



**LEGISLATION AND PUBLIC POLICY
COMMITTEE (LPPC)
MEETING NOTICE/AGENDA**

Posted at www.scdd.ca.gov

DATE: September 4, 2014

TIME: 10:00 a.m. – 3:00 p.m.

LOCATION: State Council on Developmental Disabilities
1507 21st Street, Suite 210
Sacramento, CA 95811
(916) 322-8481

TELECONFERENCE SITES:

**Area Board 7
2580 N. 1st Street, Suite 240
San Jose, CA 95131**

Pursuant to Government Code Sections 11123.1 and 11125(f), individuals with disabilities who require accessible alternative formats of the agenda and related meeting materials and/or auxiliary aids/services to participate in the meeting, should contact Thomas Johnson at 916/322-8481 or thomas.johnson@scdd.ca.gov by 5 pm on August 28, 2014.

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|--------------------------------|----------|---|
| 1. CALL TO ORDER | J. Lewis | |
| 2. ESTABLISHMENT OF QUORUM | J. Lewis | |
| 3. WELCOME AND INTRODUCTIONS | J. Lewis | |
| 4. APPROVAL OF 6/11/14 MINUTES | J. Lewis | 4 |
| 5. PUBLIC COMMENTS | | |

This item is for members of the public to comment and/or present information to the Council. Each person will be afforded up to three minutes to speak. Written requests, if any, will be considered first. The Council will also provide a public comment period, not to exceed a total of seven minutes, for public comment prior to action on each agenda item.

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|------------------------------------------|---------------|----|
| 6. MEMBER REPORTS | All | |
| 7. STATE BUDGET | M. Polit | |
| 8. INSURANCE COPAY, AB 2299, MEDI-CAL | M. Polit | 8 |
| 9. LEGISLATION | | |
| A. Status of Bills with Council Position | M. Polit | 10 |
| B. Bill Tracking | A. Bacigalupo | |
| C. Military Children with DD Act | M. Polit | 33 |
| 10. DEVELOPMENTAL CENTERS TASK FORCE | M. Polit | |
| 11. DEVELOPEMNTAL SERVICES TASK FORCE | M. Polit | |

12. **SELF-DETERMINATION AND FORMATION OF WORKGROUP** J. Lewis
13. **IMPACT OF DOL OVERTIME RULE CHANGE ON SUPPORTED LIVING SERVICES** Stacey Sisson
14. **PLANNING FOR NEXT MEETING** J. Lewis
15. **ADJOURNMENT** J. Lewis

For additional information regarding this agenda, please contact Thomas Johnson,
1507 21st Street, Suite 210, Sacramento, CA 95811, (916) 322-8481

Legislative and Public Policy Committee Meeting

MINUTES

06/11/2014

SACRAMENTO, CA

MEETING CALLED BY	Janelle Lewis, Chair
TYPE OF MEETING	State Council Committee Meeting
FACILITATOR	Janelle Lewis
NOTE TAKER	Anastasia Bacigalupo
COMMITTEE MEMBER ATTENDEES	Janelle Lewis, Jennifer Allen, Ray Ceragioli, Lisa Davidson, Connie Lapin, and Evelyn Aboushassan.
COMMITTEE MEMBERS NOT IN ATTENDANCE	April Lopez, David Forderer and Feda Almaliti.
SCDD STAFF ATTENDEES	Mark Polit, Bob Phillips, Dena Hernandez, Karim Alipourfard, Anastasia Bacigalupo.
PUBLIC	Maria Cruz (SEIU-UHW representative)

Agenda Topics

CALL TO ORDER

CONCLUSIONS	Meeting called to order at 10:05 AM by Ms. Lewis.
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APPROVAL OF MEETING MINUTES

DISCUSSION	Committee did not receive the May meeting minutes for approval.
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CONCLUSIONS	Committee tabled approval of May meeting minutes for the September meeting.
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ACTION ITEMS	PERSON RESPONSIBLE	DEADLINE
Approve May meeting minutes.	LPPC Members	09/04/2014

PUBLIC COMMENT ON MATTERS NOT ON THE AGENDA

DISCUSSION	No public comment offered.
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CONCLUSIONS	No public comment offered.
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ACTION ITEMS	PERSON RESPONSIBLE	DEADLINE
None at this time.	N/A	N/A

REPORTS FROM COMMITTEE MEMBERS

DISCUSSION

Ms. Lewis reported that all bills recommended by the LPPC were approved by the council at the last meeting. Requested that the LPPC consider supporting the "Keeping all students safe" Act.

Ms. Lapin reported that she also supports the "Keeping all students safe" Act. She raised issues around the implementation of Self-Determination and confusion between that term and "self-directed."

Mr. Ceragioli reported saw Santee Rogers in action and thinks that Mr. Rogers is a positive figure for DDS. He reported that Fairview Developmental Center (DC) has a new executive director. He reported that the Fairview visit is scheduled for 07/11 and to contact him for more information. Mr Phillips asked for more information about the crisis unit at Fairview.

CONCLUSIONS

Mr. Ceragioli agreed to get more information regarding the crisis unit at Fairview DC.

ACTION ITEMS

Provide additional information to the LPPC on the crisis unit at Fairview DC.

PERSON RESPONSIBLE

Ray Ceragioli

DEADLINE

09/04/2014

REPORT ON THE CALIFORNIA STATE BUDGET**DISCUSSION**

The committee was provided with information in the LPPC packet and handouts at the meeting about the state budget. Mr. Polit shared that both houses have agreed to restore cuts to Early Start and therefore that's why Early Start is not a part of the budget conference. He reported that additional legislative changes reflect that regional centers will have discretion to pay co-pays and co-insurance but not deductibles. He reported that restoration of the 10\$ rate cut to Supported Employment Services is a part of the budget conference.

Mr. Ceragioli asked a two part question: (1) Does it make more sense for families to remove their child from private insurance and place them into Obamacare? (2) Do families have a choice of physician under Medi-Cal and/or Medicaid?

CONCLUSIONS

LPPC members would like the questions posed by Mr. Ceragioli researched and presented at the next LPPC meeting. Mr. Alipourfard agreed to research the answers to the questions posed.

ACTION ITEMS

Research and present to LPPC answers to Mr. Ceragioli's questions.

PERSON RESPONSIBLE

Karim Alipourfard

DEADLINE

09/04/2014

PRESENTATION ON IHSS TRAINING/BALLOT MEASURE

DISCUSSION	LPPC members received a presentation on the issues related to the IHSS training requirements and the ballot measure circulating the state, gathering signatures.		
CONCLUSIONS	LPPC members requested additional information on the ballot measure- pro and con to the measure- to be presented at the next LPPC meeting, for the purpose of voting on a recommendation to the State Council.		
ACTION ITEMS	PERSON RESPONSIBLE	DEADLINE	
Research and present to LPPC information about the ballot measure.	Karim Alipourfard	09/04/2014	

REPORT ON LEGISLATION

MARK POLIT

DISCUSSION	<p>Mr. Polit provided an overview of legislation that the LPPC needs to either review. AB 1335 and SB 922 are still viable. AJR 36 is being reviewed the Employment First committee. SB 1109, SB 1178, SB 1428, AB 1753 and AB 2349 are dead.</p> <p>Ms. Lapin motioned that the LPPC have a chart where all legislation is listed and its relevant details are indicated (location in legislative process, supporters, SCDD position, next steps). Ms. Davidson seconded the motion and motion carried unanimously. Ms. Bacigalupo agreed to create the chart.</p>		
CONCLUSIONS	LPPC members requested letters of support to be sent out for the following bills approved by the SCDD at their last meeting: SB 1396, SB 1093, SB 1160, SB 1176, and AB 2041. LPPC member requested that staff create a legislation chart for tracking legislation.		
ACTION ITEMS	PERSON RESPONSIBLE	DEADLINE	
Draft and send out letters of support for the SCDD approved legislation.	Mark Polit/Anastasia Bacigalupo	09/04/2014	
Create a legislation chart for legislation being tracked/supported etc. by the LPPC.	Anastasia Bacigalupo	09/04/2014	

REPORT ON PARENTAL FEE AND SELF DETERMINATION

DISCUSSION	LPPC members reviewed information on the parental fee. Mr. Polit reported that AIDD does not want state law mandating the role of the State Council in Self-Determination (S-D)- they consider it to be "state interference."		
CONCLUSIONS	Ms. Allen motioned that the LPPC table its decision-making as to whether to support the parental fee. Ms. Lapin seconded the motion and the motion passed unanimously. Ms. Lewis, Ms. Lapin and Ms. Allen expressed interest in forming a S-D committee. Ms. Lewis agreed to contact Molly Kennedy about forming a S-D committee.		

ACTION ITEMS	PERSON RESPONSIBLE	DEADLINE
Contact Molly Kennedy about the formation of a S-D committee.	Janelle Lewis	09/04/2014

Report on SB 579:

Commission on Oversight Efficiency and Quality Enhancement Models

DISCUSSION	LPPC reviewed the information presented in the packet and handouts about SB 579. Mr. Polit presented that there was debate as to the membership of the commission. Originally the legislation stated 1 advocate, 1 consumer and 1 family member. The Senate appointing 1 advocate and the Assembly appointing 1 family member/advocate. Governor to appoint 3 members.
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CONCLUSIONS	LPPC reviewed current language of SB 579 and agreed to recommend SB 579 for support by the State Council at the next meeting.
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ACTION ITEMS	PERSON RESPONSIBLE	DEADLINE
Recommend support for SB 579 to State Council at next meeting.	Janelle Lewis	07/16/2014

ADJOURNMENT

CONCLUSIONS	Meeting adjourned at 3:01 pm by Ms. Lewis.
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AB-2299 Developmental services: health insurance copayments, coinsurance, and deductibles. (2013-2014)

SECTION 1. *Section 4519.6 of the Welfare and Institutions Code is amended to read:*

4519.6. (a) *It is the intent of the Legislature to maintain full access to services provided through an individual program plan pursuant to this division or through an individualized family service plan pursuant to the California Early Intervention Services Act (Title 14 (commencing with Section 95000) of the Government Code) and to not limit the access of children and adults to services determined to be a part of an individual program plan or individualized family service plan based on the payment of copayments, coinsurance, or deductibles.*

(b) *The department and the regional centers shall annually collaborate to determine the most appropriate methods to collect and compile meaningful data in a uniform manner, as specified in Section 4519.5, related to the payment of copayments, coinsurance, and deductibles by each regional center. The department shall annually report data collected pursuant to this subdivision to the Legislature for purposes of examining the feasibility and costs associated with removing the income requirements established in Section 4659.1 during the 2015-16 fiscal year and thereafter.*

(c) (1) *The requirement for submitting a report imposed under subdivision (b) is inoperative on January 1, 2019, pursuant to Section 10231.5 of the Government Code.*

(2) *A report submitted pursuant to subdivision (b) shall be submitted in compliance with Section 9795 of the Government Code.*

SEC. 2. *Section 4659.1 of the Welfare and Institutions Code is amended to read:*

4659.1. (a) *If a service or support provided pursuant to a consumer's individual program plan under this division or individualized family service plan pursuant to the California Early Intervention Services Act (Title 14 (commencing with Section 95000) of the Government Code) is paid for, in whole or in part, by the health care service plan or health insurance policy of the consumer's parent, guardian, or caregiver, the regional center may, when necessary to ensure that the consumer receives the service or support, pay any applicable copayment, coinsurance, or deductible associated with the service or support for which the parent, guardian, or caregiver is responsible if all of the following conditions are met:*

(1) *The consumer is covered by his or her parent's, guardian's, or caregiver's health care service plan or health insurance policy.*

(2) *The family has an annual adjusted gross income that does not exceed 400 percent of the federal poverty level.*

(3) *There is no other third party having liability for the cost of the service or support, as provided in subdivision (a) of Section 4659 and Article 2.6 (commencing with Section 4659.10).*

(b) *If a service or support provided to a consumer 18 years of age or older, pursuant to his or her individual program plan, is paid for in whole or in part by the consumer's or guardian's health care service plan or health insurance policy, the regional center may, when necessary to ensure that the consumer receives the service or support, pay any applicable copayment, coinsurance, or deductible associated with the service or support for which the ~~consumer~~ person with a health care service plan or health insurance policy is responsible if both of the following conditions are met:*

(1) *The ~~consumer~~ person with a health care service plan or health insurance policy has an annual adjusted gross income that does not exceed 400 percent of the federal poverty level.*

(2) *There is no other third party having liability for the cost of the service or support, as provided in subdivision (a) of Section 4659 and Article 2.6 (commencing with Section 4659.10).*

(c) Notwithstanding paragraph (2) of subdivision (a) or paragraph (1) of subdivision (b), a regional center may pay a copayment, coinsurance, or deductible associated with the health care service plan or health insurance policy for a service or support provided pursuant to a consumer's individual program plan or individualized family service plan if the ~~family's or consumer's income exceeds 400 percent of the federal poverty level, the service or support is necessary to successfully maintain the child at home or the adult consumer in the least restrictive setting,~~ *family or person with a health care service plan or health insurance policy has an annual adjusted gross income that exceeds 400 percent of the federal poverty level* and the parents or ~~consumer~~ *person* demonstrate one or more of the following:

(1) The service or support is necessary to maintain the child at home or the adult consumer in the least restrictive setting.

(2) The payment will maintain third-party liability for the cost of the service or support, as provided in subdivision (a) of Section 4659 and Article 2.6 (commencing with Section 4659.10), or will otherwise limit financial liability to the state.

~~(1)~~ *(3) The existence of a financial hardship or an extraordinary event that impacts the ability of the parent, guardian, or caregiver to meet the care and supervision needs of the child or impacts the ability of the parent, guardian, or caregiver, or adult consumer with a health care service plan or health insurance policy, to pay the copayment, coinsurance, or deductible.*

~~(2)~~ *(4) The existence of catastrophic loss that temporarily limits the ability to pay of the parent, guardian, or caregiver, or adult consumer with a health care service plan or health insurance policy and creates a direct economic impact on the family or adult consumer. For purposes of this paragraph, catastrophic loss may include, but is not limited to, natural disasters and accidents involving major injuries to an immediate family member.*

~~(3)~~ *(5) Significant unreimbursed medical costs associated with the care of the consumer or another child who is also a regional center consumer.*

(d) The parent, guardian, or caregiver of a consumer or an adult consumer with a health care service plan or health insurance policy shall self-certify ~~the family's~~ *his or her adjusted* gross annual income *for purposes of this section* to the regional center by providing copies of W-2 Wage Earners Statements, payroll stubs, a copy of the prior year's state income tax return, or other documents and proof of other income. *Additional financial documentation shall not be required unless an exemption is requested pursuant to subdivision (c). If an exemption is requested, only documentation necessary to support that request shall be required to be provided.*

(e) The parent, guardian, or caregiver of a consumer or an adult consumer with a health care service plan or health insurance policy is responsible for notifying the regional center when a change in income occurs that would result in a change in eligibility for coverage of the health care service plan or health insurance policy copayments, coinsurance, or deductibles.

(f) Documentation submitted pursuant to this section shall be considered records obtained in the course of providing intake, assessment, and services and shall be confidential pursuant to Section 4514.

(g) This section shall not be implemented in a manner that is inconsistent with the requirements of Part C of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431 et seq.).



State Council on Developmental Disabilities

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STATE OF CALIFORNIA

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Legislative Update August 25, 2014

COUNCIL SPONSORED LEGISLATION

Senate Floor AB 1595 (Chesbro) – SPONSOR. To bring state law governing funding and operations of the State Council into compliance with the federal DD Act.

Senate for Concurrence. SB 577 (Pavley) – CO-SPONSOR. The bill would create a service category for employment preparation. Sponsor is CDSA.

Dead. AB 2299 (Nazarian) – CO-SPONSOR. Broadens the exceptions in statute to allow regional centers to pay for co-pays, co-insurance and deductibles for services covered by a consumer/family insurance policy and authorized by the IPP/IFSP.

COUNCIL SUPPORT POSITIONS

To Governor. AB 420 (Dickinson) – For disrupting school activities or otherwise willfully “defying the valid authority” of school personnel, the bill eliminates the school’s ability to suspend a pupil enrolled in grades K-3 and the ability for expulsion of pupils enrolled in grades K-12.

To Governor. AB 1089 (Calderon) – Timelines for foster children transferring between regional centers.

Dead. AB 1626 (Maienschein) – Increase supported employment rate by 10%.

Signed by Governor. AB 1687 (Conway) – Creates a right to prompt review and investigation of any crimes committed against people with developmental disabilities.

To Governor. AB 1806 (Bloom) – Additional review for homeless children and youth when facing expulsion or suspension.

“The Council advocates, promotes & implements policies and practices that achieve self-determination, independence, productivity & inclusion in all aspects of community life for Californians with developmental disabilities and their families.”

Dead AB 2041 (Jones) – By changing qualification requirements for regional center behavioral health treatment, expands covered treatment beyond Applied Behavioral Analysis (ABA).

Senate Floor AJR36 (Gonzales) This measure would urge the United States Congress to phase out the use of the Special Minimum Wage Certificate provision and eventually repeal Section 14(c) of the 1938 Fair Labor Standards Act.

Dead. SB 579 (Berryhill) - SB 579 seeks to establish a commission to take public testimony and make recommendations for changes to regulation governing the oversight of community care facilities and center based day services. Council position is **Support if Amended** to provide for more consumer and family representation on the commission.

Vetoed. SB 1046 (Beall) – Gives authority for Insurance Commissioner to penalize insurance companies who violate the requirement to cover behavioral health treatment for people with autism.

To Governor. SB 1093 (Liu) – Adds requirements for regional centers to collect, report, analyze data, and receive public comment on disparities in service provision. This bill would require that annual performance objectives be designed to address identified needs for culturally and linguistically appropriate services and supports to mitigate service disparities. Makes Independent Living Services (ILS) available to regional center clients living with family members.

Dead. SB 1160 (Beall) – Reduces the minimum job coaching ratio from 3:1 to 2:1 and allows for exceptions to fading of job coaching.

Assembly Floor. SB 1176 (Steinburg) – Requires insurance companies to monitor and report on out-of-pocket costs. Requires notifying enrollees when their costs have reached a maximum.

Dead. SB 1396 (Hancock) – Funds a statewide training program for positive behavioral support in the schools.



California
LEGISLATIVE INFORMATION

SB-577 Autism and other developmental disabilities: employment. (2013-2014)

SECTION 1. *The Legislature finds and declares all of the following:*

- (a) *Individuals with developmental disabilities have to struggle to find gainful employment. Unemployment amongst the developmentally disabled population is approximately 80 percent.*
- (b) *Within the developmentally disabled community, autism is the fastest growing population, making up approximately 50 percent of the annual new caseload of regional centers in some parts of the state.*
- (c) *One in three adults with autism do not have paid work experience or a college or technical education seven years after leaving the K-12 school system.*
- (d) *In order to increase the self-sufficiency of young adults with autism and other developmental disabilities, including increased earning capacity and reduced government benefit support, it is important that the state implement a program to provide individualized skills assessment, social cue training, and specific support to ensure their academic and employment success.*
- (e) *The Governor and the Legislature must address the growing need for new models of assessment, career training, and expanding employment opportunities and support options for young adults with autism and other developmental disabilities between 18 and 30 years of age. If this population is left without purposefully designed pathways into employment, these young adults will remain at high risk of public dependency throughout the course of their lives.*
- (f) *The passage of the State of California's Employment First Policy requires the state to increase the opportunities for individuals with developmental disabilities to achieve integrated competitive employment.*

SEC. 2. *Section 4850.3 is added to the Welfare and Institutions Code, to read:*

4850.3. (a) *The Legislature intends that in order to increase effectiveness and opportunity to gain meaningful integrated competitive employment opportunities, pursuant to paragraph (1) of subdivision (a) of Section 4869, habilitation services shall also provide community-based vocational development services to enhance community employment readiness, develop social skills necessary for successful community employment, and build a network of community and employment opportunities for individuals with developmental disabilities:*

(b) *The department shall conduct a four-year demonstration project, pursuant to paragraph (1) of subdivision (a) of Section 4869, to determine whether community-based vocational development services increase integrated competitive employment outcomes and reduce purchase of service costs for working age adults.*

(1) *For purposes of this section, "community-based vocational development services" means (A) services provided to enhance community employment readiness, which may include the use of discovery and job exploration opportunities, (B) social skill development services necessary to obtain and maintain community employment, (C) services to use internship, apprenticeship, and volunteer opportunities to provide community-based vocational development skills development opportunities, (D) services to access and participate in postsecondary education or career technical education, and (E) building a network of community and employment opportunities.*

(2) *If community-based vocational development services are determined to be a necessary step to achieve a supported employment outcome, a plan shall be developed and may include, but is not limited to, all of the following:*

- (A) *An inventory of potential employment interests.*
- (B) *Preferences for types of work environments or situations.*
- (C) *Identification of any training or education needed for the consumer's desired job.*

- (D) Opportunities to explore jobs or self-employment as a means to meet the consumer's desired employment outcome.*
- (E) Identification of any personal or family networks the consumer may use to achieve his or her desired employment outcomes.*
- (3) The habilitation service provider and the regional center shall review the plan developed pursuant to paragraph (2) semiannually to document progress towards objectives, additional barriers, and other changes that impact the consumer's desired employment outcome.*
- (4) The hourly rate for community-based vocational development services, for the purposes of this section, shall be forty dollars (\$40) per hour for a maximum of 75 hours per calendar quarter for all services identified and provided in the community-based vocational development plan as developed pursuant to paragraphs (2) and (3). Prior to the implementation of community-based vocational development services, the department shall secure federal Medicaid funding for this service.*
- (5) Hours of participation in community-based vocational development services may be provided in lieu of hours of participation in other community-based day program services, as determined by the consumer's individual program planning team, for up to two years. Community-based vocational development services may be authorized for an additional two years, if the consumer's individual program planning team determines and documents at each semiannual review that the consumer is making significant progress toward the habilitation services objectives. A consumer's participation in community-based vocational development services shall not exceed a total of four years.*
- (c) The department shall select up to five volunteer regional centers that reflect the geographic diversity of California to participate in the demonstration project.*
- (d) The department shall publish a notice on the department's Internet Web site when the demonstration project has been implemented.*
- (e) (1) After conclusion of the demonstration project, the department shall review the effectiveness of the demonstration project and make determinations whether community-based vocational development services (A) increase employment outcomes, (B) reduce purchase of service costs, and (C) may be implemented on a statewide basis.*
- (2) The department shall notify the appropriate fiscal and policy committees of both houses of the Legislature of the determinations made pursuant to this subdivision.*
- (f) This section shall be implemented only to the extent that federal financial participation is available and any necessary federal approvals have been obtained.*
- (g) This section shall remain in effect only until January 1, 2025, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2025, deletes or extends that date.*



AB-420 Pupil discipline: suspensions and expulsions: willful defiance. (2013-2014)

SECTION 1. Section 48900 of the Education Code is amended to read:

48900. A pupil shall not be suspended from school or recommended for expulsion, unless the superintendent of the school district or the principal of the school in which the pupil is enrolled determines that the pupil has committed an act as defined pursuant to any of subdivisions (a) to (r), inclusive:

- (a) (1) Caused, attempted to cause, or threatened to cause physical injury to another person.
- (2) Willfully used force or violence upon the person of another, except in self-defense.
- (b) Possessed, sold, or otherwise furnished a firearm, knife, explosive, or other dangerous object, unless, in the case of possession of an object of this type, the pupil had obtained written permission to possess the item from a certificated school employee, which is concurred in by the principal or the designee of the principal.
- (c) Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind.
- (d) Unlawfully offered, arranged, or negotiated to sell a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind, and either sold, delivered, or otherwise furnished to a person another liquid, substance, or material and represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant.
- (e) Committed or attempted to commit robbery or extortion.
- (f) Caused or attempted to cause damage to school property or private property.
- (g) Stole or attempted to steal school property or private property.
- (h) Possessed or used tobacco, or products containing tobacco or nicotine products, including, but not limited to, cigarettes, cigars, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel. However, this section does not prohibit use or possession by a pupil of his or her own prescription products.
- (i) Committed an obscene act or engaged in habitual profanity or vulgarity.
- (j) Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell drug paraphernalia, as defined in Section 11014.5 of the Health and Safety Code.
- (k) (1) Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties.
- (2) *Except as provided in Section 48910, a pupil enrolled in kindergarten or any of grades 1 to 3, inclusive, shall not be suspended for any of the acts enumerated in this subdivision, and this subdivision shall not constitute grounds for a pupil enrolled in kindergarten or any of grades 1 to 12, inclusive, to be recommended for expulsion. This paragraph shall become inoperative on July 1, 2018, unless a later enacted statute that becomes operative before July 1, 2018, deletes or extends that date.*
- (l) Knowingly received stolen school property or private property.
- (m) Possessed an imitation firearm. As used in this section, "imitation firearm" means a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm.
- (n) Committed or attempted to commit a sexual assault as defined in Section 261, 266c, 286, 288, 288a, or 289 of the Penal Code or committed a sexual battery as defined in Section 243.4 of the Penal Code.

(o) Harassed, threatened, or intimidated a pupil who is a complaining witness or a witness in a school disciplinary proceeding for purposes of either preventing that pupil from being a witness or retaliating against that pupil for being a witness, or both.

(p) Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma.

(q) Engaged in, or attempted to engage in, hazing. For purposes of this subdivision, "hazing" means a method of initiation or preinitiation into a pupil organization or body, whether or not the organization or body is officially recognized by an educational institution, which is likely to cause serious bodily injury or personal degradation or disgrace resulting in physical or mental harm to a former, current, or prospective pupil. For purposes of this subdivision, "hazing" does not include athletic events or school-sanctioned events.

(r) Engaged in an act of bullying. For purposes of this subdivision, the following terms have the following meanings:

(1) "Bullying" means any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, and including one or more acts committed by a pupil or group of pupils as defined in Section 48900.2, 48900.3, or 48900.4, directed toward one or more pupils that has or can be reasonably predicted to have the effect of one or more of the following:

(A) Placing a reasonable pupil or pupils in fear of harm to that pupil's or those pupils' person or property.

(B) Causing a reasonable pupil to experience a substantially detrimental effect on his or her physical or mental health.

(C) Causing a reasonable pupil to experience substantial interference with his or her academic performance.

(D) Causing a reasonable pupil to experience substantial interference with his or her ability to participate in or benefit from the services, activities, or privileges provided by a school.

(2) (A) "Electronic act" means the creation and transmission originated on or off the schoolsite, by means of an electronic device, including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager, of a communication, including, but not limited to, any of the following:

(i) A message, text, sound, or image.

(ii) A post on a social network Internet Web site, including, but not limited to:

(I) Posting to or creating a burn page. "Burn page" means an Internet Web site created for the purpose of having one or more of the effects listed in paragraph (1).

(II) Creating a credible impersonation of another actual pupil for the purpose of having one or more of the effects listed in paragraph (1). "Credible impersonation" means to knowingly and without consent impersonate a pupil for the purpose of bullying the pupil and such that another pupil would reasonably believe, or has reasonably believed, that the pupil was or is the pupil who was impersonated.

(III) Creating a false profile for the purpose of having one or more of the effects listed in paragraph (1). "False profile" means a profile of a fictitious pupil or a profile using the likeness or attributes of an actual pupil other than the pupil who created the false profile.

(B) Notwithstanding paragraph (1) and subparagraph (A), an electronic act shall not constitute pervasive conduct solely on the basis that it has been transmitted on the Internet or is currently posted on the Internet.

(3) "Reasonable pupil" means a pupil, including, but not limited to, an exceptional needs pupil, who exercises average care, skill, and judgment in conduct for a person of his or her age, or for a person of his or her age with his or her exceptional needs.

(s) A pupil shall not be suspended or expelled for any of the acts enumerated in this section unless the act is related to a school activity or school attendance occurring within a school under the jurisdiction of the superintendent of the school district or principal or occurring within any other school district. A pupil may be suspended or expelled for acts that are enumerated in this section and related to a school activity or school attendance that occur at any time, including, but not limited to, any of the following:

(1) While on school grounds.

(2) While going to or coming from school.

(3) During the lunch period whether on or off the campus.

(4) During, or while going to or coming from, a school-sponsored activity.

(t) A pupil who aids or abets, as defined in Section 31 of the Penal Code, the infliction or attempted infliction of physical injury to another person may be subject to suspension, but not expulsion, pursuant to this section, except that a pupil who has been adjudged by a juvenile court to have committed, as an aider and abettor, a crime of physical violence in which the victim suffered great bodily injury or serious bodily injury shall be subject to discipline pursuant to subdivision (a).

(u) As used in this section, "school property" includes, but is not limited to, electronic files and databases.

(v) For a pupil subject to discipline under this section, a superintendent of the school district or principal may use his or her discretion to provide alternatives to suspension or expulsion that are age appropriate and designed to address and correct the pupil's specific misbehavior as specified in Section 48900.5.

(w) It is the intent of the Legislature that alternatives to suspension or expulsion be imposed against a pupil who is truant, tardy, or otherwise absent from school activities.



AB-1089 Foster care. (2013-2014)

SECTION 1. *The Legislature finds and declares the following:*

(a) *Children in foster care are at increased risk for serious developmental delays and disabilities as a result of abuse, neglect, and prenatal exposure to drugs.*

(b) *Timely and consistent provision of quality remediation and therapeutic services for children with developmental delays and disabilities, such as those provided by California's regional centers, have been shown to greatly improve outcomes for these children. Unfortunately, children in foster care are at increased risk for a disruption in services due to frequent placement changes. These disruptions cause dramatic setbacks in a child's development and well-being.*

(c) *It is imperative that children in foster care experience minimal interruptions in developmental services. If circumstances do not allow for advance planning during the transfer from one regional center's catchment area to another's, it is critical to facilitate continuity of services with a minimum of interruption.*

(d) *Therefore, regional centers shall put a high priority on minimizing delays in providing developmental services to children in the foster care system.*

SEC. 2. *Section 95014 of the Government Code, as added by Section 3 of Chapter 30 of the Statutes of 2014, is amended to read:*

95014. (a) The term "eligible infant or toddler" for the purposes of this title means infants and toddlers from birth through two years of age, for whom a need for early intervention services, as specified in the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431 et seq.) and applicable regulations, is documented by means of assessment and evaluation as required in Sections 95016 and 95018 and who meet one of the following criteria:

(1) Infants and toddlers with a developmental delay in one or more of the following five areas: cognitive development; physical and motor development, including vision and hearing; communication development; social or emotional development; or adaptive development. Developmentally delayed infants and toddlers are those who are determined to have a significant difference between the expected level of development for their age and their current level of functioning. This determination shall be made by qualified personnel who are recognized by, or part of, a multidisciplinary team, including the parents. A significant difference is defined as a 33-percent delay in one or more developmental areas.

(2) Infants and toddlers with established risk conditions, who are infants and toddlers with conditions of known etiology or conditions with established harmful developmental consequences. The conditions shall be diagnosed by a qualified personnel recognized by, or part of, a multidisciplinary team, including the parents. The condition shall be certified as having a high probability of leading to developmental delay if the delay is not evident at the time of diagnosis.

(3) Infants and toddlers who are at high risk of having substantial developmental disability due to a combination of biomedical risk factors, the presence of which are diagnosed by qualified personnel recognized by, or part of, a multidisciplinary team, including the parents.

(b) Regional centers and local educational agencies shall be responsible for ensuring that eligible infants and toddlers are served as follows:

(1) The State Department of Developmental Services and regional centers shall be responsible for the provision of appropriate early intervention services that are required for California's participation in Part C of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431 et seq.) for all infants eligible under Section 95014, except for those infants with solely a visual, hearing, or severe orthopedic impairment, or any combination of those impairments, who meet the criteria in Sections 56026 and 56026.5 of the Education Code, and in Section 3030(a), (b), (d), or (e) of, and Section 3031 of, Title 5 of the California Code of Regulations.

(2) The State Department of Education and local educational agencies shall be responsible for the provision of appropriate early intervention services in accordance with Part C of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431 et seq.) for infants with solely a visual, hearing, or severe orthopedic impairment, or any combination of those impairments, who meet the criteria in Sections 56026 and 56026.5 of the Education Code, and in Section 3030(a), (b), (d), or (e) of, and Section 3031 of, Title 5 of the California Code of Regulations, and who are not eligible for services under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code).

(3) The transfer procedures and timelines, as provided under subdivision (d) of Section 4643.5 of the Welfare and Institutions Code, shall apply if the circumstances pertaining to an eligible infant or toddler are that the child (A) has an order for foster care placement, is awaiting foster care placement, or is placed in out-of-home care through voluntary placement as defined in subdivision (o) of Section 11400 of the Welfare and Institutions Code, and (B) transfers between regional centers.

(c) For infants and toddlers and their families who are eligible to receive services from both a regional center and a local educational agency, the regional center shall be the agency responsible for providing or purchasing appropriate early intervention services that are beyond the mandated responsibilities of local educational agencies and that are required for California's participation in Part C of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431 et seq.). The local educational agency shall provide special education services up to its funded program capacity as established annually by the State Department of Education in consultation with the State Department of Developmental Services and the Department of Finance.

(d) No agency or multidisciplinary team, including any agency listed in Section 95012, shall presume or determine eligibility, including eligibility for medical services, for any other agency. However, regional centers and local educational agencies shall coordinate intake, evaluation, assessment, and individualized family service plans for infants and toddlers and their families who are served by an agency.

(e) Upon termination of the program pursuant to Section 95003, the State Department of Developmental Services shall be responsible for the payment of services pursuant to this title.

(f) This section shall become operative on January 1, 2015.

SEC. 3. Section 4643.5 of the Welfare and Institutions Code is amended to read:

4643.5. (a) If a consumer is or has been determined to be eligible for services by a regional center, he or she shall also be considered eligible by any other regional center if he or she has moved to another location within the state.

(b) An individual who is determined by any regional center to have a developmental disability shall remain eligible for services from regional centers unless a regional center, following a comprehensive reassessment, concludes that the original determination that the individual has a developmental disability is clearly erroneous.

(c) Whenever a consumer transfers from one regional center catchment area to another, the level and types of services and supports specified in the consumer's individual program plan (*IPP*) shall be authorized and secured, if available, pending the development of a new ~~individual program plan~~ *IPP* for the consumer. If these services and supports do not exist, the regional center shall convene a meeting to develop a new ~~individual program plan~~ *IPP* within 30 days. Prior to approval of the new ~~individual program plan~~, *IPP*, the regional center shall provide alternative services and supports that best meet the ~~individual program plan~~ *IPP* objectives in the least restrictive setting. The department shall develop guidelines that describe the responsibilities of regional centers in ensuring a smooth transition of services and supports from one regional center to another, including, but not limited to, pretransferring planning and a dispute resolution process to resolve disagreements between regional centers regarding their responsibilities related to the transfer of case management services.

(d) (1) The following procedures shall apply to a consumer who is transferred from one regional center's catchment area to a different catchment area and meets any of the following conditions:

(A) The consumer has an order for foster care placement.

(B) The consumer is awaiting foster care placement.

(C) The consumer is placed in out-of-home care through voluntary placement as defined in subdivision (o) of Section 11400.

(2) (A) The county social worker or county probation officer shall immediately send a notice of relocation to the consumer's regional center of origin, which is the sending regional center, regarding a consumer who meets the criteria set forth in paragraph (1). The consumer's court-appointed attorney may also provide written notice of relocation. The notice of relocation shall be deemed received when the sending regional center receives written notice of relocation.

(B) Upon receiving the notice of relocation, the sending regional center shall immediately send a notice of transfer, and records needed for the planning process, including, but not limited to, the current IPP or individualized family services plan (IFSP), assessments, contact information for the consumer, the caregiver, the consumer's legal guardian, the current developmental services decisionmaker, and the current educational rights holder, by priority mail, facsimile, or email, to the receiving regional center, which is the regional center in the catchment area that the child will be transferred to.

(C) (i) The receiving regional center shall provide the sending regional center with contact information for a staff member who is available to confer with the planning team at the sending regional center regarding the types of services and providers available to address the service needs of the consumer in his or her new residential location.

(ii) Within 14 days of the notice of transfer, the receiving regional center shall provide the sending regional center with information regarding appropriate vendors and services to meet the needs of the consumer.

(iii) The sending regional center shall confer with the planning team and, using information provided by the receiving regional center, determine whether changes to the current IPP or IFSP are needed to meet the service needs of the consumer in the new residential location.

(iv) Prior to transfer of case management, the sending regional center shall ensure that services needed to support the consumer in the new residential location are included in the IPP or IFSP and the consumer is receiving the services and supports listed in the new or revised IPP or IFSP.

(3) (A) In the case of a consumer receiving services under this division, notwithstanding subdivision (g) of Section 4646, the sending regional center shall make every reasonable effort to initiate services, as provided for in the consumer's current IPP, as soon as possible following the notice of transfer to a new catchment area, but no later than 30 days from the date of notice of transfer. Efforts shall begin in advance of the IPP meeting. If all services identified in the consumer's IPP have not been initiated within 30 calendar days of the notice of transfer, the regional center shall report to the court of jurisdiction as described in subparagraph (B).

(B) If all services identified in the consumer's IPP have not been initiated within 30 calendar days after the notice of transfer, the sending regional center shall report in writing to the court, the county social worker or probation officer, as applicable, and the developmental services decisionmaker, all services that are being provided to the consumer, and the process to secure any additional services that have been identified in the consumer's IPP but not yet initiated. If all services identified in the consumer's IPP have not been initiated within 30 days, the regional center shall report in writing to the court, county social worker, probation officer, as applicable, and the developmental services decisionmaker at 30-day intervals until all services are initiated.

(C) (i) Services shall continue to be provided pursuant to subparagraph (A), pending the court's appointment of a developmental services decisionmaker, pursuant to subdivision (g) of Section 319, subdivision (a) of Section 361, or subdivision (b) of Section 726.

(ii) If the regional center is unable to obtain confirmation of the parent's, guardian's, or current developmental services decisionmaker's participation in the IPP meeting, the regional center shall notify the court having jurisdiction, the county placing agency, and the consumer's attorney that the appointment of a new developmental services decisionmaker may be necessary.

(4) In the case of a consumer receiving services under the California Early Intervention Program pursuant to Title 14 (commencing with Section 95000) of the Government Code, the following procedures shall apply:

(A) The sending regional center shall make every reasonable effort to initiate services, as provided for in the consumer's current IFSP, as soon as possible following the notice of transfer but no later than 30 calendar days from the date of notice of transfer. Efforts shall begin in advance of the IFSP meeting. If all services identified in the consumer's IFSP have not been initiated within 30 calendar days of the notice of transfer, the regional center shall report to the court of jurisdiction as described in subparagraph (B).

(B) If all services identified in the consumer's IFSP have not been initiated within 30 calendar days of the notice of transfer, the sending regional center shall report in writing to the court, the county social worker or probation

officer, as applicable, and the educational rights holder, all services that are being provided to the consumer, and the process to secure any additional services that have been identified in the consumer's IFSP but not initiated. If all services identified in the consumer's IFSP have not been initiated within 30 days, the regional center shall report in writing to the court, county social worker, probation officer, as applicable, and the educational rights holder at 30-day intervals until all services are initiated.

(C) (i) Services not requiring consent shall continue to be provided pursuant to subparagraph (A) pending the court's appointment of an educational rights holder, pursuant to subdivision (g) of Section 319, subdivision (a) of Section 361, or subdivision (b) of Section 726.

(ii) If the regional center is unable to obtain confirmation of the parent's, guardian's, or current educational rights holder participation in the IFSP meeting, the regional center shall notify the court of jurisdiction, the county placing agency, and the consumer's attorney that the appointment of a new educational rights holder may be necessary.

(e) For purposes of this section, the following definitions shall apply:

(1) "Consumer" refers to individuals as defined in Section 4512 and any eligible infant or toddler, as defined in Section 95014 of the Government Code.

(2) "Initiation of services" means the point at which the consumer begins to receive a particular service and may include assessment procedures for services, if necessary, if those services begin immediately following the completion of the assessment.

(3) "Notice of relocation" means a written notice informing a regional center that currently serves a consumer described in subdivision (d) that the consumer has been relocated to a foster home that is located in a catchment area that is not served by that regional center. "Notice of relocation" includes, at a minimum, the following information:

(A) The consumer's name, date of birth, and current address.

(B) The name of the consumer's caregiver.

(C) The court of jurisdiction.

(D) The name of, and contact information for, the consumer's educational rights holder or developmental services decisionmaker, if applicable.

(E) The name of, and contact information for, any person who may provide authorization and consent for the release of the consumer's regional center records or vendor assessment records, or both.

(4) "Notice of transfer" means a written notice that a consumer described in paragraph (1) of subdivision (d) is transferring from a regional center located in one catchment area to a regional center located in a different catchment area and includes, at a minimum, the following information:

(A) The consumer's name and date of birth.

(B) The name of, and contact information for, the consumer's parent, or the consumer's educational rights holder or developmental services decisionmaker, if applicable.

(C) The name of, and contact information for, the consumer's current caregiver.

(D) A copy of the consumer's current IFSP or IPP.

(E) The name of, and contact information for, the child's county social workers.

SEC. 4. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.



California
LEGISLATIVE INFORMATION

AB-1687 Persons with Developmental Disabilities Bill of Rights. (2013-2014)

SECTION 1. *The heading of Chapter 1 (commencing with Section 4500) of Division 4.5 of the Welfare and Institutions Code is amended to read:*

CHAPTER 1. Title and Intent

SEC. 2. *The heading of Chapter 1.3 (commencing with Section 4502) is added to Division 4.5 of the Welfare and Institutions Code, to read:*

CHAPTER 1.3. Persons With Developmental Disabilities Bill of Rights

SEC. 3. Section 4502 of the Welfare and Institutions Code is amended to read:

4502. (a) Persons with developmental disabilities have the same legal rights and responsibilities guaranteed all other individuals by the United States Constitution and laws and the Constitution and laws of the State of California. ~~No~~ *An* otherwise qualified person by reason of having a developmental disability shall *not* be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or ~~activity, which activity that~~ receives public funds.

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

~~(a)~~ **(1)** A right to treatment and habilitation services and supports in the least restrictive environment. Treatment and habilitation services and supports should foster the developmental potential of the person and be directed toward the achievement of the most independent, productive, and normal lives possible. Such services shall protect the personal liberty of the individual and shall be provided with the least restrictive conditions necessary to achieve the purposes of the treatment, services, or supports.

~~(b)~~ **(2)** A right to dignity, privacy, and humane care. To the maximum extent possible, treatment, services, and supports shall be provided in natural community settings.

~~(c)~~ **(3)** A right to participate in an appropriate program of publicly supported education, regardless of degree of disability.

~~(d)~~ **(4)** A right to prompt medical care and treatment.

~~(e)~~ **(5)** A right to religious freedom and practice.

~~(f)~~ **(6)** A right to social interaction and participation in community activities.

~~(g)~~ **(7)** A right to physical exercise and recreational opportunities.

~~(h)~~ **(8)** A right to be free from harm, including unnecessary physical restraint, or isolation, excessive medication, abuse, or neglect.

~~(i)~~ **(9)** A right to be free from hazardous procedures.

~~(j)~~ **(10)** A right to make choices in their own lives, including, but not limited to, where and with whom they live, their relationships with people in their community, the way they spend their time, including education, employment, and leisure, the pursuit of their personal future, and program planning and implementation.

(11) *A right to a prompt investigation of any alleged abuse against them.*

SEC. 4. *The heading of Chapter 1.6 (commencing with Section 4507) is added to Division 4.5 of the Welfare and Institutions Code, to read:*

CHAPTER 1.6. General Provisions



California LEGISLATIVE INFORMATION

AB-1806 Pupil services: homeless children or youth. (2013-2014)

SECTION 1. Section 48915.5 of the Education Code is amended to read:

48915.5. (a) An individual with exceptional needs, as defined in Section 56026, may be suspended or expelled from school in accordance with Section 1415(k) of Title 20 of the United States Code, the discipline provisions contained in Sections 300.530 to 300.537, inclusive, of Title 34 of the Code of Federal Regulations, and other provisions of this part that do not conflict with federal law and regulations.

(b) A free appropriate public education for individuals with exceptional needs suspended or expelled from school shall be in accordance with Section 1412(a)(1) of Title 20 of the United States Code and Section 300.530(d) of Title 34 of the Code of Federal Regulations.

(c) If an individual with exceptional needs is excluded from schoolbus transportation, the pupil is entitled to be provided with an alternative form of transportation at no cost to the pupil or parent or guardian provided that transportation is specified in the pupil's individualized education program.

(d) If the individual with exceptional needs is a foster child, as defined in Section 48853.5, and the local educational agency has proposed a change of placement due to an act for which a decision to recommend expulsion is at the discretion of the principal or the district superintendent of schools, the attorney for the individual with exceptional needs and an appropriate representative of the county child welfare agency shall be invited to participate in the individualized education program team meeting that makes a manifestation determination pursuant to Section 1415(k) of Title 20 of the United States Code. The invitation may be made using the most cost-effective method possible, which may include, but is not limited to, electronic mail or a telephone call.

(e) If the individual with exceptional needs is a homeless child or youth, as defined in Section 11434a(2) of Title 42 of the United States Code, and the local educational agency has proposed a change of placement due to an act for which a decision to recommend expulsion is at the discretion of the principal or the district superintendent of schools, the local educational agency liaison for homeless children and youth designated pursuant to Section 11432(g)(1)(J)(ii) of Title 42 of the United States Code shall be invited to participate in the individualized education program team meeting that makes a manifestation determination pursuant to Section 1415(k) of Title 20 of the United States Code. The invitation may be made using the most cost-effective method possible, which may include, but is not limited to, electronic mail or a telephone call.

SEC. 2. Section 48918.1 of the Education Code is amended to read:

48918.1. (a) (1) If the decision to recommend expulsion is a discretionary act and the pupil is a foster child, as defined in Section 48853.5, the governing board of the school district shall provide notice of the expulsion hearing to the pupil's attorney and an appropriate representative of the county child welfare agency at least 10 calendar days before the date of the hearing. The notice may be made using the most cost-effective method possible, which may include, but is not limited to, electronic mail or a telephone call.

~~(b)~~ (2) If a recommendation of expulsion is required and the pupil is a foster child, as defined in Section 48853.5, the governing board of the school district may provide notice of the expulsion hearing to the pupil's attorney and an appropriate representative of the county child welfare agency at least 10 calendar days before the date of the hearing. The notice may be made using the most cost-effective method possible, which may include, but is not limited to, electronic mail or a telephone call.

(b) (1) If the decision to recommend expulsion is a discretionary act and the pupil is a homeless child or youth, as defined in Section 11434a(2) of Title 42 of the United States Code, the governing board of the school district shall provide notice of the expulsion hearing to the local educational agency liaison for homeless children and youth designated pursuant to Section 11432(g)(1)(J)(ii) of Title 42 of the United States Code at least 10 calendar days before the date of the hearing. The notice may be made using the most cost-effective method possible, which may include, but is not limited to, electronic mail or a telephone call.

(2) If a recommendation of expulsion is required and the pupil is a homeless child or youth, as defined in Section 11434a(2) of Title 42 of the United States Code, the governing board of the school district may provide notice of the expulsion hearing to the local educational agency liaison for homeless children and youth designated pursuant to Section 11432(g)(1)(J)(ii) of Title 42 of the United States Code at least 10 calendar days before the date of the hearing. The notice may be made using the most cost-effective method possible, which may include, but is not limited to, electronic mail or a telephone call.

SEC. 3. Section 51225.1 of the Education Code is amended to read:

51225.1. (a) Notwithstanding any other law, a school district shall exempt a pupil in foster care, as defined in Section 51225.2, ~~who-~~ *or a pupil who is a homeless child or youth, as defined in Section 11434a(2) of Title 42 of the United States Code, who* transfers between schools any time after the completion of the pupil's second year of high school from all coursework and other requirements adopted by the governing board of the school district that are in addition to the statewide coursework requirements specified in Section 51225.3, unless the school district makes a finding that the pupil is reasonably able to complete the school district's graduation requirements in time to graduate from high school by the end of the pupil's fourth year of high school.

(b) If the school district determines that the pupil in foster ~~care-is-~~ *care, or the pupil who is a homeless child or youth, is* reasonably able to complete the school district's graduation requirements within the pupil's fifth year of high school, the *school* district shall do all of the following:

(1) Inform the pupil of his or her option to remain in school for a fifth year to complete the school district's graduation requirements.

(2) Inform the pupil, and the person holding the right to make educational decisions for the pupil, about how remaining in school for a fifth year to complete the school district's graduation requirements will affect the pupil's ability to gain admission to a postsecondary educational institution.

(3) Provide information to the pupil about transfer opportunities available through the California Community Colleges.

(4) Permit the pupil to stay in school for a fifth year to complete the school district's graduation requirements upon agreement with the pupil, if the pupil is 18 years of age or older, or, if the pupil is under 18 years of age, upon agreement with the person holding the right to make educational decisions for the pupil.

(c) To determine whether a pupil in foster ~~care-is-~~ *care, or a pupil who is a homeless child or youth, is* in the third or fourth year of high school, either the number of credits the pupil has earned to the date of transfer or the length of the pupil's school enrollment may be used, whichever will qualify the pupil for the exemption.

(d) *(1)* Within 30 calendar days of the date that a pupil in foster care who may qualify for the exemption from local graduation requirements pursuant to this section transfers into a school, the school district shall notify the pupil, the person holding the right to make educational decisions for the pupil, and the pupil's social worker, of the availability of the exemption and whether the pupil qualifies for an exemption.

(2) Within 30 calendar days of the date that a pupil who is a homeless child or youth may qualify for the exemption from local graduation requirements pursuant to this section transfers into a school, the school district shall notify the pupil, the person holding the right to make educational decisions for the pupil, and the local educational agency liaison for homeless children and youth designated pursuant to Section 11432(g)(1)(J)(ii) of Title 42 of the United States Code, of the availability of the exemption and whether the pupil qualifies for an exemption.

(e) If a pupil in foster ~~care-is-~~ *care, or a pupil who is a homeless child or youth, is* exempted from local graduation requirements pursuant to this section and completes the statewide coursework requirements specified in Section 51225.3 before the end of his or her fourth year in high school and that pupil would otherwise be entitled to remain in attendance at the school, a school or school district shall not require or request that the pupil graduate before the end of his or her fourth year of high school.

(f) If a pupil in foster ~~care-is-~~ *care, or a pupil who is a homeless child or youth, is* exempted from local graduation requirements pursuant to this section, the school district shall notify the pupil and the person holding the right to make educational decisions for the pupil how any of the requirements that are waived will affect the pupil's ability to gain admission to a postsecondary educational institution and shall provide information about transfer opportunities available through the California Community Colleges.

(g) A pupil in foster ~~care who is~~ *care, or a pupil who is a homeless child or youth, who is* eligible for the exemption from local graduation requirements pursuant to this section and would otherwise be entitled to remain in attendance at the school shall not be required to accept the exemption or be denied enrollment ~~in~~ *in,* or the ability to ~~complete~~ *complete,* courses for which he or she is otherwise eligible, including courses necessary to attend an institution of higher education, regardless of whether those courses are required for statewide graduation requirements.

(h) If a pupil in foster ~~care is~~ *care, or a pupil who is a homeless child or youth, is* not exempted from local graduation requirements or has previously declined the exemption pursuant to this section, a school district shall exempt the pupil at any time if an exemption is requested by the pupil and the pupil qualifies for the exemption.

(i) If a pupil in foster ~~care is~~ *care, or a pupil who is a homeless child or youth, is* exempted from local graduation requirements pursuant to this section, a school district shall not revoke the exemption.

(j) If a pupil in foster care is exempted from local graduation requirements pursuant to this section, the exemption shall continue to apply after the termination of the court's jurisdiction over the pupil while he or she is enrolled in school or if the pupil transfers to another school or school district.

(k) A school district shall not require or request a pupil in foster ~~care~~ *care, or a pupil who is a homeless child or youth,* to transfer schools in order to qualify the pupil for an exemption pursuant to this section.

(l) *(1)* A pupil in foster care, the person holding the right to make educational decisions for the pupil, the pupil's social worker, or the pupil's probation officer shall not request a transfer solely to qualify the pupil for an exemption pursuant to this section.

(2) A pupil who is a homeless child or youth, the person holding the right to make educational decisions for the pupil, or the local educational agency liaison for homeless children and youth designated pursuant to Section 11432(g)(1)(J)(ii) of Title 42 of the United States Code, shall not request a transfer solely to qualify the pupil for an exemption pursuant to this section.

SEC. 4. Section 51225.2 of the Education Code is amended to read:

51225.2. (a) *(1)* For purposes of this section, "pupil in foster care" means ~~any a~~ *any a* child who has been removed from his or her home pursuant to Section 309 of the Welfare and Institutions Code, is the subject of a petition filed under Section 300 or 602 of the Welfare and Institutions Code, or has been removed from his or her home and is the subject of a petition filed under Section 300 or 602 of the Welfare and Institutions Code.

(2) For purposes of this section, "pupil who is a homeless child or youth" means a pupil who meets the definition of "homeless child or youth" in Section 11434a(2) of Title 42 of the United States Code.

(b) Notwithstanding any other law, a school district and county office of education shall accept coursework satisfactorily completed by a pupil in foster care ~~or a pupil who is a homeless child~~ while attending another public school, a juvenile court school, or a nonpublic, nonsectarian school or agency even if the pupil did not complete the entire course and shall issue that pupil full or partial credit for the coursework completed.

(c) The credits accepted pursuant to subdivision (b) shall be applied to the same or equivalent course, if applicable, as the coursework completed in the prior public school, juvenile court school, or nonpublic, nonsectarian school or agency.

(d) A school district or county office of education shall not require a pupil in foster care ~~or a pupil who is a homeless child or youth~~ to retake a course if the pupil has satisfactorily completed the entire course in a public school, a juvenile court school, or a nonpublic, nonsectarian school or agency. If the pupil did not complete the entire course, the school district or county office of education shall not require the pupil to retake the portion of the course the pupil completed unless the school district or county office of education, in consultation with the holder of educational rights for the pupil, finds that the pupil is reasonably able to complete the requirements in time to graduate from high school. When partial credit is awarded in a particular course, the pupil in foster care ~~or the pupil who is a homeless child or youth~~ shall be enrolled in the same or equivalent course, if applicable, so that the pupil may continue and complete the entire course.

(e) A pupil in foster care ~~or a pupil who is a homeless child or youth~~ shall not be prevented from retaking or taking a course to meet the eligibility requirements for admission to the California State University or the University of California.

SEC. 5. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.



SB-1093 Developmental services: regional centers: culturally and linguistically competent services. (2013-2014)

SECTION 1. Section 4519.5 of the Welfare and Institutions Code is amended to read:

4519.5. (a) The department and the regional centers shall annually collaborate to compile data in a uniform manner relating to purchase of service authorization, utilization, and expenditure by each regional center with respect to all of the following:

(1) The age of consumer, categorized by the following:

(A) Birth to age two, inclusive.

(B) Three to 21, inclusive.

(C) Twenty-two and older.

(2) Race or ethnicity of the consumer.

(3) Primary language spoken by the consumer, and other related details, as feasible.

(4) Disability detail, in accordance with the categories established by subdivision (a) of Section 4512, and, if applicable, a category specifying that the disability is unknown.

(5) Residence type, subcategorized by age, race or ethnicity, and primary language.

(b) The data reported pursuant to subdivision (a) shall also include the number and percentage of individuals, categorized by age, race or ethnicity, and disability, *and by residence type, as set forth in paragraph (5) of subdivision (a)*, who have been determined to be eligible for regional center services but are not receiving purchase of service funds.

(c) By March 31, 2013, each regional center shall post the data described in this section that is specific to the regional center on its Internet Web site. Commencing on December 31, 2013, each regional center shall annually post this data by December 31. *Each regional center shall maintain all previous years' data on its Internet Web site.*

(d) By March 31, 2013, the department shall post the information described in this section on a statewide basis on its Internet Web site. Commencing December 31, 2013, the department shall annually post this information by December 31. The department shall *maintain all previous years' data on its Internet Web site. The department shall* also post notice of any regional center stakeholder meetings on its Internet Web site.

(e) Within three months of compiling the data with the department, and annually thereafter, each regional center shall meet with stakeholders in ~~a public meeting~~ *one or more public meetings* regarding the data. *The meeting or meetings shall be held separately from any meetings held pursuant to Section 4660. The regional center shall provide participants of these meetings with the data and any associated information, and shall conduct a discussion of the data and the associated information in a manner that is culturally and linguistically appropriate for that community, including providing alternative communication services, as required by Sections 11135 to 11139.7, inclusive, of the Government Code and implementing regulations.* Regional centers shall inform the department of the scheduling of those public meetings 30 days prior to the meeting. Notice of the meetings shall also be posted on the regional center's Internet Web site 30 days prior to the meeting and shall be sent to individual stakeholders and groups representing underserved communities in a timely manner. *Each regional center shall, in holding the meetings required by this subdivision, consider the language needs of the community and shall schedule the meetings at times and locations designed to result in a high turnout by the public and underserved communities.*

(f) (1) Each regional center shall annually report to the department regarding its implementation of the requirements of this section. The report shall include, but shall not be limited to, all of the following:

(A) *Actions the regional center took to improve public attendance and participation at stakeholder meetings, including, but not limited to, attendance and participation by underserved communities.*

(B) *Copies of minutes from the meeting and attendee comments.*

(C) *Whether the data described in this section indicates a need to reduce disparities in the purchase of services among consumers in the regional center's catchment area. If the data does indicate that need, the regional center's recommendations and plan to promote equity, and reduce disparities, in the purchase of services.*

(2) *Each regional center and the department shall annually post the reports required by paragraph (1) on its Internet Web site by August 31.*

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

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

(i) Assist consumers to achieve life quality outcomes.

(ii) Achieve meaningful progress above the current baselines.

(iii) Develop services and supports identified as necessary to meet identified ~~needs~~. *needs, including culturally and linguistically appropriate services and supports.*

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

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

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

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

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

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

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

(2) Levels of probationary status for regional centers that do not meet, or are at risk of not meeting, performance standards. The department shall require that corrective action be taken by any regional center which is placed on probation. Corrective action may include, but is not limited to, mandated consultation with designated representatives of the Association of Regional Center Agencies or a management team designated by the department, or both. The department shall establish the specific timeline for the implementation of corrective action and monitor its implementation. When a regional center is placed on probation, the department shall provide the appropriate area board *and the clients' rights advocacy contractor identified in Section 4433* with a copy of the correction plan, timeline, and any other action taken by the department relating to the probationary status of the regional center.

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

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

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

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

(B) Each regional center's performance objectives for compliance with the criteria set forth in ~~paragraph~~ *paragraphs* (1) and (2) 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. 3. *Section 4688.05 is added to the Welfare and Institutions Code, to read:*

4688.05. *Regional centers shall provide independent living skills services to an adult consumer, consistent with his or her individual program plan, that provide the consumer with functional skills training that enables him or her to acquire or maintain skills to live independently in his or her own home, or to achieve greater independence while living in the home of a parent, family member, or other person.*



California
LEGISLATIVE INFORMATION

SB-1176 Health care coverage: cost sharing: monitoring. (2013-2014)

SECTION 1. Section 1367.0061 is added to the Health and Safety Code, immediately following Section 1367.006, to read:

1367.0061. (a) This section shall apply to nongrandfathered individual and group health care service plans and to specialized health care service plans that provide coverage for essential health benefits, as defined in Section 1367.005, and that are issued, amended, or renewed on or after January 1, 2015.

(b) The health care service plan shall be responsible for monitoring the accrual of out-of-pocket costs toward the annual limit on out-of-pocket costs as provided in Section 1367.006.

(1) For cost sharing attributed to in-network providers, including contracted vendors, that count toward the annual limit on out-of-pocket costs, the health care service plan shall be solely responsible for monitoring the accrual of out-of-pocket costs and shall not require consumers to track or monitor the accumulation of cost sharing for covered essential health benefits attributed to in-network providers, including contracted vendors.

(2) For cost sharing attributed to out-of-network providers who are providing emergency services consistent with Section 1371.4 or cost sharing for out-of-network providers otherwise providing covered benefits arranged by the health care service plan, subject to the annual limit on out-of-pocket expenses as specified in Section 1367.006, the health care service plan shall accept claims from the provider or information from the consumer with respect to cost sharing.

(c) If the cost sharing for covered essential health benefits attributable to an enrollee exceeds the maximum annual out-of-pocket limits, the health care service plan shall reimburse the enrollee no later than five working days after the health care service plan is required to reimburse the claim or notify the claimant that the claim is contested or denied, as specified in Section 1371.

(d) If the cost sharing for covered essential health benefits attributable to an enrollee meets or exceeds the maximum annual out-of-pocket limits, the health care service plan shall notify the enrollee no later than five working days after the health care service plan is required to reimburse the claim or notify the claimant that the claim is contested or denied, as specified in Section 1371.

(e) The enrollee shall have the opportunity to review the accrual of cost sharing and provide additional information regarding cost sharing that should be accrued to the annual out-of-pocket limit.

(f) Nothing in this section shall be construed as requiring the enrollee to determine or identify when the maximum annual out-of-pocket limit for covered benefits has been reached.

SEC. 2. Section 10112.281 is added to the Insurance Code, immediately following Section 10112.28, to read:

10112.281. (a) This section shall apply to nongrandfathered individual and group health insurers and to specialized health insurers that provide coverage for essential health benefits, as defined in Section 10112.27, and that are issued, amended, or renewed on or after January 1, 2015.

(b) The health insurer shall be responsible for monitoring the accrual of out-of-pocket costs toward the annual limit on out-of-pocket costs as provided in Section 10112.28.

(1) For cost sharing attributed to in-network providers, including contracted vendors, that count toward the annual limit on out-of-pocket costs, the health insurer shall be solely responsible for monitoring the accrual of out-of-pocket costs and shall not require consumers to track or monitor the accumulation of cost sharing for covered essential health benefits attributed to in-network providers, including contracted vendors.

(2) For cost sharing attributed to out-of-network providers who are providing emergency services consistent with Section 10112.7 or otherwise providing covered benefits arranged by the health insurer, subject to the

annual limit on out-of-pocket expenses as specified in Section 10112.28, the health insurer shall accept claims from the provider or information from the consumer with respect to cost sharing.

(c) If the cost sharing for covered essential health benefits attributable to an insured exceeds the maximum annual out-of-pocket limits, the health insurer shall reimburse the insured no later than five working days after the health insurer is required to reimburse the claim or notify the claimant that the claim is contested or denied, as specified in Section 10123.13.

(d) If the cost sharing for covered essential health benefits attributable to an insured meets or exceeds the maximum annual out-of-pocket limits, the health insurer shall notify the insured no later than five working days after the health insurer is required to reimburse the claim or notify the claimant that the claim is contested or denied, as specified in Section 10123.13.

(e) The insured shall have the opportunity to review the accrual of cost sharing and provide additional information regarding cost sharing that should be accrued to the annual out-of-pocket limit.

(f) Nothing in this section shall be construed as requiring the insured to determine or identify when the maximum annual out-of-pocket limit for covered benefits has been reached.

SEC. 3. *No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.*



California
LEGISLATIVE INFORMATION

AJR-36 Special Minimum Wage Certificate Program. (2013-2014)

AMENDED IN SENATE AUGUST 05, 2014

AMENDED IN SENATE JUNE 18, 2014

AMENDED IN ASSEMBLY MARCH 25, 2014

CALIFORNIA LEGISLATURE— 2013–2014 REGULAR SESSION

ASSEMBLY JOINT RESOLUTION

No. 36

**Introduced by Assembly Member Gonzalez
(Coauthor: Senator Hueso)**

February 19, 2014

Relative to wages.

LEGISLATIVE COUNSEL'S DIGEST

AJR 36, as amended, Gonzalez. Special Minimum Wage Certificate Program.

This measure would urge the United States Congress to phase out the use of the Special Minimum Wage Certificate provision and eventually repeal Section 14(c) of the 1938 Fair Labor Standards Act.

Fiscal Committee: no

WHEREAS, Meaningful employment, and the wages associated with it, can be an integral part of enabling human dignity and creating more meaningful lives for disabled persons who choose to work; and

WHEREAS, The State of California has supported opportunities for employment for all disabled workers, specifically in the adoption of the Employment First Policy for the most vulnerable population of disabled workers, which states that "it is the policy of the state that opportunities for integrated, competitive employment shall be given the highest priority for working age individuals with developmental disabilities, regardless of the severity of their disabilities"; and

WHEREAS, The 1938 federal Fair Labor Standards Act sets out in Section 14(c) the ability for entities that employ disabled persons to obtain special minimum wage certificates from the United States Department of Labor's Wage and Hour Division which entitle them to pay a disabled worker less than the legislated minimum wage rate; and

WHEREAS, The 1938 Fair Labor Standards Act's subminimum wage provisions were created in the era of the Great Depression with the intent of subsidizing sheltered workshops which could not afford to pay their workers full wages and, some may argue, incentivizing private companies to employ disabled persons; and

WHEREAS, These special wage rates are calculated according to productivity with no specified wage floor; and

WHEREAS, The productivity-based calculation of a special minimum wage is generally done by a complicated "time study" which entails an administrator comparing how fast a disabled worker is able to complete a certain task compared to nondisabled workers; and

WHEREAS, There are differing work and equipment conditions beyond the worker's control, a lack of oversight and enforcement by the Wage and Hour Division for the special minimum wage certificates, a lack of consistency in the time study tests done by employers, and a singling out of disabled workers given that the general workforce is not subjected to standards of timed productivity; and

WHEREAS, Time study practices used to determine special wage rates are both inconsistent and unfair and the subminimum wages they produce have been described by disabled workers throughout the media as humiliating, degrading, and making them feel like "second-class citizens"; and

WHEREAS, Some entities have claimed that the special minimum wage certificates are an essential stepping stone to permanent and fully paid employment in the general workforce. The Psychiatric Rehabilitation Journal published empirical evidence in 2004 which suggested that sheltered workshops are generally ineffective at progressing the disabled workers, while for other employers the special minimum wage certificates serve as an incentive to exploit disabled workers rather than integrate them into the mainstream economy; and

WHEREAS, Some employers, such as the National Industries for the Blind, have already recognized the exploitive nature of paying disabled workers subminimum wage and have been able to transition to the payment of Federal minimum wage, or higher, to their disabled employees without a significant change in profitability or a reduction in their workforce; and

WHEREAS, These employers have proven that there are workable alternative employment models to Section 14 (c) of the 1938 Fair Labor Standards Act for disabled workers, such as Employment First, which allow for the successful development of individuals by providing quality training and supports for individuals with disabilities to obtain competitive integrated employment, as well as the successful operation of businesses and programs;
~~now, therefore, be it and~~

WHEREAS, The policy developments regarding disabled youth and the need for additional support services, individualized employment plans and training, and the prioritization of competitive integrated employment in the Workforce Innovation and Opportunity Act are consistent with the goals of this resolution and the intent to shift away from the use of subminimum wages and sheltered workshops for disabled individuals, for which the United States Congress should be applauded and encouraged to continue working on legislation to better fulfill these goals and policy direction; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of California requests that the United States Congress should phase out the use of the Special Minimum Wage Certificate provision and eventually repeal Section 14(c) of the 1938 Fair Labor Standards Act to support the goal of competitive integrated employment of people with disabilities through the use of modern practices of vocational training, improved technology, and innovative rehabilitation and employment strategies; and be it further

Resolved, That the Legislature of California requests that prior to and during the phasing out of Section 14(c) of the 1938 Fair Labor Standards Act the United States Congress (1) promote the continuation of existing employment and support models for disabled individuals other than Section 14(c) of the 1938 Fair Labor Standards Act, as well as further identify and develop alternatives of access to a diverse range of employment opportunities, to be in place and widely available prior to the phasing out of Section 14(c) of the 1938 Fair Labor Standards Act; (2) continue to collect comprehensive data that accurately reflects the number of disabled individuals working, the number of disabled individuals seeking employment, and the number of disabled individuals who have expressed an interest in working but who have not yet been successful in locating and securing gainful employment; and (3) continue to utilize strategies which identify the industries and types of work in demand in both the public and private sector, and the skills and abilities of potential workers with disabilities that either exist or need to be developed to move people into these positions; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Speaker of the House of Representatives, to the Majority Leader of the Senate, and to each Senator and Representative from California in the Congress of the United States.



Caring for Military Children with Developmental Disabilities Act of 2014

**Sponsored by Senators Patty Murray, Roy Blunt,
Kirsten Gillibrand, & Marco Rubio**

Behavioral health treatments for children with developmental disabilities are widely recognized as effective therapies that can help children learn the skills to be successful in school, live independently, and find meaningful employment. However, despite the widely-recognized benefits of these treatments, they are not always available for families who receive their health care through TRICARE.

The *American Academy of Pediatrics* and the *National Institute of Mental Health* support behavioral health parity so that evidence based therapies can be accessed by children and youth with developmental disabilities. This includes systematic application of ABA for children with autism spectrum disorder and other developmental disabilities.

Why is this bill needed?

- TRICARE does not provide adequate coverage of behavioral health treatments for children with developmental disabilities. Under current policies, many children are denied care. And, those children who do receive care often receive *less than half* of the prescribed treatment time.
- Coverage of behavioral health treatments in the civilian workforce has developed at a tremendous rate. Thirty-four states and the District of Columbia have laws requiring private insurers to cover ABA as a medically necessary service. The U.S. Office of Personnel Management categorizes ABA as a "medical therapy" and covers ABA for federal employees and their dependents.
- Hundreds of peer-reviewed research articles in behavioral science, health, and education journals during the past 50 years show behavioral health treatment, including applied behavior analysis, is linked to specific and meaningful changes in functioning. These studies demonstrate the effectiveness of behavioral health treatment for children with developmental disabilities. It helps children learn the skills necessary to be successful in school, engage in employment, and live independently.

What would this bill do?

The bill provides TRICARE coverage of certain behavioral health treatments for individuals with developmental disabilities, when prescribed by a physician or a psychologist. The amendment creates a separate discretionary account, "Defense Dependents Developmental Disabilities Account," to pay for the treatments. The cost of this bill in fiscal year 2015 is \$20 million.

113TH CONGRESS
2^D SESSION

S. 2333

To amend title 10, United States Code, to provide for certain behavioral health treatment under TRICARE for children and adults with developmental disabilities.

IN THE SENATE OF THE UNITED STATES

MAY 14, 2014

Mrs. MURRAY (for herself, Mr. BLUNT, Mrs. GILLIBRAND, and Mr. RUBIO) introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To amend title 10, United States Code, to provide for certain behavioral health treatment under TRICARE for children and adults with developmental disabilities.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Caring for Military
5 Children with Developmental Disabilities Act of 2014”.

1 **SEC. 2. BEHAVIORAL HEALTH TREATMENT OF DEVELOP-**
2 **MENTAL DISABILITIES UNDER THE TRICARE**
3 **PROGRAM.**

4 (a) BEHAVIORAL HEALTH TREATMENT OF DEVEL-
5 OPMENTAL DISABILITIES UNDER TRICARE.—Section
6 1077 of title 10, United States Code, is amended by add-
7 ing at the end the following new subsection:

8 “(g)(1) Subject to paragraph (4), in providing health
9 care under subsection (a), the treatment of developmental
10 disabilities (as defined by section 102(8) of the Develop-
11 mental Disabilities Assistance and Bill of Rights Act of
12 2000 (42 U.S.C. 15002(8))), including autism spectrum
13 disorder, shall include behavioral health treatment, includ-
14 ing applied behavior analysis, when prescribed by a physi-
15 cian or psychologist.

16 “(2) In carrying out this subsection, the Secretary
17 shall ensure that—

18 “(A) except as provided by subparagraph (B),
19 behavioral health treatment is provided pursuant to
20 this subsection—

21 “(i) in the case of such treatment provided
22 in a State that requires licensing or certifi-
23 cation of applied behavioral analysts by State
24 law, by an individual who is licensed or certified
25 to practice applied behavioral analysis in ac-
26 cordance with the laws of the State; or

1 “(ii) in the case of such treatment provided
 2 in a State other than a State described in
 3 clause (i), by an individual who is licensed or
 4 certified by a State or accredited national cer-
 5 tification board; and

6 “(B) applied behavior analysis or other behav-
 7 ioral health treatment may be provided by an em-
 8 ployee, contractor, or trainee of a person described
 9 in subparagraph (A) if the employee, contractor, or
 10 trainee meets minimum qualifications, training, and
 11 supervision requirements as set forth in applicable
 12 State law, by an appropriate accredited national cer-
 13 tification board, or by the Secretary.

14 “(3) Nothing in this subsection shall be construed as
 15 limiting or otherwise affecting the benefits provided to a
 16 covered beneficiary under—

17 ~~“(A) this chapter;~~

18 “(B) title XVIII of the Social Security Act (42
 19 U.S.C. 1395 et seq.); or

20 “(C) any other law.

21 “(4)(A) Treatment may be provided under this sub-
 22 section in a fiscal year only to the extent that amounts
 23 are provided in advance in appropriations Acts for the pro-
 24 vision of such treatment for such fiscal year in the Defense
 25 Dependents Developmental Disabilities Account.

1 “(B) Funds for treatment under this subsection may
2 be derived only from the Defense Dependents Develop-
3 mental Disabilities Account.”.

4 (b) DEFENSE DEPENDENTS DEVELOPMENTAL DIS-
5 ABILITIES ACCOUNT.—

6 (1) ESTABLISHMENT.—

7 (A) IN GENERAL.—There is hereby estab-
8 lished on the books of the Treasury an account
9 to be known as the “Defense Dependents De-
10 velopmental Disabilities Account” (in this sub-
11 section referred to as the “Account”).

12 (B) SEPARATE ACCOUNT.—The Account
13 shall be a separate account for the Department
14 of Defense, and shall not be a subaccount with-
15 in the Defense Health Program account of the
16 Department.

17 (2) ELEMENTS.—The Account shall consist of
18 amounts authorized to be appropriated or trans-
19 ferred to the Account.

20 (3) EXCLUDED SOURCES OF ELEMENTS.—
21 Amounts in the Account may not be derived from
22 transfers from the following:

23 (A) The Department of Defense Medicare-
24 Eligible Retiree Health Care Fund under chap-
25 ter 56 of title 10, United States Code.

1 (B) The Coast Guard Retired Pay Ac-
2 count.

3 (C) The National Oceanic and Atmospheric
4 Administration Operations, Research, and Fa-
5 cilities Account.

6 (D) The Public Health Service Retirement
7 Pay and Medical Benefits for Commissioned Of-
8 ficers Account.

9 (4) AVAILABILITY.—Amounts in the Account
10 shall be available for the treatment of developmental
11 disabilities in covered beneficiaries pursuant to sub-
12 section (g) of section 1077 of title 10, United States
13 Code (as added by subsection (a)). Amounts in the
14 Account shall be so available until expended.

15 (5) FUNDING.—

16 (A) AUTHORIZATION OF APPROPRIA-
17 TIONS.—There is hereby authorized to be ap-
18 propriated for fiscal year 2015 for the Depart-
19 ment of Defense for the Defense Dependents
20 Developmental Disabilities Account,
21 \$20,000,000.

22 (B) TRANSFER FOR CONTINUATION OF EX-
23 ISTING SERVICES.—From amounts authorized
24 to be appropriated for the Department of De-
25 fense for the Defense Health Program for fiscal

1 year 2015, the Secretary of Defense shall trans-
2 fer to the Defense Dependents Developmental
3 Disabilities Account \$250,000,000.

○

