerning
36 their rights when filing a complaint.

37 (b) (1) The department shall develop the processes and
38 procedures described in subdivision (a) in conjunction with the
39 Association of Regional Center Agencies (ARCA), and in
40 consultation with a broad representation of the following types of

1 stakeholder groups: employees, consumers and their families, and
2 vendors. A minimum of three representatives from each type of
3 stakeholder group shall be included in the consultation process
4 provided pursuant to this paragraph. The stakeholder representation
5 shall take into account the geographic distribution of regional
6 centers and the diversity of provider services. The department may
7 also include additional stakeholders, as it deems appropriate.

8 (2) The processes and procedures shall be developed through a
9 process through which the stakeholders listed in paragraph (1) may
10 provide input to address issues of retaliation against regional center
11 employees and vendors.

12 (c) A statewide association that represents the interest of
13 stakeholders in regional centers shall be allowed to participate if
14 not represented pursuant to subdivision (b).

15 SEC. 3. Section 4639.2 is added to the Welfare and Institutions
16 Code, to read:

17 4639.2. (a) A regional center shall report annually to the
18 department the total number of complaints it has received within
19 a fiscal year, including the method in which the complaint was
20 received, the type of complaint, the number of days pending to
21 resolution, and the disposition of each complaint.

22 (b) The department shall report annually to the Legislature the
23 total volume, method, type of complaint, days pending, and
24 disposition of complaints for each regional center that the regional
25 center has received in a fiscal year. The department shall also
26 provide to the Legislature, *during the annual budget process*, the
27 total volume, method, type of complaint, days pending, and
28 disposition of complaints for each regional center that the
29 department has directly received in a fiscal year. The department
30 shall ascertain to the best of its ability which complaints have been
31 filed with both the regional center and the department to avoid
32 duplicate counting of complaints.

33 (c) The department shall use the complaint data gathered
34 pursuant to this subdivision, accounting for population size, service
35 needs, and availability, to develop annual performance objectives
36 for each regional center that will improve each regional center's
37 resolution of complaints, where necessary.

38 (d) *For purposes of this section "complaint" means any type*
39 *of complaint for which the department has established or*
40 *documented a procedure for filing a complaint on its Internet Web*

1 *site, or for which there is established in statute, contract, or*
 2 *departmental or regional center policy a procedure for filing a*
 3 *complaint to the department or regional center.*

4 SEC. 4. Section 4639.3 is added to the Welfare and Institutions
 5 Code, to read:

6 ~~4639.3. (a) In addition to all other audits and reviews the~~
 7 ~~department conducts of regional centers, the department shall~~
 8 ~~conduct a review of each regional center's compliance with the~~
 9 ~~procedures for developing individual program plans required by~~
 10 ~~law and regulation. The review shall consist of an evaluation of~~
 11 ~~whether the regional center has appropriate individual program~~
 12 ~~plan procedures in place, as well as a sampling of individual~~
 13 ~~program plans to determine whether procedures are being followed.~~
 14 ~~The regional center shall have the duty of demonstrating~~
 15 ~~compliance with respect to the development and ongoing~~
 16 ~~requirements of individual program plans. The department shall~~
 17 ~~issue necessary guidance to aid regional centers in retaining or~~
 18 ~~producing documentation that constitutes demonstration of~~
 19 ~~compliance.~~

20 ~~(b) The department shall include this review in any fiscal audit,~~
 21 ~~Medicaid waiver review, or the follow up to an audit or review,~~
 22 ~~but the department shall conduct the review no less than once every~~
 23 ~~36 months. If a regional center has been found to be noncompliant~~
 24 ~~with state law or regulation, with respect to the development or~~
 25 ~~ongoing requirements of individual program plans, the department~~
 26 ~~shall monitor the regional center as necessary to ensure that~~
 27 ~~corrective actions are taken by the regional center.~~

28 ~~(c) The department shall utilize the results of this review to~~
 29 ~~develop annual performance objectives for each regional center~~
 30 ~~that will improve each regional center's compliance with state law~~
 31 ~~and regulation with respect to the development and ongoing~~
 32 ~~requirements of individual program plans.~~

33 ~~(d) The department shall include the results of this review in its~~
 34 ~~published annual review, pursuant to subdivision (g) of Section~~
 35 ~~4629.~~

36 SEC. 5.

37 SEC. 4. Section 4639.4 is added to the Welfare and Institutions
 38 Code, to read:

39 4639.4. (a) In order to provide consumers and their families
 40 with information about service providers, and to provide greater

1 transparency in the rates paid to service providers, beginning July
2 1, 2013, each regional center shall publish a directory of vendorized
3 service providers on its Internet Web site, listing them by category
4 of service. For vendors who have negotiated rates, the negotiated
5 rate shall be published. The directory of service providers and their
6 rates shall be updated annually.

7 *(b) Consumers and family members of consumers shall not be*
8 *included in the directory required by subdivision (a), and not in*
9 *the posting of negotiated rates.*

10 SEC. 5. Section 4646.5 of the Welfare and Institutions Code
11 is amended to read:

12 4646.5. (a) The planning process for the individual program
13 plan described in Section 4646 shall include all of the following:

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

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

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

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

11 (5) When agreed to by the consumer, the parents or legally
12 appointed guardian of a minor consumer, or the legally appointed
13 conservator of an adult consumer or the authorized representative,
14 including those appointed pursuant to subdivision (d) of Section
15 4548 and subdivision (e) of Section 4705, a review of the general
16 health status of the adult or child including a medical, dental, and
17 mental health needs shall be conducted. This review shall include
18 a discussion of current medications, any observed side effects, and
19 the date of last review of the medication. Service providers shall
20 cooperate with the planning team to provide any information
21 necessary to complete the health status review. If any concerns
22 are noted during the review, referrals shall be made to regional
23 center clinicians or to the consumer's physician, as appropriate.
24 Documentation of health status and referrals shall be made in the
25 consumer's record by the service coordinator.

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

31 (b) For all active cases, individual program plans shall be
32 reviewed and modified by the planning team, through the process
33 described in Section 4646, as necessary, in response to the person's
34 achievement or changing needs, and no less often than once every
35 three years. If the consumer or, where appropriate, the consumer's
36 parents, legal guardian, or conservator requests an individual
37 program plan review, the individual program shall be reviewed
38 within 30 days after the request is submitted.

39 (c) (1) The department, with the participation of representatives
40 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)~~

(d) The department shall biennially review a random sample of individual program plans at each regional center to assure that these plans are being developed and modified in compliance with Section 4646-~~and~~, this section, *and federal and state laws and regulations*.

(1) In addition to the random sampling, the review shall consist of an evaluation of whether the regional center has appropriate individual program plan procedures in place. The regional center shall have the duty of demonstrating compliance with respect to the development and ongoing requirements of individual program plans. If necessary, the department shall issue needed guidance to aid regional centers in retaining or producing documentation that constitutes demonstration of compliance.

(2) In addition to the requirements of Section 4434, the department shall utilize the results of this review, when necessary, to develop annual performance objectives for each regional center to improve the regional center's compliance with federal and state laws and regulations with respect to the development and ongoing requirements of individual program plans.

(3) The department shall utilize the results of the review required by this subdivision in its published annual review required pursuant to subdivision (g) of Section 4629.

SEC. 6. 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

1 that meet the needs of the consumer, as determined in the
2 consumer's individual program plan, and within the context of the
3 individual program plan, the planning team shall give highest
4 preference to those services and supports which would allow
5 minors with developmental disabilities to live with their families,
6 adult persons with developmental disabilities to live as
7 independently as possible in the community, and that allow all
8 consumers to interact with persons without disabilities in positive,
9 meaningful ways.

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

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

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

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

36 (C) Regulations shall include, but not be limited to: the vendor
37 application process, and the basis for accepting or denying an
38 application; the qualification and requirements for each category
39 of services that may be provided to a regional center consumer
40 through a vendor; requirements for emergency vendorization;

1 procedures for termination of vendorization; the procedure for an
2 individual or an agency to appeal any vendorization decision made
3 by the department or regional center.

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

10 (E) Effective July 1, 2009, notwithstanding any other provision
11 of law or regulation to the contrary, a regional center shall not
12 newly vendor a State Department of Social Services licensed
13 24-hour residential care facility with a licensed capacity of 16 or
14 more beds, unless the facility qualifies for receipt of federal funds
15 under the Medicaid Program.

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

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

36 (6) The regional center and the consumer, or where appropriate,
37 his or her parents, legal guardian, conservator, or authorized
38 representative, including those appointed pursuant to subdivision
39 (d) of Section 4548 or subdivision (e) of Section 4705, shall,
40 pursuant to the individual program plan, consider all of the

1 following when selecting a provider of consumer services and
2 supports:

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

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

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

10 (D) (i) The cost of providing services or supports of comparable
11 quality by different providers, if available, shall be reviewed, and
12 the least costly available provider of comparable service, including
13 the cost of transportation, who is able to accomplish all or part of
14 the consumer's individual program plan, consistent with the
15 particular needs of the consumer and family as identified in the
16 individual program plan, shall be selected. In determining the least
17 costly provider, the availability of federal financial participation
18 shall be considered.

19 (ii) The consumer shall not be required to use the least costly
20 provider if it will result in the consumer moving from an existing
21 provider of services or supports to more restrictive or less
22 integrated services or supports. The determination of comparability
23 shall be made by the individual program plan planning team and
24 shall include, but not be limited to, the criteria in subparagraphs
25 (A), (B), (C), and (E).

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

28 (7) No service or support provided by any agency or individual
29 shall be continued unless the consumer or, where appropriate, his
30 or her parents, legal guardian, or conservator, or authorized
31 representative, including those appointed pursuant to subdivision
32 (d) of Section 4548 or subdivision (e) of Section 4705, is satisfied
33 and the regional center and the consumer or, when appropriate,
34 the person's parents or legal guardian or conservator agree that
35 planned services and supports have been provided, and reasonable
36 progress toward objectives have been made.

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

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

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

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

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

28 (C) Each person with developmental disabilities placed by the
29 regional center in a community living arrangement shall have the
30 rights specified in this division. These rights shall be brought to
31 the person's attention by any means necessary to reasonably
32 communicate these rights to each resident, provided that, at a
33 minimum, the Director of Developmental Services prepare,
34 provide, and require to be clearly posted in all residential facilities
35 and day programs a poster using simplified language and pictures
36 that is designed to be more understandable by persons with
37 cognitive disabilities and that the rights information shall also be
38 available through the regional center to each residential facility
39 and day program in alternative formats, including, but not limited

1 to, other languages, braille, and audio tapes, when necessary to
2 meet the communication needs of consumers.

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

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

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

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

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

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

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

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

7 (C) Developing unpaid natural supports when possible.

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

10 (15) Notwithstanding any other provision of law or regulation
11 to the contrary, effective July 1, 2009, regional centers shall not
12 purchase experimental treatments, therapeutic services, or devices
13 that have not been clinically determined or scientifically proven
14 to be effective or safe or for which risks and complications are
15 unknown. Experimental treatments or therapeutic services include
16 experimental medical or nutritional therapy when the use of the
17 product for that purpose is not a general physician practice. For
18 regional center consumers receiving these services as part of their
19 individual program plan (IPP) or individualized family service
20 plan (IFSP) on July 1, 2009, this prohibition shall apply on August
21 1, 2009.

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

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

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

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

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

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

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

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

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

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

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

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

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

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