MTARS COMMITTEE MEETING NOTICE/AGENDA

Posted on www.scdd.ca.gov

DATE: **September 23, 2014**

TIME: 1:00 – 4:00 PM.

LOCATION: **State Council Headquarters**
1507 21st Street, Suite #210
Sacramento, CA 95811
(916) 322-8481

THE PUBLIC MAY CALL IN AT:

1-800-839-9416

Participant Code: 2982825

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 this meeting should contact Thomas Johnson (916) 322-8481 or email thomas.johnson@scdd.ca.gov. Requests must be received by 5:00 pm, September 17, 2014.

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1.	CALL TO ORDER	M. KENNEDY
2.	ESTABLISHMENT OF QUORUM	M. KENNEDY
3.	WELCOME/INTRODUCTIONS	M. KENNEDY

4. **PUBLIC COMMENTS**

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

5.	APPROVAL OF MINUTES (August 20, 2014)	M. KENNEDY	3
6.	REVIEW OF AUGUST MTARS CORRECTIVE ACTION PLAN UPDATE	M. KENNEDY	6
7.	UPDATE ON AIDD COMMUNICATIONS	M. KENNEDY	
8.	UPDATE ON AB 1595	M. POLIT	
9.	ROADMAP	M. POLIT	
10.	COMMUNICATIONS WITH COMMUNITY	M. KENNEDY	
10.	REVIEW OF MTARS UPCOMING DUE DATES	M. POLIT	
11.	PLANNING FOR NEXT MEETINGS	M. KENNEDY	
12.	ADJOURN	M. KENNEDY	

DRAFT

MTARS COMMITTEE MEETING MINUTES
August 20, 2014

Members Present	Members Absent	Others Attending
Molly Kennedy (Chair)	Michael Wilkening	Mike Clark
Kristopher Kent	Olivia Raynor	Aaron Carruthers
Janelle Lewis	Sarah Greenseid	Mark Polit
Nancy Clyde	Catherine Blakemore	Nancy Dow
Sandra Smith		Kecia Weller
		Janet Fernandez
		Thomas Johnson
		Janet Fernandez
		Mary Ellen Stives

1. **CALL TO ORDER/ESTABLISHMENT OF QUORUM**

Molly Kennedy, Chairperson, called the meeting to order at 9:15 a.m. A quorum was established.

2. **WELCOME AND INTRODUCTIONS**

Everyone present introduced themselves.

3. **PUBLIC COMMENT**

There was no public comment

4. **APPROVAL OF JULY 30, 2014 MINUTES**

It was moved/seconded (Smith/Clyde) and carried to approve the July 30, 2014 MTARS Committee minutes as presented.

5. **UPDATE ON AUGUST MTARS CORRECTIVE ACTION PLAN**

Molly Kennedy reviewed the corrective action plan with committee members. Committee members also discussed several sections of the

corrective action plan and asked several questions regarding language and substantive aspects of the plan.

6. **UPDATE ON AIDD COMMUNICATIONS**

Molly Kennedy and Council Staff had a phone call with AIDD. AIDD informed us that Rita Stevens will no longer be working with the Council. Instead, Alison Cruz will now be the program officer for SCDD and will continue to have bi weekly calls with the council chair and management. Allison will be reviewing the currently monthly Corrective Action Plan (CAP) and providing guidance to assist the Council in moving forward on the Corrective Action Plan.

There was also a brief discussion regarding the State Plan, and how the MTARS Committee can facilitate the planning process with the other council committees. An agenda item will be added to future meetings for the MTARS Committee to discuss communications with area boards and local communities, in order to ameliorate concerns.

7. **UPDATE ON AB 1595**

Mark Polit reviewed Assembly Bill 1595 with committee members and its current status in the California state legislature.

8. **ROADMAP**

Mike Clark reviewed the draft "Road Map" document with committee members. This document can be accessed on the internet at:

http://scdd.ca.gov/res/docs/pdf/MTARS/2014/HQ-%20MTARS%20Roadmap.pdf

Committee Members then provided feedback on the Road Map and discussed several topics and issues that the MTARS Committee should address in the coming years as council implements the MTARS Corrective Action Plan and develops the next State Plan. Committee

Members also emphasized that the MTARS Committee needs to develop a task list and time-frame for those processes. As a result, Molly Kennedy suggested that staff and council leadership work to develop a document that includes goals, tasks, status, and timelines, to bring to the next MTARS Committee meeting for review.

9. **CONSULTANTS AND TECHNICAL ASSISTANCE**

The Committee tabled this discussion.

10. **REVIEW OF MTARS UPCOMMING DUE DATES**

Mark Polit reviewed upcoming due dates with committee members. Several items were summarized: AB 1595 is expected to be signed by the Governor by the end of September; the Membership Committee has been formed and will be meeting on a monthly basis; a procedural manual is being developed; a draft Memorandum of Understanding with the Designated State Agency will be created by November; the Road Map is being developed; the BYLAWS need to be amended in November to reflect changes made by AB 1595; and the State Plan process is being evaluated and is underway.

11. **PLANNING FOR NEXT MEETING**

The next MTARS Committee meeting will be held on September 23, 2014. From 1:00pm to 4:00pm.

12. **ADJOURNMENT**

Molly Kennedy adjourned the meeting at 12:03 p.m.

CALIFORNIA SCDD State Council on Developmental Disabilities

STATE OF CALIFORNIA
Edmund G. Brown Jr.
Governor

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MTARS
Corrective Action Plan

PROGRESS REPORT
September 2, 2014

"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."

II. ORGANIZATIONAL ADMINISTRATION	
II.1 Staff	***2013 MTARS Finding (1)***
The Director shall hire, supervise, and annually evaluate the staff of the Council. Sec. 125(c)(9)	The Council Director (not the Governor) should hire Council staff and supervise and annually evaluate them. Instead the: • Council Director submits hiring recommendations to the Governor and the Governor has the final authority to hire two deputy level staff. • The Council has the final approval for the hiring of other staff.

California State Council on Developmental Disabilities Response

COUNCIL RESPONSE (1): The Council agrees with this finding.
CORRECTIVE ACTION (1): The Council proposes amending state law, the Lanterman Act, to provide that the Executive Director of the Council is the hiring authority for all Council staff. It is the Council's intent to propose substantive revisions to the Lanterman Act to address this and other MTARS findings of noncompliance. The Governor's office has indicated its support for relinquishing hiring authority in order to come into compliance with the DD Act.
STAFF ASSIGNED: Mark Polit, Deputy Director for Policy and Planning and Natalie Bocanegra, Staff Counsel; Council's MTARS Committee to oversee process.
TIMELINES: Effective January 17, 2014, Assembly Member Wesley Chesbro agreed to sponsor a bill with intent language. Assembly Bill 1595 (AB 1595) was introduced on February 3, 2014. The Council anticipates that the bill will pass out of the Legislature by August 30th, be signed by the Governor in September 2014 and take effect January 1, 2015.

September 2 Status Update (1): On August 14, AB 1595 was amended on the Senate Floor to incorporate language on transition of exempt staff to civil service positions, clarifying language on the authority of the Council to establish regional offices, and technical changes to conform the bill to changes in law made through the state budget process. The language of the non-technical amendments is attached. On August 22, the bill was amended to include a minor technical amendment to the bill, so a signature on AB 1595 would not interfere with the chaptering of another bill. No amendments were made that pertain to this corrective action.

On August 26, the Senate passed the final version of AB 1595, by a vote of 35-0. On August 27, the Assembly concurred in the Senate Amendments by a vote of 78-0. The bill is now in the legislative "enrolling" process, on the way to Governor Brown for signature. The Governor has until September 30 to sign or veto legislation. The Council wrote a support letter to the Governor (attached) and is in communication with the Governor's Office on the legislation. We anticipate Governor Brown will act on AB 1595 near the end of the month. Please find attached, a copy of the final bill, as passed by the Legislature, reflecting "current law as amended".

III. MEMBERSHIP	
III.1 Membership policies	***2013 MTARS Finding (2)***
Membership recommendations solicited by Governor from a broad range of organizational sources including non-state agency members of the Council. Sec125(b)(1)(B)	The Council's membership nomination and appointment process has been historically inhibited by state bureaucracy. It is unclear if and how membership recommendations are solicited from a broad range of DD/ID organizational sources and non-state agency members of the Council.

California State Council on Developmental Disabilities Response

COUNCIL RESPONSE (2): The Council agrees that it is in limited compliance with this finding. In this instance, California state law is consistent with the DD Act. The Lanterman Act, Welfare and Institutions Code (WIC) Section 4521 includes the following provision:

4521(c) Prior to appointing the 31 members pursuant to this section, the Governor shall request and consider recommendations from organizations representing, or providing services to, or both, persons with developmental disabilities, and shall take into account socioeconomic, ethnic, and geographic considerations of the state.

However, the Council has historically been somewhat passive in its involvement in the recruitment of new Council members. Currently, individual Council members may informally recommend that a colleague or acquaintance apply for appointment, but there is no organized process for soliciting their recommendations and submitting them to the Governor's Appointment office as required in Section 125(b)(1)(B). The Governor does proactively seek input from a variety of ID/DD organizations, but that effort is conducted independent of the Council's involvement.

CORRECTIVE ACTION (2): The Council will amend its bylaws to establish a Membership Committee to recruit, solicit and advise the Governor on appointments to the Council. Its membership will consist exclusively of self-advocates and family advocates who are community leaders and who may or may not be Council members. Part of the rationale for selecting non-Council members in addition to Council members to sit on this Committee is to permit the Council to strategically reach out to influential individuals in the I/DD field who have extensive contacts. In many cases, these individuals are not eligible to themselves sit on the Council because they wear multiple hats as both self/family advocate and disability professional. The Committee will consist of at least three members, a majority of whom are Council members. Consistent with Council Bylaws, the Chair shall be a Council member. The Committee will meet quarterly at minimum and more frequently as needed. The bylaws will define its membership and responsibilities and will include language in Section 125(b)(1)(B) that the Membership Committee will "coordinate Council and public input to the Governor regarding all recommendations." Among its duties will be to develop recruitment materials and publicity strategy. The Membership Committee will, at least quarterly, solicit recommendations for candidates via social media, and email/web alerts from among the regional advisory committees, self-advocacy groups, family support groups, the Federal Partners and service providers. The Chair of the Membership Committee will be charged with submitting the Committee's recommendations to the Governor's Appointment Office.

STAFF ASSIGNED: Dr. Mike Clark, Interim Executive Director; MTARS Committee to oversee implementation.
TIMELINES: Council to amend Bylaws to create Membership Committee at its March 20, 2014 meeting. Chair to complete appointments to the Committee by May 9, 2014. Membership Committee to hold first meeting in June 2014.

September 2 Status Update (2): The Membership Committee held its second meeting on July 31st (draft minutes are attached). The committee is staffed by the Interim Executive Director, Dr. Mike Clark and chaired by Council Vice Chair, April Lopez.

Committee Members reviewed the status of Council appointments, the composition of the Council, the appointment process, and their responsibilities under the revised Council Bylaws. The committee discussed coordinating on appointments with the Governor's Office. There was also a discussion on how to gain public input regarding possible nominees and appointments, including use of social media. While the Membership Committee is required by the Bylaws to meet quarterly, it will meet more often in order to gather information and invigorate the recruiting process. The committee also discussed the current recruitment flyer and possible modifications to make it more effective for self-advocates and our diverse communities. They also discussed possible recruiting flyers for regional advisory committees. The next meeting of the Membership Committee will be September 8.

III.1 Membership policies (continued)	***2013 MTARS Finding (3)***
Members reflect the state's diverse geographic locations, race, and ethnicity. Sec.125(b)(1)(C)	The appointment process for obtaining new Council members has hindered compliance with the DD Act. Currently, SCDD's membership composition does not meet the requirements for geographic, racial, and ethnic diversity.

California State Council on Developmental Disabilities Response

COUNCIL RESPONSE (3): The Council has historically had several vacancies and currently has four vacancies for positions recommended by the Area Boards. However for the current 15 non-agency members of the Council, the ethnic and racial representation is as follows: 21% Latino, 7% black, 7% Asian. The membership is currently geographically diverse as well.
By design, the Council has historically enjoyed geographic diversity, since 13 seats are filled by members from the 13 regions covering the entire state.
CORRECTIVE ACTION (3): The newly constituted Membership Committee will formally take the lead in conducting outreach to unrepresented regions of the state and underserved communities. The Chair of the Membership Committee will solicit from among non-agency Council members, the regional advisory committees, self-advocacy leaders and family support groups, especially those whose membership is composed of individuals from traditionally underserved ethnic or racial minority communities.
Based on the many findings relating to membership policies, the Council has begun to develop legislative language to amend the Lanterman Act. This will result in an appointment process that continues to promote geographic, racial and ethnic diversity. Currently, geographic diversity is established by having a seat assigned to each of the 13 regional advisory committees. It is anticipated that revisions to the

Lanterman Act will preserve the geographic diversity by assuring that there will be at least one Council member from the geographic area encompassing each of the Council's regional offices. The local regional advisory committees will be encouraged to recommend potential candidates, but the Governor retains authority to select the Council membership.

STAFF ASSIGNED: Dr. Mike Clark, Interim Executive Director; MTARS Committee to oversee

TIMELINES: As cited above with Membership Committee holding first meeting by June 30, 2014. Based on conversations with the Governor's Appointment staff, we are optimistic that all vacancies will be filled by July 2014. Please see **Attachment F** for Council roster effective February 6, 2014.

September 2 Status Update (3): As discussed under corrective action #2, the Membership Committee met for the second time on July 31st. As discussed under corrective action #1, AB 1595 passed out of the Legislature and now heads to the Governor for signature. There were no amendments relevant to this corrective action.

III.1 Membership policies (continued)	***2013 MTARS Finding(4)***
The Council has provisions to rotate membership. Sec.125(b)(2)	Each regional office (i.e. Area Board) representative has to be nominated by the governor. Membership rotation has been historically inhibited by the state's bureaucratic appointment process. For example, one regional office has not had representation on the Council for two years.

California State Council on Developmental Disabilities Response

COUNCIL RESPONSE (4): There have historically been challenges in filling Council vacancies. The requirement that these seats be filled by Governor-appointed representatives of each regional office's board has complicated the appointment process.

CORRECTIVE ACTION (4): The anticipated revisions to the Lanterman Act which are being proposed, will streamline the appointment process significantly. The Council intends to also request that statutory language be revised so that a member's term begins on the date of their appointment. Additional statutory language will be crafted so that members can continue to serve while awaiting replacement.

STAFF ASSIGNED: Dr. Mike Clark, Interim Executive Director, for activities of the Membership Committee; Mark Polit to oversee the legislative process; both overseen by MTARS Committee.
TIMELINES: As cited above, by June 30 2014 for first meeting of Membership Committee. Anticipated revisions to state law will go into effect January 1, 2015. Beginning no later than June 30 2014, via the Membership Committee as its vehicle, it is anticipated that the Council will enjoy a collaborative and shared mission with the Governor's office in constituting the Council.

September 2 Status Update (4): As discussed under corrective action #1, AB 1595 passed out of the Legislature and now heads to the Governor for signature. There were no amendments relevant to this corrective action.

III.1 Membership policies	***2013 MTARS Finding(5)***
The Council has provisions that allow continuation of membership until a new member is appointed. Sec.125(b)(2)	The Council did not provide evidence of a policy for allowing the continuation of Council membership until a replacement member could be appointed.

California State Council on Developmental Disabilities Response

COUNCIL RESPONSE (5): The Council agrees with this finding, as there are conflicting provisions of state law.

In compliance with the DD Act, the Lanterman Act currently states:
4521(g) A member may continue to serve following the expiration of his or her term until the Governor appoints that member's successor.

However, the Lanterman Act also contains a provision which contradicts both the DD Act and Section 4521(g), quoted above:

4521(d) ... In no event shall any member described in paragraph (1) of, subparagraphs (E) and (H) of paragraph (2) of, and paragraph (3) of, subdivision (b) serve for more than a total of six years of service.

CORRECTIVE ACTION (5): The Council is proposing an amendment to the Lanterman Act to clarify that Council member may continue serving until a new member is appointed. The bylaws will be updated in November 2014 to reflect changes in the Lanterman Act from AB 1595.

STAFF ASSIGNED: Mark Polit, Deputy Director for Policy and Planning with oversight by MTARS Committee

TIMELINES: As previously cited, legislation has been introduced with the assumption that it will be signed by the Governor in September and go into effect January 1, 2015.

September 2 Status Update (5): As discussed under corrective action #1, AB 1595 passed out of the Legislature and now heads to the Governor for signature. There were no amendments relevant to this corrective action. The bylaws have already been revised.

III.1 Membership policies (continued)	***2013 MTARS Finding(6)***
The Council has a process to notify Governor re: membership and vacancies. Sec. 125(b)(2)	The Council did not provide evidence of a transparent and effective process to notify Governor regarding membership vacancies.

California State Council on Developmental Disabilities Response

COUNCIL RESPONSE (6): Although a process exists in state law to address vacancies, in practice there have indeed been long-standing vacancies. The Lanterman Act states:

4521(g) .... The state council shall notify the Governor regarding membership requirements of the council and shall notify the Governor at least 60 days before a member's term expires, and when a vacancy on the council

remains unfilled for more than 60 days.

CORRECTIVE ACTION (6): The Membership Committee shall propose to the Council a formalized process for documenting these provisions and the Council will adopt revisions to its bylaws accordingly. This will include: 1) Notifying the Governor six months in advance when feasible; 2) Submitting multiple recommendations to the Governor for consideration; 3) Soliciting support from the DSA when vacancies remain for more than four months; 4) Reporting persistent vacancies to AIDD through the PPR process; 5) Soliciting technical assistance from AIDD when persistent vacancies exist.

STAFF ASSIGNED: Dr. Mike Clark, Interim Executive Director, with MTARS Committee overseeing process

TIMELINE: Membership Committee to propose revisions to bylaws by December 31, 2014.

September 2 Status Update (6): As discussed under corrective action #1, AB 1595 passed out of the Legislature and now heads to the Governor for signature. There were no amendments relevant to this corrective action.

As discussed under corrective action #2, the Membership Committee met on July 31st. Their next meeting will be September 8.

III.2 Membership requirements	***2013 MTARS Finding(7)***
60% of membership represent individuals with DD in the following categories: Sec.125(b)(3); Sec.125(b)(5) • 1/3 individuals with DD • 1/3 parents and guardians of children with developmental disabilities or immediate relatives of guardians of adults with developmental disabilities • 1/3 combination • At least one is immediate relative or guardian of an individual with developmental disabilities who resides or previously resided in an institution or an individual with developmental disabilities who currently/previously resided in an institution in the State. Sec.125(b)(6)	Historically the Council has had long term vacancies. Several membership rosters have been submitted since last year and four membership vacancies were filled just prior to the on-site monitoring visit. An updated membership roster is requested as part of the FY14 State Plan Amendment to AIDD to ensure compliance.

California State Council on Developmental Disabilities Response

COUNCIL RESPONSE (7): The Council has historically had several vacancies.

CORRECTIVE ACTION (7): With the creation of the Membership Committee, we foresee a more engaged Council, wherein the Council will actively involve itself in seeking out and promoting candidates for the Governor's consideration. The Chair of the Membership Committee and the staff assigned to support that Committee will be working with the Governor's Office to rapidly fill existing vacancies. An updated

membership roster was submitted as part of the FY14 State Plan Amendment. (**Attachment F** contains the current Council roster as of February 3, 2014.) It should also be noted that the Governor's Assistant Appointment Secretary, Sarah Greenseid, sits on the MTARS Committee with the commitment of the Governor's office to ensure the state's compliance with the DD Act.

STAFF ASSIGNED: Dr. Mike Clark, Interim Executive Director, with oversight by MTARS Committee

TIMELINES: Immediate and ongoing, calls to Governor's office bi-monthly, at minimum. A follow-up email will be sent to document the contact. Council members, staff and regional advisory members will be informed of an aggressive campaign to recruit new members via an email to be disseminated by February 28, 2014.

September 2 Status Update (7): As discussed under corrective action #2, the Membership Committee met on July 31st. Their next meeting will be September 8.

IV. PROGRAM ADMINISTRATION	
IV.1. Five Year State Plan	***2013 MTARS Finding(8)***
The plan shall focus on Council efforts to bring about the purpose of this subtitle, by specifying 5-year goals, as developed through data driven strategic planning, for advocacy, capacity building, and systemic change related to the areas of emphasis, to be undertaken by the Council. Sec.124(c)(4)(A)	There was inadequate evidence that the: • Council engages in data-driven strategic planning to develop the State Plan and takes the primary role in the planning process. • State Plan is the Council's Plan and that activities are undertaken by the Council versus the State Plan being one that is configured by and for the Area Boards. • Council is free from state interference in the development of the State Plan. The state's DD agency awarded the Council two contracts: (1) Client Rights Advocacy and (2) Volunteer Advocacy Services. This state supported work is documented in the Goal 2 in the Council's State Plan which states: "local offices provide assistance that include systems navigation, technical assistance, attendance to Individualized Education Plan meetings and assistance with due process". The review team heard more about these two projects during interviews and public forum testimony than any other Council supported activity. While AIDD does not question the merit of the projects and the quality of the work being done by Council staff, it raises serious questions about whether the state is directing the Council's State Plan or whether the Council is developing the State Plan.

California State Council on Developmental Disabilities Response	
IV.1. Five Year State Plan	***2013 MTARS Finding(9)***
Plan must include assurances related to: ➢ (B) USE OF FUNDS - *At the request of any State, a portion of such funds provided to such State under this subtitle for any fiscal year shall be available to pay up to 1 /2 (or the entire amount if the Council is the designated State agency) of the expenditures found to be necessary by the Secretary for the proper and efficient exercise of the functions of the designated State agency, except that not more than 5 percent of such funds provided to such State for any fiscal year, or $50,000, whichever is less, shall be made available for total expenditures for such purpose by the designated State agency* ➢ (C) STATE FINANCIAL PARTICIPATION.—*The plan shall provide assurances that there will be reasonable State financial participation in the cost of carrying out the plan.* ➢ (D) CONFLICT OF INTEREST.—*The plan shall provide an assurance that no member of such Council will cast a vote on any matter that would provide direct financial benefit to the member or otherwise give the appearance of a conflict of interest.* ➢ (K) STAFF ASSIGNMENTS.—*The plan shall provide assurances that the staff and other personnel of the Council, while working for the Council, will be responsible solely for assisting the Council in carrying out the duties of the Council under this subtitle and will not be assigned duties by the designated State agency, or any other agency, office, or entity of the State.* ➢ (L) NONINTERFERENCE.—*The plan shall provide assurances that the designated State agency, and any other agency, office, or entity of the State, will not interfere with the advocacy, capacity building, and systemic change activities, budget, personnel, State Plan development, or plan implementation of the Council, except that the designated*	The Council did not provide adequate evidence that the plan is supported by the assurances in Section 125(c)(5)(B - D) and (K - L). Regarding (B) *Use of Funds*, the review team could not draw any conclusions about the Council based on the information provided about the expenditures for the DSA. It was stated during interviews that: • The DSA charges the Council an indirect rate for the services it provides. • The rate stated by Council staff was in excess of the 5% or $50,000 limit. • Staff did not know the DSA's indirect policy and no written policy was provided. • The Council is required to pay the indirect rate. The Council staff stated it does so from two contracts the state awards to the Council. In regards to (C) *State Financial Participation*, when the review team inquired about how the state provides match, there were comments about state contract funds being factored in but there was a tremendous lack of clarity on this matter. In regards to (D) *Conflict of Interest*, the majority of the Council is comprised of non-agency representatives who are Area Board representatives. There are 13 Areas Board representatives on the Council and 7 "at large" members. The Area Board representatives sit on the State Council and on the Advisory Committee to the Area Boards. This dual role presents a conflict of interest and gives the appearance of a conflict of interest. The Council does not have a policy or procedure to address this. In regards to (K) *Staff Assignments*, it appears that Council staff is carrying out work directed by the state and not necessarily the Council through the state funded Client Rights Advocacy and Volunteer Advocacy Services projects. Through these contracts, Council staff conducts assessments and monitoring in the State's developmental centers. Providing direct services is outside the purview

State agency shall have the authority necessary to carry out the responsibilities described in section 125(d)(3). Sec.124(c)(5)	of the Council's responsibilities. Furthermore, this work is in support of the two state contracts and therefore directs the work carried out by Council staff located in the regional office. Since it is work created by and for the state, it raises questions as to whether the Council staff is assisting the Council or the state. In regards to (L) *Noninterference,* it is very difficult to conclude whether the Council is free of interference: • To avoid duplication, issues related to interference with the budget process are described under *VI.1 Fiscal Requirements* • To avoid duplication, issues related to interference with personnel are described under *II.1 Staff* • To avoid duplication, issues related to interference with State Plan development are described in the Section above *IV.1. Five Year State Plan.*

California State Council on Developmental Disabilities Response

COUNCIL RESPONSE (9 B and C): The Council agrees that there has been a lack of clarity on the two issues of (B) Use of Funds; and (C) State Financial Participation. With the staff turnover experienced in recent years, there is a lack of institutional knowledge. This is an area in which the Council would appreciate technical assistance.

To clarify our current practice, the Council has an Interagency Agreement (IA) in the amount of $390,000 with the California Department of Social Services (CDSS) to provide administrative support services in the areas of accounting; some IT support; some human resources services; procurement; and contracting. We have assigned $50,000 of these costs to the DSA functions. However, the scope of administrative work performed by the Department of Social Services far exceeds the required duties of the DSA. For example, the Council does not have state-approved delegated purchasing authority. Its purchasing authority is held by DSS and therefore, all contracts are encumbered by DSS on behalf of SCDD. We believe it is appropriate for the Council to assign some of the cost of our CDSS Interagency Agreement as General Management costs. If not for this Interagency Agreement, the Council would have to bring these functions in-house, at substantially greater cost. The $390,000 CDSS IA is broken down as follows:

$50,000.....DSA Functions

$136,960..... Council General Management costs

$92,040.....Funds from State CRA/VAS contract

$111,000.....Funds from State QA (NCI) contract

The CDSS states that the cost of providing the support services as outlined in the IA, far exceeds the $390,000 paid by SCDD. According to the CDSS, the services more accurately cost $620,000. Therefore, the

difference between the $620,000 worth of support services provided to the Council versus the $390,000 paid for these services, represents California's State Financial Participation.

Please see **ATTACHMENT K** for a copy of the CDSS Interagency Agreement as well as supplemental information from CDSS on this matter.

Additionally, it should be noted that, to a very large degree, the California Council implements its State Plan through staff activities which requires no match. In Fiscal Year 2013, the Council awarded $580,414 in grants, which represents 9% of our allotment. The grantees did provide matching/in-kind funds for a total match of $284,276 or nearly 50% of the funds awarded. Please see **ATTACHMENT L** for (FY 2013) Cycle 35 Grants and the current (FY 2014) Cycle 36 Grants.

CORRECTIVE ACTION (9 B and C): We provide this added documentation in order to assure sufficient clarity. The Council welcomes input from AIDD if further evidence is required to ensure that we are properly addressing assurances.

STAFF ASSIGNED: Dr. Mike Clark, Interim Executive Director; Administrative Committee to oversee and report to MTARS Committee

September 2 Status Update (9B, 9C): No action planned regarding this finding

Response(9) Regarding (D), Conflict of Interest
The California State Council on Developmental Disabilities (Council) is comprised of 31 members; 11 members are agency representatives, 7 members are statewide, or "at-large" and 13 members are from the local area advisory boards.

The regional advisory board members are appointed first by the Governor to the area advisory board and secondly by the Governor to the Council.

For California, the Legislature expressly determined that the planning activities of the Council depend on the direct involvement of Council members familiar with the structure and operation of services and programs for persons with developmental disabilities in areas throughout the state. The Legislature found this necessary due to the expansive geographical size of the state of California and its complexity and diversity. To this end, WIC 4525 expressly exempts Council members from the local area advisory boards from the conflict of interest criteria.

CORRECTIVE ACTION (9 D): Based on the many findings relating to membership policies, as previously reported, the Council has begun to develop legislative language to amend the Lanterman Act. This is intended to result in an appointment process that eliminates the perceived conflict of interest. Currently, geographic diversity is established by having a seat assigned to each of the 13 regional advisory committees. It is anticipated that revisions to the Lanterman Act will preserve the geographic diversity by assuring that there is at least one Council member from each of the geographic areas that encompasses each regional office. The local regional advisory committees will be encouraged to recommend potential candidates to the Council's Membership Committee and directly to the Governor's Appointment Office, but the Governor retains authority to select the Council membership.

STAFF ASSIGNED: Mark Polit, Deputy Director for Policy and Planning for legislative action; MTARS

Committee to oversee.

TIMELINES: As previously noted, legislation is expected to be effective January 1, 2015.

September 2 Status Update (9D): As discussed under corrective action #1, AB 1595 passed out of the Legislature and now heads to the Governor for signature. There were no amendments relevant to this corrective action.

RESPONSE TO K (Staff Assignments): Our response is addressed under **Response 8**, previously cited. It should again be noted that the Council's activities with respect to serving the residents of state developmental centers is documented in the State Plan under Objective 2d; thus staff who implement the CRA/VAS contract are carrying out work that is consistent with the Council's role and mission, with leveraged state funds.

IV.2 State Plan Implementation	***2013 MTARS Finding(10)***
The Council shall implement the State Plan by conducting and supporting advocacy, capacity building, and systemic change activities Sec.125(c)(5)	The Council's 5-year plan implementation does not promote advocacy, capacity building, and systemic change at the state level. As discussed above, the review team heard more about the two state funded projects implemented by the Area Boards. Since so much attention was paid to the two state funded projects, the review team did not hear about a coherent set of activities implemented by the Council at the state level. The Council is providing direct services through the two state contracts. This type of activity is outside the purview of the Council's responsibilities and appears to overlap with P&A functions.

California State Council on Developmental Disabilities Response

COUNCIL RESPONSE (10): The Council believes it is in compliance with this provision of Sec.125(c)(5).

The review team focused a great deal on the relationship between the Council's local offices and the Council. As such, we did not fully explore our state level work on advocacy, capacity building, and systemic change. Apparently, the Council and its staff did not adequately communicate the state level work the Council performs. We will discuss some of this information below and add information on activities since the review team has visited.

In 2013, the Council sponsored AB 1041, Employment First Policy, and played a major role in SB 468, Self-Determination, a bill sponsored by Disability Rights California and Autism Society of Los Angeles. On October 10, 2013, Governor Brown signed both bills into law, creating a turning point in how California delivers services and supports to people with IDD. Combined, these bills may be the most significant change in California law affecting people with IDD since the passage of the Lanterman Act in 1969. These bills are fundamental to the purpose of the DD Act in promoting self-determination, independence, productivity, and integration and inclusion in all facets of community life. Also, as the DD Act envisioned,

the Council worked very closely on both bills with some of our federal partners (DRC on SB 468 and the Tarjan Center, UCLA, on AB 1041).

With respect to state-level capacity building, for example, the Council worked with self-advocacy leaders to establish the Statewide Self-Advocacy Network (SSAN). The SSAN is supported by the Council, but will eventually be an independent 501(c)(3) organization. It is comprised of representatives from each of the 13 regions, the Council's Self-Advocacy Advisory Committee, each of the four federal DD partners, the California Foundation for Independent Living Centers, and People First of California. This is a dynamic group of self-advocacy leaders from around the state that is focused on influencing state level policy and building self-advocacy capacity and leadership at the local level.

Other examples of state level capacity building would include our sponsorships of major statewide conferences, an annual major contribution to the Youth Leadership Forum, which trains self-advocacy leaders of the future, and the Council's Program Development Grants.

With respect to state level advocacy, the PPRs submitted annually contain significant information on the extent of state level advocacy. Since the review team visited in January, the Council wrote 308 letters (including 240 to state legislators, 10 to the Governor, and 57 to the California Congressional Delegation and US Senators). In addition, the Council had over 145 legislative, Congressional and administration meetings.

Besides AB 1041, Employment First Policy, the Council sponsored two other bills: (1) The Council worked closely with Autism Speaks to co-sponsor SB 163, which sought to protect the rights of families to be reimbursed for insurance co-pays and deductibles for autism therapies approved by the state. That bill was defeated. The Council will continue to work with autism advocates to seek protection for those rights. (2) The Council also co-sponsored SB 577 which would create a new service category for job exploration and discovery. This bill is an important part of the strategy to remove barriers to the employment of people with developmental disabilities in integrated competitive employment. This was a two-year bill, passed out of the Senate in January 2014, and is now being considered by the Assembly.

At the federal level, the Council opposed the proposed sequestration cuts to health and human services and wrote the entire California Congressional delegation, informing them of the potential impact on individuals with developmental disabilities and their families. The Council also opposed proposed federal cuts to federal health programs, such as Medicaid. Council staff visited and spoke with staff and members in 15 congressional offices.

With respect to systems change, the Council has been a leading advocate for the last six years for making integrated competitive employment an option for people with developmental disabilities in the state. For example, during this time, the Council sponsored six pieces of employment related legislation. Three of these were signed into law: (1) SB 1270 (2006) authorized the Council to conduct extensive public meetings with stakeholders, consumers, and family members to recommend to the Legislature and Governor steps to increase integrated employment options and more individualized day services. (2) In 2009, at the Council's request, AB 287 established the Employment First Committee within the Council that serves as a forum for all relevant departments and stakeholders to meet and develop strategies to improve employment outcomes. (3) In October of 2013, the Governor signed AB 1041, the Employment First Policy.

In part because of the Council's work over the years, this Employment First Policy was not just an executive order or a statement by the department, but represents a consensus view of the DD stakeholder community.

Also with respect to systems change, the Council has played a key role, since 1998, in development of the Self-Determination option in California. The area boards have been partners with the regional centers in implementation of the five Self-Determination pilots. They staffed the pilot advisory committees at the local and state level. The Council contributed significantly to the first Self-Determination bill in 2011 and to the legislation that was signed into law this year.

Beside these highlights, the Council is active in most of the key state level policy forums affecting people with IDD. The Council is a lead agency in California Employment Consortium for Youth (CECY), a project of national significance funded by AIDD. The Council convenes the Employment First Committee which complements the work of CECY in providing a forum for key stakeholders and departments to address barriers to employment of people with IDD. The Council was recently represented on the Secretary's "Future of the DCs Task Force", which made recommendations supported by the Administration for the downsizing and closure of the DCs and the development of a new generation of community services for people with high behavioral needs. We are represented on the ODEP Vision Quest state team comprised of key department, academic and advocacy representatives. We participate in a cross-disability collaboration between leaders of the Tarjan Center and Councils and Committees with statutory responsibilities for the employment of people with disabilities. We participate in stakeholder workgroups convened by the department on state budget and, currently, Self-Determination. We have participated for the last 12 years in broad stakeholder collaborations within the I/DD advocacy and stakeholder communities (The Community Imperative Strategy Group and the Lanterman Coalition). And finally, the Council has a strong internal policy structure with a Deputy Director of Policy and planning, policy support staff, and a Legislative and Public Policy Committee that usually meets 8 or 9 times per year and makes recommendations to the Council on legislation, policy, regulation and state budget issues.

While there is already a great deal of activity, we strive to have a much larger influence and more effectively drive state level policy on a broader scale. We are also increasing the exchange of information between headquarters and regional offices. We appreciated the MTARS' team suggestions for improved work with the regional offices.

Our state level policy work is inextricably linked to and benefits enormously from the Council's regional presence. The Legislative and Public Policy Committee (LPPC) and the Council benefit from the regional offices and regional advisory committees' close connection to their communities. What is happening locally informs our decision making at the state level.

The Council also benefits from our reach into local communities when advancing policy change. For example, the information alerts distributed by the Council are typically forwarded on through our local office databases to what is ultimately a broad statewide network of local/regional/minority organizations and their contact lists. This multiplier effect would indicate that a Council information alert on a topic of high interest would reach at least 30,000 individuals. In 2013, the Council's work on both Employment First Policy and Self-Determination legislation helped contribute to a huge outpouring of support for these

bills, and ultimately, their being signed into law.

Finally, once new policy is adopted, it is necessary to ensure implementation of that policy through information dissemination; training people with developmental disabilities, families, professionals and local regional centers; monitoring the implementation in local communities, where the polices are being implemented; and advocating for corrective actions when implementation lags.

Please refer to **Attachments M** and **N** for further information on the Council's self-advocacy activities and its most recent Employment First Report, which is disseminated to the Legislature and the Governor.

CORRECTIVE ACTION (10): The newly reconstituted State Plan Committee, which will hold its first meeting by June 30, 2014, will develop a template that captures data on state plan implementation at both the local and statewide level. It will be distributed on at least a quarterly basis to the full Council and utilized to complete the PPR.

STAFF ASSIGNED: Mark Polit, Deputy Director for Policy and Planning; Staff planning analyst, Janet Fernandez; State Plan Committee.

TIMELINES: Starting no later than June 30, 2014 and quarterly thereafter.

September 2 Status Update (10):

The State Plan Committee met on August 25 and discussed how data on state plan implementation will be reviewed and presented to the committee in the future. They directed Council staff to process the numerical data we collect (e.g., number of individuals trained) and create a narrative and/or graphical presentation on the implementation of the plan throughout the state. The narrative and graphical presentation would analyze state plan implementation of goals and objectives overall for the Council and by geography. In this way the Council can identify gaps in implementation and areas of success. The data could be used in decisions on shifting resources between goals and objectives, between geographies, and amending the state plan. These reports would form the basis for the State Plan Committee's routine reports to the Council on implementation of the State Plan.

The Committee reviewed the PPR process and its role in reviewing that document. The Committee was briefed that the activity reports from the area boards through April have been processed, and the Planning Analyst is working on processing those for May and June. The activity reports for the last three months of the federal year will be submitted in early October. The outcomes from the statewide and regional grants will also be reported and processed in early October along with the outcomes of headquarters activities.

The Committee directed staff to prepare narrative samples of the PPR for their October 27 meeting. The committee will review the sample narratives against the "Narrative Review Tool Rubric" (from NACDD). Staff will incorporate the Committee's guidance into the full narrative. The Council will review a draft of the PPR at their November Council meeting. The Executive Committee will approve the final version before submitting to AIDD.

The Council at its July meeting adopted a Policy on Sheltered Work and Subminimum Wage; and the Transition to Integrated Employment (attached). This policy is consistent with the Employment First Policy that the Council proposed to the Legislature and passed into law in 2013.

The Chairs of the Council and the Employment First Committee met with the Interim Executive Director

and the Deputy Director of Policy and Planning to discuss how to implement this policy on sheltered work. The Council is already implementing portions of the policy through: (1) Developing an Employment First Flyer that will be distributed widely by the 21 regional centers. (2) Working with the Department of Developmental Services (DDS) and others on rate incentives for integrated competitive employment (ICE). (3) Compiling best practices and success stories to disseminate through the Council website and the annual Employment First Report to the Legislature and Governor. (4) Working on development of alternative supports with the California Employment Consortium for Youth (CECY), and Project of National Significance.

Additionally, Council leadership will bring a proposal to the Employment First Committee on September 3 that will include: (1) Researching practices in other states and California on downsizing sheltered work and subminimum wage. This will include consulting with national experts at ICI. (2) Meet with the Director of DDS to present the Council's policy and request that the Department develop a plan for phasing out those services. (3) Train Council staff in the regions to train local communities, professionals, and regional centers in the Employment First Policy. (4) Develop a plan with the regions for driving implementation of the Employment First Policy in communities throughout the state. While these activities will help drive systems change on employment throughout the state, it also will serve as a model for the Council on directing statewide implementation of state plan goals.

The June 25th MTARS Committee meeting decided to seek technical assistance from AIDD and NACDD on the CRA/VAS issue. Specifically, since CRA/VAS is a state authorized activity funded 100% with state funds, it may be appropriate to remove these contracted activities from the State Plan. Under that option, the CRA/VAS contract would continue, but not as a state plan activity. Council staff discussed this issue with Sheryl Matney, who suggested that the State Plan Objective be removed. This suggestion will be returned to the MTARS Committee for review.

V. EVALUATION AND REPORTS	
Program Performance Report	***2013 MTARS Finding(11)***
The Council annually prepares and transmits to the Secretary a report containing information about the progress made in achieving the goals. The report includes: • Extent to which each goal of Council was achieved. Sec.125(c)(7)(A) • Description of strategies that contributed to achieving goals. Sec.125(c)(7)(B) • Extent to which each goal was not achieved, describes factors that impeded goal achievement. Sec.125(c)(7)(C) • Separate information on self-advocacy goal. Sec.125(c)(7)(D)	Overall the Council's Program Performance Report does not specifically describe how each Area Board is contributing to State Plan implementation. Because there are 13 regional offices implementing different parts of the Council State Plan, it is difficult to determine how State Plan achievement is being measured and evaluated. Some Area Boards referenced using "mini-plans" to document which parts of the Council State Plan they were implementing. Other Area Boards did not provide evidence of having "mini-plans". Without consistent use of Area Board "mini-plans" or some other tool it is unclear how the Council can assess progress made in achieving goals.
California State Council on Developmental Disabilities Response	
COUNCIL RESPONSE (11): The State Council funds 13 regional offices throughout the state. Each office has program staff that offer ongoing outreach, education, training and technical assistance to their local	

community. These activities are aligned with the Developmental Disabilities Act and are vital in furthering the objectives of the State Plan. The Council provides ongoing monitoring of the regional offices to ensure their activities correlate to the implementation of the State Plan.

The Council is cognizant that it is the Council's State Plan, not the Area Boards'. With a broad ambitious State Plan and many staff throughout the state implementing it, the compiling of data for the Program Performance Report is challenging. We have been further hampered in that the position of Planning Specialist that would assist in coordination of this effort has been vacant for two years.

For the 2012 PPR, California used DD Suite for the first time. All program staff were given access to DD Suite and each staff entered activity narratives directly; however, staff were not held to a specific schedule for reporting activities and outcomes. As a result, the PPR data lacked continuity and cohesion. This year the Council developed an Activity Form, which is a tool to achieve consistency in reporting progress on State Plan-related activities. All program staff now use the Activity form for reporting on each distinct activity. The Activity Reports are turned in to the Deputy Director for Policy and Planning on a bimonthly basis (per the timeline structure of DD Suite) and data is entered into DD Suite by one individual. This approach has resulted in a far more cohesive PPR. It has also resulted in a far more accurate document, demonstrating even better outcomes.

While the PPR is a comprehensive report of the Council's overall performance in implementing the State Plan, the individual Activity Forms provide the more specific data and document the details on how each objective is being implemented. The Activity Forms tell the Council what each regional office is doing to implement the State Plan. The State Plan Committee will be able to use the Activity Forms to better assess the performance of each regional office and the Council overall in implementing the State Plan. This in turn will also permit the Council to do more accurate budget planning and grant planning to fill the gaps in achieving outcomes. Please see **ATTACHMENT O** for a sample of several Activity Forms and **ATTACHMENT P** for the 2013 PPR.

CORRECTIVE ACTION (11): The Council had a Strategic Planning Committee to oversee the development of the State Plan and the ongoing progress in implementing the State Plan. When the Planning Specialist position became vacant two years ago, however, the Strategic Planning Committee became inactive. In 2013, the Council took steps to reinstate a re-named State Plan Subcommittee; however, at this point it has not yet convened. The Council Executive Director is in the process of filling the Planning Specialist position, having identified a qualified candidate to fill the position of Planning Specialist on January 23, 2014. It is anticipated that the individual will begin her position on or around April 1, 2014. The Planning Specialist will be responsible for training program staff in reporting obligations and ensuring that the Council is kept abreast of progress made in implementing the State Plan. The State Plan Committee will be charged with reviewing the individual Activity forms and based on that data, developing a matrix that illustrates the Council's progress in implementing the State Plan. The chart will be provided to the Council at least quarterly. The information will be used by the Program Development Committee (PDC) to assist in determining priorities for grants. It will be used by the Administrative Committee to help guide fiscal priorities.

STAFF ASSIGNED: Mark Polit, Deputy Director for Policy; MTARS Committee to oversee.

TIMELINES: The State Plan Committee will meet beginning no later than June 30 2014 and will convene at a minimum, quarterly. The Chair will appoint the members of this Committee no later than April 1, 2014.

September 2 Status Update (11): See status update (10), above.

An accounting of the manner in which funds paid to the State for a fiscal year were expended. Sec.125(c)(7)(G)	The Council presented several documents that detailed different aspects of how the federal allotment is being spent, but overall the review team could not determine how the budget is developed and executed and how expenditure data is calculated.

VI. FISCAL

VI.1 Fiscal Requirements	***2013 MTARS Finding(12)***
Council has authority to prepare, approve, and implement a budget to fund programs, projects, and activities. Sec125(c)(8)	The Council did not provide adequate evidence on how it developed or implemented its budget to fund programs, projects, and activities. Council members expressed a strong need for more fiscal transparency and training on state versus federal fiscal policy and the Council's budget development/implementation process. In addition, the Lanterman continues to include language that is inconsistent with the DD Act, posing challenges for the Council to be in compliance with the federal law: • The Lanterman Act requires the Council to provide funding to Area Boards. • The Lanterman Act provisions require the Council to hire staff at the deputy director level thereby interjecting a line item in the Council's budget and limiting its authority to develop a budget.

California State Council on Developmental Disabilities Response

COUNCIL RESPONSE (12): In this section we address both Sec 125(c)(7)(G): The PPR includes an accounting of the manner in which funds paid to the State for a fiscal year were expended; and Sec 125(c)(8) Fiscal Requirements since both specifically address the Council's role in developing, implementing and tracking its budget.

As the MTARS report later states, at the time of the site visit the Council lacked a Budget Officer (Administrative Service Manager) and unfortunately, the previous Executive Director had provided little budgetary information to the Council. The Administrative Committee was re-established in January 2013 and has met ten (10) times in 2013, nearly monthly. The Administrative Committee's first undertaking was to develop a 2013 Administrative Work Plan, based on the recommendations of the November 2012 Audit Report from the Department of Health Care Services. Additionally, the Committee ensured that the Council received quarterly expenditure reports in 2013 and approved the Council's budget for FY 2014.

In May 2013, Council members received governance training, which included their obligations to approve and monitor the budget, from NACDD technical assistance staff.

At its July 2013 Council meeting, members received training from our Department of Finance (DOF) Analyst on the state budgeting process. Because the California Council implements its State Plan largely through staff activities and because it also retains a network of 13 regional offices, a large proportion of the federal grant is assigned to personnel and facility costs. Since these are largely predictable costs, much though not all, of the budget is necessarily based on historical expenditures. The budget approved by the Council breaks out costs in two categories: Personal Services and Operating Expenses and Equipment. However, the Administrative Committee reviewed a more detailed line item budget. It was the Administrative Committee that examined the Council's allocation of funds to determine how we would absorb the sequestration cut in FY 13 and into the future. The Administrative Committee recommended and the Council agreed that staff vacancies at the local area offices would not be filled.

Additionally, the re-established Administrative Committee receives programmatic and grant information from the Program Development Committee (PDC) that is used to guide fiscal decisions. The Chair of the Administrative Committee also sits on the PDC.

In 2000, California Department of Finance staff devised a cost allocation methodology that would enable the Council to assign costs by state plan goal. That methodology has been reviewed and revised periodically, most recently with the development of the current state plan. The formula is utilized by the state's primary accounting system, known as **Calstars.** As a result, Calstars provides monthly expenditure data, broken out several different ways, including by state plan goal.

For further insight into the Council's efforts to correct identified fiscal weaknesses and inadequacies, please also refer to the attached Fiscal Integrity and State Manager's Accountability Act report (FISMA Report). The FISMA report is a required biannual report of California state departments to examine the adequacy of the agency's system of internal controls.

As previously stated, the Council is pursuing legislation that will bring state law into compliance with the federal DD Act. This will include revised language that removes any provision that interferes with the Council's autonomy in establishing its budget.

ATTACHMENT Q: Administrative Committee Roster; **ATTACHMENT R:** Administrative Committee packets of January 2013, February 2013, March 2013, April 2013, June 2013, July 2013, August 2013, October 2013, November 2013, January 8, 2014, January 22,2014. Quarterly budget reports and Council's approved 2014 budget (two versions, with and without sequestration cut) are included. **ATTACHMENT S:** November Calstars report; **ATTACHMENT T**: FISMA Report

CORRECTIVE ACTION (12): The Council has made steady progress in establishing the necessary oversight and ensuring that the Council members are well informed about fiscal and budget processes. The Council now receives quarterly expenditure reports, develops and approves the annual budget. Further, the Council recognizes and welcomes that AIDD staff will be providing close supervision of our progress in this area. The Administrative Committee will continue to meet monthly. The Administrative Committee has set the following priorities for its work in 2014:

1. Ensure that all MTARS noncompliance findings of a fiscal/administrative nature are resolved.
2. Take a more active role in developing the Council's 2015 budget. (Presented at May 2014 Council meeting)
3. Ensure that the Council has a comprehensive Policies and Procedures Manual. (Completion by December 31, 2014)
4. Oversee the process of establishing an MOU with the DSA and evaluating the functions of the DSA. (Evaluation completed by May 2014. MOU completed by November 30, 2014.)

(Refer to Attachment U: 2014 Administrative Work Plan
STAFF ASSIGNED: Aaron Carruthers, Chief Deputy Director; Mark Polit, Deputy Director of Policy and Planning; Administrative Committee to oversee administrative activities. MTARS Committee to oversee legislation.

TIMELINES: Ongoing, monthly

September 2 Status Update (12): Staff Counsel is reviewing the status of current procedures and the need for updating or creation of new policies and procedures. The November Council meeting is scheduled to approve a full policies and procedures manual.

Council staff has begun work on the MOU with the DSA, after Staff Counsel review of MOUs from other states.

As discussed under corrective action #1, AB 1595 passed out of the Legislature and now heads to the Governor for signature. There were no amendments relevant to this corrective action.

VI.2 Fiscal Policies	***2013 MTARS Finding(13)***
Council has policies to carry out appropriate subcontracting activities. Sec.125(c)(8)(A) Council directs expenditures of funds for grants, contracts, interagency agreements that are binding contracts and other activities authorized by State Plan approval. Sec.125(c)(8)(C) Grantee shall keep records that disclose: • Amount and disposition of assistance by recipient • Total cost of project or undertaking in connection with assistance given • Amount of project costs supplied by other sources • Such other records that will facilitate an effective audit Sec.103	The Council did not provide adequate evidence of that is has accurate financial accounting and record keeping: • At the time of the on-site visit, the Administrative Services Manager position was vacant and the Council did not have a staff person dedicated to managing the Council's finances. • The Council could only provide limited information on the Council's fiscal policies during the on-site visit pertinent to the requirements in the DD Act. • The Council experienced fiscal impropriety under the previous Executive Director (Board Resource contract) • The state auditor's findings substantiate the immediate need for financial management systems. (Reference: *California Department of Finance Management Letter dated August 17, 2012*)

California State Council on Developmental Disabilities Response

COUNCIL RESPONSE (13): The Council agrees that these findings accurately describe the Council in January 2013, but has since taken a number of strong steps to rectify that situation. We believe that the Council is now on a far stronger fiscal footing and that our policies and practices are transparent to the members, the public, and our business associates.

In July 2013 the Council was able to hire a new Budget Officer (the delay was due to legal procedures associated with the previous budget officer) She has been working closely with Department of Finance staff and our accounting colleagues at the CDSS.

Immediately following her appointment as Acting (now Interim) Executive Director, Ms. Newton sought and received approval from the Council to enter into an Interagency Agreement for the California Department of Health Care Services Financial Audits Branch (FAB) to expand upon the Department of Finance Management Letter's findings, issued August 17, 2012. (Note: Department of Finance (DOF) staff were unavailable to conduct the follow-up.) The DSA was instrumental in securing the services of the FAB audit staff. Specifically, the request was for the audit team to examine all of the Council's practices around contracting and procurement and to provide recommendations. Those recommendations became the basis for an **Administrative Work Plan** which staff has been implementing throughout 2013 and Council has been overseeing, through the Administrative Committee. The Administrative Committee regularly reports to the Council on our progress.

In December 2013, staff completed a draft **Contract and Purchasing Manual** that to a large degree is based upon the manual utilized by the Department of Social Services. The Manual focuses on the Council's procedures for contracting and procurement. The draft Manual was reviewed by the Administrative Committee in January 2014. A second draft will be presented at the February 27, 2014 Administrative Committee meeting. It is anticipated that the Contract and Purchasing Manual will be one element of a more comprehensive Policies and Procedures Manual to be developed throughout 2014. Target completion date: December 31, 2014. The Council does continue to be hampered by staff management vacancies, especially that of the Chief Deputy for Administration. We have been assured that the Governor's Appointment Office will cooperate with the Council's Interim Executive Director in filling these positions expeditiously during this transitional period while legislation is pending to remove the Governor's hiring authority.

Please see **ATTACHMENT V:** Department of Health Care Services Audit Report and **ATTACHMENT W**: 2013 and 20014 SCDD Work Plans and **ATTACHMENT X**: SCDD Draft Contract Manual

CORRECTIVE ACTION (13): The Council is advertising for a Chief Deputy for Administration (advertisements have been placed in Monster, Idealist, Opportunity Knocks, Exec Searches, and Capitol Weekly) and a Deputy for Area Board Operations. The Administrative Committee will review a second draft of the Contract and Purchasing Manual in February 2014 and it will go to the Council for review and approval thereafter. As opportunities arise, administrative staff are attending contract development and oversight classes. For example, the contract analyst is registered for a two day class titled "Monitoring Grants and Cooperative Agreements for Federal Personnel" in April 2014.

STAFF ASSIGNED: Aaron Carruthers, Chief Deputy Director, and Administrative Committee

TIMELINES: Refer to Corrective Action above

September 2 Status Update (13): The new executive management team is comprised of the new Interim Executive Director, Mike Clark, the new Chief Deputy, Aaron Carruthers, and the Deputy Director of Policy and Planning, Mark Polit. Each member of this team has tremendous depth of experience in their areas. The team has been working well together and with Council leadership. Of special note, the Chief Deputy is supporting budget, personnel, contracting, and other staff to grow professionally, and he is continuing the process of strengthening internal procedures and controls. Morale among administrative staff at Council headquarters has improved significantly.

VII. DESIGNATED STATE AGENCY

VII.2 Responsibilities of DSA	***2013 MTARS Finding(14)***
• Receives, accounts for, and disburses funds under subtitle based on State Plan. Sec125(d)(3)(C)(i) • Provides the appropriate fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, funds paid to the state. Sec125(d)(3)(C)(ii) • Keeps and provides access to records as Secretary and Council may determine necessary and timely financial reports regarding status of expenditures, obligations, and liquidation by agency or Council, and use of Federal and non-Federal shares. Sec125(d)(3)(D) • Provides required non-Federal share. Sec125(d)(3)(E) • Assists in obtaining appropriate State Plan assurances and consistency with state law. Sec125(d)(3)(F) • Enters into MOU at request of Council. Sec125(d)(3)(G)	As mentioned above the Council's recent experience with fiscal impropriety under the previous Executive Director (Board Resource contract) and the state auditor's findings substantiates the DSA's need to establish processes, policies, and procedures that promote: • Accurate receipt, accounting, and disbursement of funds • Provision of appropriate fiscal control and fund accounting procedures necessary to assure proper disbursement of, and accounting for, funds paid • Access to records as the Secretary and Council may determine necessary • Timely development and dissemination of financial reports regarding status of expenditures, obligations, and liquidation by agency or Council, and use of Federal and non-Federal shares The Council does not have a Memorandum of Understanding with the DSA. There was no evidence that the Council has conducted a formal evaluation of the DSA at any point and time. Several Council staff position and DSA functions appear duplicative. Several DSA functions are performed by Council staff at the central office, specifically in the areas of: contracting, budget, fiscal, and personnel.

California State Council on Developmental Disabilities Response

COUNCIL RESPONSE (14): The Council Interim Executive Director has met on multiple occasions with the DSA throughout 2013, specifically to discuss DSA functions.

Currently, the DSA is in the process of obtaining final approval from the California Department of General

Services on their revised fiscal control and purchasing authority policies and procedures. Based on these policies and procedures, the Council's legal Counsel has adapted it and developed a Contract and Purchasing Manual policy handbook that establishes procedures to ensure accurate and appropriate fiscal controls. As previously noted, that manual is currently under review by the Administrative Committee. Once approved by the Committee, the Full Council will review and approve, anticipated at the May 2014 Council meeting. (Please refer to **ATTACHMENT X**)

Council staff members have already attended several trainings regarding their fiduciary obligations as well as proper and standard accounting procedures that will ensure accuracy and dependability in accounting and disbursement of funds.

All policies and procedures ensure that while staff is responsible for the daily work, the full Council retains control over authorizing expenditure of funds in accordance with federal laws, rules, and State Plan goals and objectives.

Neither the Council nor the DSA perceive duplication of Council staff duties with DSA functions. The Department of Social Services' Interagency Agreement (Attachment K) identifies DSA functions in considerable detail. We have attached the Duty Statements for our Contract Analyst, Contract/Procurement Analyst, Personnel Specialist, Budget Officer, and Information Systems Specialist. While it is certainly true that those positions correspond to DSA functions, Council staff coordinate duties with DSA (DSS) staff. They are complementary, not duplicative. For example, the Council's Personnel Specialist is the first line contact with our 65 (federally funded) employees. She handles duties associated with changes in benefits, salary, work hours, promotion or adverse actions. DSA staff have access to the state government mainframe and State Controller's Office and therefore are charged with inputting the transactional changes. Additionally, there are no Council staff who carry out accounting functions. Without direct access to Calstars, the state's multimillion dollar accounting system, we depend on DSS to handle these functions in a more cost effective manner than we could.

ATTACHMENT K: DSS Interagency Agreement; **ATTACHMENT Y**: FIVE (5) DUTY STATEMENTS
CORRECTIVE ACTION (14): The Council agrees that it will develop and enter into a Memorandum of Understanding (MOU) with the DSA during calendar year 2014. This effort will be coordinated by the Administrative Committee. The DSA is represented on the Administrative Committee by Kristopher Kent, Assistant Secretary, Health and Human Services Agency. The Council itself will approve the MOU and it will be signed by the Chairperson.
The Council agrees that it will conduct a formal evaluation of the DSA during calendar year 2014 again through the Administrative Committee. It should be noted, however, that Council management has met periodically with DSA staff to address deliverables, timelines, best practices in IT support and communication, among other issues.
STAFF ASSIGNED: Aaron Carruthers, Chief Deputy Director, and the Administrative Committee
TIMELINES: Review current DSA functions; review sample MOUs from other states by April 2014 Administrative Committee. Draft MOU and meet with DSA to discuss review by July 2014 Administrative Committee. Meet with DSA and discuss/revise as needed draft MOU by September 2014. Execute and sign MOU at November 2014 Council meeting

September 2 Status Update (14): Council staff has begun work on the MOU with the DSA, after Staff Counsel review of MOUs from other states. The Council will review a proposed MOU at the November Council meeting for submittal to the DSA for further negotiation and processing.

AB 1595 (Chesbro)
Legislative Counsel Mock-up
August 14 Non-technical Amendments

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

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

~~SEC. 15.~~

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

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

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

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

(c) All references to "regional office" in this chapter shall be a reference to state council regional offices. All references to "regional advisory committees" in this chapter shall be a reference to state council regional advisory committees.

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

~~SEC. 26.~~

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

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

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

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

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

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

CALIFORNIA SCDD State Council on Developmental Disabilities

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STATE OF CALIFORNIA
Edmund G. Brown Jr.
Governor

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August 29, 2014

The Honorable Edmund G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

ASSEMBLY BILL 1595 (CHESBRO), STATE COUNCIL ON DEVELOPMENTAL DISABILITIES REQUEST FOR SIGNATURE

Dear Governor Brown:

The California State Council on Developmental Disabilities (Council) is established pursuant to the federal Developmental Disabilities Assistance and Bill of Rights Act (DD Act) and California state law (the Lanterman Act) to advocate for people with intellectual and developmental disabilities and to assist the state in planning to better support their independence and productivity. The Council receives no General Fund allocation and is funded through an annual $6.5 million federal grant pursuant to the federal DD Act.

The Council's statutory responsibilities include: identifying system needs; providing outreach to underserved communities; providing training to consumers, families, and professionals; promoting interagency collaboration; identifying barriers to inclusion; and disseminating information on rights, policy, and best practices. The Lanterman Act gives the Council a leadership role on the employment of people with developmental disabilities and oversight of the new Self-Determination program. The Council also provides leadership in supporting self-advocacy organizations at the state level and throughout California and providing advocacy, training, and systems coordination throughout the state.

The federal Administration on Intellectual and Developmental Disabilities (AIDD) administers the DD Act, and oversees council compliance with federal law. During monitoring reviews in 1994, 2001, 2007, and 2013, AIDD found that the provisions of the Lanterman Act that governs the Council are in conflict with the DD Act that funds the Council. Due to the long term nature of those conflicts, the AIDD has limited the Council's access to its federal grant until the Council addresses specific programmatic findings and California statute comes into compliance with the DD Act.

In response to the 2013 federal findings, the Council sponsored AB 1595, which will bring the state law that governs the operations of the Council into compliance with the federal law that funds it. To comply with federal law, provisions of the bill include:

"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."

- The Governor will be given full authority to appoint members of the Council. Limitations on that authority will be removed from statute. These statutory changes, combined with administrative remedies, will reduce long-term vacancies on the Council.

- The executive director of the Council will be given full authority to hire council staff. Limitations on that authority will be removed. These statutory changes will reduce key staff vacancies that have occurred over many years.

- AB 1595 will give the Council full authority on how it uses its funds in establishing, maintaining, and operating regional offices. This will require removing provisions currently in state law that infringe upon that authority, including establishing regional office catchment areas within statute and assigning specific responsibilities to the regional offices, independent of the Council. The Council's regional offices are currently known as Area Boards on Developmental Disabilities.

- The responsibilities and functions of the Council will be changed to mirror those established by federal law. The authorities currently assigned to area boards will be given to the Council, which may act upon those in many ways, including through its regional offices.

- The language will provide for the transition to civil service of current exempt positions and staff.

Thus, AB 1595 will create the statutory framework for retaining the annual $6.5 million federal grant that funds the Council, its regional offices, and their continued work for the people of California in furthering the self-determination, productivity and inclusion of people with developmental disabilities.

If you have any questions, please call Mark Polit, Deputy Director of Policy and Planning at (916) 208-3823.

Sincerely,

Molly Kennedy
Chairperson

AB 1595 (Chesbro)
State Council on Developmental Disabilities

Today's Law as Amended
As Passed By Legislature

SECTION 1.

Section 4433 of the Welfare and Institutions Code is amended to read:

4433.

(a) The Legislature finds and declares all of the following:

(1) The State of California accepts its responsibility to ensure and uphold the rights of persons with developmental disabilities and an obligation to ensure that laws, regulations, and policies on the rights of persons with developmental disabilities are observed and protected.

(2) Persons with developmental disabilities are vulnerable to abuse, neglect, and deprivations of their rights.

(3) Clients' rights advocacy services provided by the regional centers, the advocacy services currently provided by the department at the state ~~hospitals,~~ developmental *centers,* and the services provided by the department's Office of Human Rights may have conflicts of ~~interest,~~ *interest* or the appearance of a conflict of interest.

(4) The services provided to individuals with developmental disabilities and their families are of such a special and unique nature that they cannot satisfactorily be provided by state agencies or regional centers and must be contracted out pursuant to paragraph (3) of subdivision (b) of Section 19130 of the Government Code.

(b) (1) To avoid the potential for a conflict of interest or the appearance of a conflict of interest, beginning January 1, 1998, the department shall contract for clients' rights advocacy services. The department shall solicit a single statewide contract with a nonprofit agency that results in at least three responsive bids that meet all of the criteria specified in paragraph (2) to perform the services specified in subdivision (d). If three responsive bids are not received, the department may rebid the contract on a regional basis, not to exceed three regional contracts and one contract for developmental centers and headquarters.

(2) Any contractor selected shall meet the following requirements:

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

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

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

(D) The contractor can demonstrate the capability of coordinating services with the protection and advocacy agency specified in Division 4.7 (commencing with Section ~~4900) and the area boards.~~ *4900).*

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

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

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

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

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

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

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

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

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

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

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

SEC. 2.

Section 4433.5 of the Welfare and Institutions Code is amended to read:

4433.5.

Notwithstanding Section 4433, the department may contract with the State Council on Developmental Disabilities for the purpose of ~~utilizing area boards to provide~~ *providing* clients' rights advocacy services to individuals with developmental disabilities who reside in developmental~~centers and state hospitals. It is the intent of the Legislature that area boards maintain local discretion in the provision of these advocacy services. The state council shall not direct the advocacy services provided by area boards pursuant to this contract, except when necessary to ensure compliance with the contracts.~~ *centers.*

SEC. 3.

Section 4474.1 of the Welfare and Institutions Code is amended to read:

4474.1.

(a) Whenever the State Department of Developmental Services proposes the closure of a state developmental center, the department shall be required to submit a detailed plan to the Legislature not later than April 1 immediately prior to the fiscal year in which the plan is to be implemented, and as a part of the Governor's proposed budget. ~~No~~ *A* plan submitted to the Legislature pursuant to this section, including any modifications made pursuant to subdivision (b), shall *not* be implemented without the approval of the Legislature.

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

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

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

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

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

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

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

(3) The impact on residents and their families.

(4) Anticipated alternative placements for residents.

(5) The impact on regional center services.

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

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

(8) The fiscal impact of the closure.

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

SEC. 4.

Section 4478 of the Welfare and Institutions Code is amended to read:

4478.

(a) The chairperson of an advisory board advising a developmental center shall meet annually with the developmental center director, the regional center directors, and ~~the area board chairpersons representing areas within the developmental center's service area, as defined in Division 4.5 (commencing with Section 4500).~~ *a representative of the State Council on Developmental Disabilities.*

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

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

SEC. 5.

Section 4520 of the Welfare and Institutions Code is amended to read:

4520.

(a) ~~The Legislature finds that services for persons with developmental disabilities constitute a major expenditure of public funds, that these programs are provided by hundreds of public and private statewide and local agencies, that the legal, civil, and service rights of persons with developmental disabilities are frequently denied, and that there is no effective method for planning and coordinating the state's resources to assure these rights. Therefore, a~~ *A* State Council on Developmental Disabilities with authority independent of any single state service agency is ~~needed and is~~ hereby created.

(b) The Legislature ~~further~~ finds that ~~the state faces unique challenges because of its size and diversity, and neighborhoods and communities lack the support necessary to monitor system functions and ensure the legal, civil, and service rights of persons with developmental disabilities. Therefore, local area boards on developmental disabilities shall be established to conduct the local advocacy, capacity building, and systemic change activities required by the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000 (Public Law 106-402 (42 U.S.C. Sec. 15001)).~~ *in each of the 56 states and territories, the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000 (Public Law 106-402 (42 U.S.C. 15001 et seq.)) establishes State Councils on Developmental Disabilities that work to promote the core values of the act, including self-determination, independence, productivity, integration, and inclusion in all aspects of community life.*

(c) The Legislature finds that California's State Council on Developmental Disabilities was established pursuant to the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000 to engage in advocacy, capacity building, and systemic change activities that are consistent with the policy contained in federal law and contribute to a coordinated, consumer- and family-centered, consumer- and family-directed, comprehensive system that includes the provision of needed community services, individualized supports, and other forms of assistance that promote self-determination for individuals with developmental disabilities and their families. It is the intent of the Legislature that the state council independently exercise its authority and responsibilities under federal law, expend its federal funding allocation, and exercise all powers and duties that may be necessary to carry out the purposes contained in applicable federal law.

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

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

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

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

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

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

~~(c)~~ *(f)* This chapter, Chapter 3 (commencing with Section ~~4560), and Chapter 4 (commencing with Section 4570), and~~ *4561), and* Division 4.7 (commencing with Section 4900), are intended by the

Legislature to secure full compliance with the requirements of the *federal* Developmental Disabilities Assistance and Bill of Rights Act of 2000 ~~(Public Law 106-402),~~ as amended and extended, which provides federal funds to assist the state in planning, coordinating, monitoring, and evaluating services for persons with developmental disabilities and in establishing a system to protect and advocate the legal and civil rights of persons with developmental disabilities.

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

SEC. 6.

Section 4520.5 is added to the Welfare and Institutions Code, to read:

4520.5.

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

SEC. 7.

Section 4521 of the Welfare and Institutions Code is amended to read:

4521.

(a) *(1)* All references to *"council" or* "state council" in this ~~part~~ *division* shall be a reference to the State Council on Developmental Disabilities.

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

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

(1) ~~One~~ *(A)* ~~member from each of the 13 area boards on developmental disabilities described in Article 6 (commencing with Section 4543), nominated by the area board to serve as a council member, who shall be persons with a developmental disability, as defined in Section 15002(8) of Title 42 of the United States Code, or parents or guardians of minors with developmental disabilities or conservators of adults with developmental disabilities residing in California. Five of these members~~ *Twenty members of the council shall be nonagency members who reflect the socioeconomic, geographic, disability, racial, ethnic, and language diversity of the state, and who* shall be persons with a developmental ~~disability, as defined in Section 15002(8) of Title 42 of the United States Code, three shall be~~ *disability or their* parents, immediate relatives, guardians, or

conservators ~~of persons with developmental disabilities, and five shall be either a person with a developmental disability or a parent, immediate relatives, guardian, or conservator of a person with a developmental disability. The nominee from each area board shall be an area board member who was appointed by the Governor.~~ *residing in California. Of the 20 members:*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(3) Seven members at large, appointed by the Governor, as follows:~~

~~(A) Three shall be persons with developmental disabilities, as defined in Section 15002(8) of Title 42 of the United States Code.~~

~~(B) One shall be a person who is a parent, immediate relative, guardian, or conservator of a resident of a developmental center.~~

~~(C) One shall be a person who is a parent, immediate relative, guardian, or conservator of a person with a developmental disability living in the community.~~

~~(D) One shall be a person who is a parent, immediate relative, guardian, or conservator of a person with a developmental disability living in the community, nominated by the Speaker of the Assembly.~~

~~(E) One shall be a person with developmental disabilities, as defined in Section 15002(8) of Title 42 of the United States Code, nominated by the Senate Committee on Rules.~~

(c) Prior to appointing the ~~31 members pursuant to this section,~~ *members described in paragraph (1) of, and subparagraph (E) of paragraph (2) of, subdivision (b),* the Governor shall ~~request~~ *consult with the current members of the council, including nonagency members of the council,* and consider recommendations from organizations ~~representing, or~~ *representing persons with a broad range of developmental disabilities, or persons interested in, or* providing services to, or both, persons with developmental ~~disabilities, and shall take into account socioeconomic, ethnic, and geographic considerations of the state.~~ *disabilities.*

(d) The term of each member described in paragraph (1) of, ~~subparagraphs (E) and (H)~~ *and subparagraph (E)* of paragraph (2) of, ~~and paragraph (3) of,~~ subdivision (b) shall be for three ~~years; provided, however, of the members first appointed~~ *years. The term of these members shall begin on the date of appointment* by the Governor ~~pursuant to paragraph (1) of subdivision (b), five shall hold office for three years, four shall hold office for two years, and four shall hold office for one year. In no event shall any member described in paragraph (1) of, subparagraphs (E) and (H) of paragraph (2) of, and paragraph (3) of, subdivision (b) serve for more than a total of six years of service. Service by any individual on any state council on developmental disabilities existing on and after January 1, 2003, shall be included in determining the total length of service.~~ *and these members shall serve no more than two terms.*

~~(e) Members appointed to the state council prior to June 1, 2002, shall continue to serve until the term to which they were appointed expires. Members appointed on June 1, 2002, or thereafter shall have their terms expire on January 1, 2003.~~

~~(f) Notwithstanding subdivision (c) of Section 4546, members described in subdivision (b) shall continue to serve on the area board following the~~ expiration of their term on the area board until their term on the state council has expired.

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

SEC. 8.

Section 4525 of the Welfare and Institutions Code is amended to read:

4525.

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

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

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

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

(3) A person who serves as a member of ~~an area board.~~ *a regional advisory committee of the state council, established pursuant to Article 6.*

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

SEC. 9.

The heading of Article 3 (commencing with Section 4530) of Chapter 2 of Division 4.5 of the Welfare and Institutions Code is amended to read:

Article 3. Designated State Agency

SEC. 10.

Section 4530 of the Welfare and Institutions Code is amended to read:

4530.

~~For~~ *(a)* ~~administrative purposes only, the state council shall be attached to the California Health and Human Services Agency.~~ *The California Health and Human Services Agency shall be the designated state agency for support to the state council.* The agency secretary shall ensure the state council is provided efficient accounting, financial management, personnel, and other reasonable support services when requested by the council in the performance of its mandated responsibilities.

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

(c) The ~~administrative attachment~~ *designation* of the ~~state council to the~~ California Health and Human Services Agency shall not ~~be construed to~~ interfere in any way with the provisions of Section 4552 requiring all personnel employed by the council to be solely responsible, organizationally and administratively, to the council.

SEC. 11.

Section 4535 of the Welfare and Institutions Code is amended to read:

4535.

(a) The state council shall meet at least six times ~~each~~ *per* year, and, ~~on~~ *upon* call of its chairperson, as often as necessary to fulfill its duties. All meetings and records of the state council shall be open to the public.

(b) The state council shall, by majority vote of the voting members, elect its own chairperson and vice chairperson who shall have full voting rights on all state council actions, from among the appointed members, described in paragraph (1) ~~or (3)~~ of subdivision (b) of Section ~~4521, and~~ *4521. The council* shall establish any committees it deems necessary or desirable. The chairperson shall appoint all members of committees of the state council. The chairs and vice chairs of the state council and its standing committees shall be individuals with a developmental disability, or the parent, sibling, guardian, or conservator of an individual with a developmental disability.

(c) The state council may appoint technical advisory consultants and may establish committees composed of professional persons serving persons with developmental disabilities as necessary for

technical assistance. The state council may call upon representatives of all agencies receiving state or federal funds for assistance and information, and shall invite persons with developmental disabilities, their parents, guardians, or conservators, professionals, or members of the general public to participate on state council committees, when appropriate.

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

SEC. 12.

Section 4540 of the Welfare and Institutions Code is amended to read:

4540.

~~In order to comply with the intent and requirements of this division and Public~~ *The state council, established pursuant to the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000 (Public* Law 106-402 (42 U.S.C. ~~Sec. 15001 et seq.), the state council, in addition to any other responsibilities established under this division and to the extent that resources are available,~~ *15001 et seq.)),* shall do all of the following:

(a) Serve as an advocate for individuals with developmental disabilities and, through council members, staff, consultants, and contractors and grantees, conduct advocacy, capacity building, and systemic change activities.

~~(a)~~ *(b)* ~~Serve as the "state planning council" responsible for developing the "California Developmental Disabilities State Plan,"~~ *Develop and implement the state plan* in accordance with requirements issued by the United States Secretary of Health and Human Services,~~monitoring~~ *monitor* and ~~evaluating~~ *evaluate* the implementation of this plan, ~~reviewing and commenting on other plans and programs in the state affecting persons with developmental disabilities, and submitting these reports as the United States Secretary of Health and Human Services may reasonably request.~~ *and submit reports as the United States Secretary of Health and Human Services may reasonably request. The state council may review and comment on other plans and programs in the state affecting individuals with developmental disabilities.*

~~(b)~~ *(c)* Serve as the official agency responsible for planning the provision of the federal funds allotted to the state under Public Law 106-402 (42 U.S.C. Sec. 15001 et seq.), ~~and apportion these funds among agencies and area developmental disabilities boards~~ *by conducting and supporting advocacy, capacity building, and systemic change activities. The council may itself conduct these activities and may provide grant funding to local agencies* in compliance with applicable state and federal ~~law.~~ *law, for those same purposes.*

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

~~(d)~~ *(e)* ~~(1) Conduct activities related to meeting the objectives of the state plan.~~ To the extent that resources are available, ~~these activities shall include~~ *implement the state plan by conducting activities including, but not limited to,* all of the ~~following:~~ *activities specified in paragraphs (1) to (11), inclusive.*

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

~~(A)~~ *(2)* ~~Through support of the area boards, engaging in~~ *Supporting and conducting* geographically based outreach ~~and individual and systemic advocacy to~~ *activities to identify individuals with developmental disabilities and their families who otherwise might not come to the attention of the council and* assist and enable *the* individuals and families to obtain services, *individualized* supports, and other forms of ~~assistance.~~ *assistance, including access to special adaptation of generic community services or specialized services.*

(3) Supporting and conducting training for persons who are individuals with developmental disabilities, their families, and personnel, including professionals, paraprofessionals, students, volunteers, and other community members, to enable those persons to obtain access to, or to provide, community services, individualized supports, and other forms of assistance, including special adaptation of generic community services or specialized services for individuals with developmental disabilities and their families.

~~(B)~~ *(4)* ~~Support~~ *Supporting* and ~~conduct~~ *conducting* technical assistance activities to assist public and private entities to contribute to the objectives of the state plan.

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

~~(C)~~ *(6)* ~~Support~~ *Supporting* and ~~conduct~~ *conducting* activities to promote interagency collaboration and coordination at the state and local~~levels.~~ *levels to better serve, support, assist, or advocate for individuals with developmental disabilities and their families.*

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

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

~~(D)~~ *(9)* ~~Support~~ *Supporting* and ~~conduct~~ *conducting* activities to educate the public about the capabilities, preferences, and needs of individuals with developmental disabilities and their families, and to develop and support coalitions that support the policy agenda of the council, including training in self-advocacy, education of policymakers, and citizen leadership roles.

~~(E) Support and conduct activities to provide information to policymakers.~~

~~(2) These activities may also include, but shall not be limited to, all of the following:~~

~~(A) Support and conduct training for persons with developmental disabilities, their families, and personnel, to enable these individuals to obtain access to, or to provide, community services, individualized supports, and other forms of assistance.~~

~~(B)~~ *(10)* ~~Support~~ *Supporting* and ~~conduct~~ *conducting* activities to ~~assist neighborhoods and communities to respond positively to individuals with~~ *provide information to policymakers by supporting and conducting studies and analyses, gathering information, and developing and disseminating model policies and procedures, information, approaches, strategies, findings, conclusions, and recommendations. The council may provide the information directly to federal, state, and local policymakers, including the Congress of the United States, the federal executive branch, the Governor, the Legislature, and state agencies in order to increase the abilities of those policymakers to offer opportunities and enhance or adapt generic services to meet the needs of, or provide specialized services to, individuals with developmental* disabilities and their families.

~~(C) Support and conduct activities to eliminate barriers to access and use of community services by individuals with developmental disabilities, enhance system design and redesign, and enhance citizen participation.~~

~~(D)~~ *(11)* ~~Support and conduct,~~ *Supporting,* on a time-limited basis, activities to demonstrate new approaches to serving individuals with developmental disabilities that are a part of an overall strategy for systemic change.

~~(e) Conduct other activities, including, but not limited to, public hearings and forums and the evaluation and issuance of public reports on the programs identified in the state plan, as may be necessary to carry out the duties of the state council.~~

~~(f) Review and comment on pertinent portions of the proposed plans and budgets of all state agencies serving persons with developmental disabilities to include, but not be limited to, the State Department of Education, the Department of Rehabilitation, and the State Department of Developmental Services. This review may include public hearings prior to the submission of the Governor's Budget to the Legislature, with advice directed to the Governor, and after introduction of the Governor's Budget, with advice directed to the Legislature.~~

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

~~This report shall include both the statewide activities of the state council and the local activities of the area boards.~~

~~(h) Review and publicly comment on significant regulations proposed to be promulgated by any state agency in the implementation of this division.~~

~~(i) Monitor the execution of this division and report directly to the Governor and the Legislature any delay in the rapid execution of this division.~~

~~(j) Be responsible for monitoring and evaluating the effectiveness of appeals procedures established in this division.~~

~~(k) Provide testimony to legislative committees reviewing fiscal or policy matters pertaining to persons with developmental disabilities.~~

~~(l) Conduct, or cause to be conducted, investigations or public hearings to resolve disagreements between state agencies, or between state and regional or local agencies, or between persons with developmental disabilities and agencies receiving state funds. These investigations or public hearings shall be conducted at the discretion of the state council only after all other appropriate administrative procedures for appeal, as established in state and federal law, have been fully utilized.~~

(g) Except as otherwise provided in this division, the state council shall not engage in the administration of the day-to-day operation of service programs identified in the state plan, nor in the financial management and accounting of funds. ~~These activities shall be performed by appropriate agencies designated in the state plan.~~

~~(m) To the greatest extent possible, area boards shall participate in conducting the activities described in this section.~~

SEC. 13.

Section 4541 is added to the Welfare and Institutions Code, immediately following Section 4540, to read:

4541.

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

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

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

(2) When there is no guardian or conservator, the individual's choice, if expressed, including the right to reject the assistance of a representative, shall be honored. If the person does not express a preference, the order of preference for selection of the representative shall be the person's parent, involved family members, or a volunteer selected by the state council. In establishing these preferences, it is the intent of the Legislature that parents or involved family members shall not be required to be appointed guardian or conservator in order to be selected. Unless the person with developmental disabilities expresses otherwise, or good cause otherwise exists, the request of the parents or involved family members to be appointed the representative shall be honored.

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

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

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

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

(e) (1) Promoting systems change and implementation by reviewing the policies and practices of publicly funded agencies that serve or may serve persons with developmental disabilities to determine if the programs are meeting their obligations, under local, state, and federal laws. If the

state council finds that the agency is not meeting its obligations, the state council may inform the director and the governing board of the noncomplying agency, in writing, of its findings.

(2) Within 15 days, the agency shall respond, in writing, to the state council's findings. Following receipt of the agency's response, if the state council continues to find that the agency is not meeting its obligations, the state council may pursue informal efforts to resolve the issue.

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

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

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

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

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

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

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

SEC. 14.

The heading of Article 6 (commencing with Section 4543) of Chapter 2 of Division 4.5 of the Welfare and Institutions Code is amended to read:

Article 6. State Council Regional Offices and Advisory Committees

SEC. 15.

Section 4543 of the Welfare and Institutions Code is repealed.

~~4543.~~

~~(a) Because of the vast size, complexity, and diversity of the State of California, the Legislature finds that the planning activities of the State Council on Developmental Disabilities depend upon the~~

~~direct involvement of local representatives familiar with the structure and operation of services and programs for persons with developmental disabilities. The Legislature further finds that the legal, civil, and service rights of persons with developmental disabilities cannot be adequately guaranteed throughout the state, and the state plan cannot be implemented, unless monitoring responsibility is established on a regional basis through area boards on developmental disabilities.~~

~~(b) For administrative purposes and to ensure compliance with federal and state laws, the area boards shall be attached to the state council.~~

SEC. 16.

Section 4544 of the Welfare and Institutions Code is amended to read:

4544.

(a) (1) The ~~area boards~~ *state council may establish regional offices that are accessible to and responsive to the diverse geographic, ethnic, and language needs of consumers and families throughout the state. As of January 1, 2015, regional offices of the state council* in existence as of~~January 1, 2003,~~ *December 31, 2014,* shall continue to exist, within the same geographic regions of the ~~state after January 1, 2003, but shall thereafter be constituted and shall operate according to this article.~~ *state.*

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

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

(c) All references to "regional office" in this chapter shall be a reference to state council regional offices. All references to "regional advisory committees" in this chapter shall be a reference to state council regional advisory committees.

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

SEC. 17.

Section 4545 of the Welfare and Institutions Code is repealed.

~~**4545.**~~

~~The State Council on Developmental Disabilities shall periodically conduct a thorough review of the geographic boundaries served by area boards to determine whether existing area board boundaries should be changed, or additional area boards should be established to more effectively implement this division. In conducting this review, the state council shall seek input from area boards, persons with developmental disabilities, family members, service providers, advocates, and other interested parties. Prior to recommending the establishment of new geographic boundaries, the state council shall hold a public hearing within any existing area board geographic area affected by the proposed change. The state council shall submit to the Governor and the Legislature any recommendations for changes in area board boundaries or recommendations that additional area boards be established. Any area board established after January 1, 2003, shall nominate a member to be appointed by the Governor as a voting member of the state council pursuant to Section 4521.~~

SEC. 18.

Section 4545 is added to the Welfare and Institutions Code, to read:

4545.

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

SEC. 19.

Section 4546 of the Welfare and Institutions Code is repealed.

~~**4546.**~~

~~After January 1, 2003, area boards shall be comprised as follows:~~

~~(a) For areas consisting of one to four counties, the area board shall consist of a total of 12 voting members appointed by the governing bodies of the counties, each county appointing an equal number of voting members, and five voting members appointed by the Governor.~~

~~(b) For areas consisting of five to seven counties, the area board shall consist of two voting members appointed by the governing body of each county, and five voting members appointed by the Governor.~~

~~(c) For areas consisting of eight or more counties, the area board shall consist of one voting member appointed by the governing body of each county, and five members appointed by the Governor.~~

~~Of the members first appointed, five shall serve for one year, five shall serve for two years, and the remaining members shall serve for three years. Subsequent members shall serve for three years. In~~

counties with a population of more than 100,000, no member shall serve more than two consecutive three-year terms.

(d) The governing bodies of the counties in each area shall select their appointees from among the following groups, and, to the extent feasible, in the following proportions:

(1) Sixty percent from persons with developmental disabilities or the immediate relatives, guardians, or conservators of these persons.

(2) Forty percent from representatives of the general public.

(e) The appointments made by the Governor shall meet the requirements of paragraph (1) of subdivision (b) of Section 4521.

(f) (1) Prior to making their appointments, the Governor and the governing bodies of counties shall request recommendations from professional organizations, from organizations within the area representing persons with developmental disabilities, and from organizations and agencies within the area that deliver services to these individuals.

(2) In making their appointments, the Governor and the governing bodies of counties shall appoint persons who have demonstrated interest and leadership in human service activities.

(g) (1) In order to prevent any potential conflicts of interest, voting members of area boards shall not be employees of a state, local, or private agency or facility that provides service to a person with a developmental disability, or be members of the governing board of any entity providing this service, when the service is funded in whole or in part with state funds.

(2) For purposes of this section "employees of a state, local, or private agency or facility that provides services to a person with a developmental disability" shall not be deemed to include any of the following:

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

(B) A person with a developmental disability who receives employment services through a provider receiving state or federal funds.

(C) A person who serves as a member of the state council.

(h) The Governor shall give consideration to the relative populations of the counties within the area in selecting appointees to the area boards.

~~(i) A member may continue to serve following the expiration of his or her term until the Governor or appointing body of the county appoints that member's successor. The state council shall notify the Governor or the appointing body of the county regarding membership requirements of the area boards and shall notify the Governor or the appointing body of the county at least 60 days before a member's term expires, and when a vacancy on an area board remains unfilled for more than 60 days.~~

~~(j) All members of the area board shall be residents of the area.~~

~~(k) The members of an area board shall serve without compensation, but shall be reimbursed for any actual and necessary expenses incurred in connection with the performance of their duties as members of the board or of committees established by the board.~~

SEC. 20.

Section 4546 is added to the Welfare and Institutions Code, to read:

4546.

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

SEC. 21.

Section 4547 of the Welfare and Institutions Code is repealed.

~~4547.~~

~~(a) Each area board shall meet at least quarterly, and on call of the board chairperson, as often as necessary to fulfill its duties. All meetings and records of the area board shall be open to the public.~~

~~(b) (1) Each area board shall, by majority vote of the voting members, elect its own chairperson from among the appointed members who are persons with developmental disabilities, or parents, immediate relatives, guardians, or conservators of these persons, and shall establish any committees it deems necessary or desirable. The board chairperson shall appoint all members of committees of the area board.~~

~~(2) An area board may call upon representatives of all agencies receiving state funds, for assistance and information, and shall invite persons with developmental disabilities, their parents, immediate relatives, guardians, or conservators, professionals, or members of the general public to participate on area board committees.~~

~~(3) When convening any task force or advisory group, the area board shall make its best effort to ensure representation by consumers and family members representing the community's multicultural diversity.~~

SEC. 22.

Section 4548 of the Welfare and Institutions Code is repealed.

~~4548.~~

~~(a) Area boards shall locally assist the state council with the implementation of subtitles A and B of Title I of Public Law 106-402 (42 U.S.C. Sec. 15001 et seq.).~~

~~(b) Area boards shall protect and advocate the rights of all persons in the area with developmental disabilities.~~

~~(c) Area boards shall conduct capacity building activities and provide advocacy for systemic change.~~

~~(d) (1) The area board shall have the authority to pursue legal, administrative, and other appropriate remedies to ensure the protection of the legal, civil, and service rights of persons who require services or who are receiving services in the area. In carrying out this responsibility, area boards may appoint a representative to assist the person in expressing his or her desires and in making decisions and advocating his or her needs, preferences, and choices, where the person with developmental disabilities has no parent, guardian, or conservator legally authorized to represent him or her and the person has either requested the appointment of a representative or the rights or interests of the person, as determined by the area board, will not be properly protected or advocated without the appointment of a representative.~~

~~(2) Where there is no guardian or conservator, the person's choice, if expressed, including the right to reject the assistance of a representative, shall be honored. If the person does not express a preference, the order of preference for selection of the representative shall be the person's parent, involved family member, or a volunteer selected by the area board. In establishing these preferences, it is the intent of the Legislature that parents or involved family members shall not be required to be appointed guardian or conservator in order to be selected. Unless the consumer expresses otherwise, or good cause otherwise exists, the request of the parents or involved family members to be appointed the representative shall be honored.~~

~~(3) Where appropriate pursuant to this section, the area board shall appoint a representative to advocate the rights and protect the interests of a person residing in a developmental center for whom community placement is proposed pursuant to Section 4803.~~

~~(4) The area board shall identify any evidence of the denial of these rights, shall inform the appropriate local, state, or federal officials of their findings, and shall assist these officials in eliminating all forms of discrimination against persons with developmental disabilities in housing,~~

recreation, education, health and mental health care, employment, and other service programs available to the general population.

(e) Area boards shall conduct, or cause to be conducted, public information programs for consumers, families, professional groups, and for the general public, to increase professional and public awareness of prevention and habilitation programs, and to eliminate barriers to social integration, employment, and participation of persons with developmental disabilities in all community activities.

(f) Area boards shall encourage and assist in the establishment or strengthening of self-advocacy organizations led by individuals with developmental disabilities.

(g) (1) To the extent that resources are available, area boards shall review the policies and practices of publicly funded agencies that serve or may serve persons with developmental disabilities, to determine if the programs are meeting their obligations under local, state, and federal laws. A regional center may notify the area board when the regional center believes a publicly funded program is failing to meet its obligations in serving persons with developmental disabilities. The regional center may provide the area board with a comprehensive summary of the issues and the statute or regulation alleged to be violated. If the area board finds that the agency is not meeting its obligations, the area board shall inform the director and the managing board of the noncomplying agency, in writing, of its findings.

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

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

(4) If the problem has not been resolved within 30 days following the public hearing, the area board may provide the state council with its findings and may request authorization to initiate legal action. An area board shall not initiate legal action without prior authorization from the state council. However, the area board may assist any other person, agency, or organization that may pursue litigation related to the area board's findings.

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

(6) The state council shall review the report of the executive director and shall take any action it deems necessary to resolve the problem. If the state council authorizes the area board to initiate legal

action, the state council shall make legal assistance available to the area board pursuant to the legal services provisions of Public Law 106-402 (42 U.S.C. Sec. 15001 et seq.).

(h) Area boards shall encourage the development of needed services and supports of good quality that do not result in duplication, fragmentation of services, and unnecessary expenditures. Prior to providing additional funds for major expansion of existing programs, creation of new programs, or establishment of pilot projects to test new methodologies of service delivery for persons with developmental disabilities within an area board catchment area, the department or regional center, as appropriate, shall consult with the area board regarding the appropriateness of those program developments.

(i) In carrying out their review functions, area boards shall solicit the advice of knowledgeable professionals, consumers, and consumer representatives about problems within the service delivery system in the region. In enacting this article, it is the intent of the Legislature that the area boards not duplicate the functions assigned to other agencies that are routinely responsible for monitoring, regulating, or licensing programs for persons with developmental disabilities. Area boards may call upon these agencies for information and assistance in order to carry out their responsibilities more effectively. Unless otherwise prohibited by law, these agencies shall provide information requested by the area boards, and shall cooperate fully in complying with all reasonable requests for assistance.

(j) (1) Area boards shall remain informed about the quality of services in the area, and shall inform appropriate state and local licensing agencies of alleged fire, safety, health, or other violations of legally established standards, in any facility providing service to persons with developmental disabilities, that may be brought to the attention of the area board.

(2) If an area board receives evidence of criminal misconduct by an individual or agency funded in whole or in part with state funds under this division, the area board shall immediately inform appropriate public safety agencies about the alleged misconduct.

(k) (1) Area boards shall cooperate with county coordinating councils on developmental disabilities, other regional planning bodies, and consumer organizations in the area. Area boards shall comply with the reasonable requests of these groups and may request the assistance of the groups in carrying out area board responsibilities.

(2) The governing body of any county within the area may request that the area board study or investigate programs in the county for persons with developmental disabilities. The area board shall cooperate with county governments to the fullest extent possible within the limitations of the resources of the board.

(l) Each area board shall submit to the state council a summary of its activities and accomplishments in the previous year. The state council, in consultation with area boards, shall determine the timing of, and format for, this summary.

~~(m) It is the intent of the Legislature that area boards shall maintain local discretion in conducting their advocacy activities. The state council shall not direct the advocacy activities of the area boards, except when specifically authorized by law, or when necessary to ensure compliance with federal requirements.~~

SEC. 23.

Section 4548 is added to the Welfare and Institutions Code, to read:

4548.

Any regional advisory committee established shall, at the request of the state council, do all of the following:

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

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

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

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

SEC. 24.

The heading of Article 7 (commencing with Section 4550) of Chapter 2 of Division 4.5 of the Welfare and Institutions Code is amended to read:

Article 7. State Council Costs and Support Services

SEC. 25.

Section 4550 of the Welfare and Institutions Code is amended to read:

4550.

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

SEC. 26.

Section 4551 of the Welfare and Institutions Code is repealed.

~~4551.~~

~~(a) (1) Within the limit of funds allotted for these purposes, the state council chairperson, with the concurrence of a majority of the state council, shall appoint an executive director and, pursuant to paragraph (1) of subdivision (c) of Section 4553, shall appoint an executive director for each area board. The Governor, upon the recommendation of the executive director of the state council following consultation with the area boards, shall appoint a deputy director for area board operations. The Governor, upon recommendation of the executive director of the state council, shall appoint not more than two deputy directors. All other state council employees that the state council may require shall be appointed by the executive director, with the approval of the state council.~~

~~(2) The executive director, all deputy directors, and each area board executive director, shall be paid a salary that is comparable to the director, deputy director, or manager of other state boards, commissions, or state department regional offices with similar responsibilities. The executive director and three deputy directors of the state council and the executive director of each area board shall be exempt from civil service.~~

~~(b) Among other duties as the executive director of the state council may require, the deputy director for area board operations shall provide assistance to the area boards, including, but not limited to, resolving common problems, improving coordination, and fostering the exchange of information among the area boards and between the area boards and the state council.~~

~~(c) Each area board executive director employed by the state on December 31, 2002, shall continue to be employed in a job classification at the same or higher salary by the council on January 1, 2003, and thereafter, unless he or she resigns or is terminated from employment for good cause. The Executive Director of the Organization of Area Boards on December 31, 2002, shall continue to be employed in a job classification at the same or higher salary by the council on January 1, 2003, and shall serve as the deputy director of area board operations unless he or she resigns or is terminated from employment for good cause.~~

SEC. 27.

Section 4551 is added to the Welfare and Institutions Code, to read:

4551.

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

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

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

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

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

SEC. 28.

Section 4552 of the Welfare and Institutions Code is amended to read:

4552.

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

SEC. 29.

Section 4553 of the Welfare and Institutions Code is repealed.

~~4553.~~

~~(a) The Legislature finds and declares that the advocacy, coordinating, appeals, and other related functions of area boards cannot be effectively provided unless area boards have staff support services from personnel directly responsible and accountable to the area board and state council. Area board staff shall be state employees of the state council.~~

~~(b) (1) Each area board shall provide to the state council all information and documentation required by the council to prepare and account for the expenditures of an annual budget that includes the basic funding necessary for the area boards to meet the requirements of applicable state and federal law. The state council, in consultation with the area boards, shall determine the timing of, and format for, the provision of this information and documentation. An area board may present for consideration by the state council a proposal for funds to support any additional activities of the area board not anticipated to be funded through their basic allocation. The state council shall review all area board proposals and shall determine the amount of federal funds under Public Law 106-402 (42 U.S.C. Sec. 15001 et seq.) that shall be allotted to each area board. Nothing in this section shall prevent the appropriation of additional funds to the state council or area boards, or both, from the General Fund or other sources. These funds shall be used only for purposes of extending the activities of the state council or area boards, or both, as authorized by state or federal law.~~

~~(2) The state council may receive, on behalf of the council or on behalf of any area board, grants of funds in addition to any allocation of state funds or federal funds under Public Law 106-402 (42 U.S.C. Sec. 15001 et seq.), as authorized under this division. These funds shall be used only for purposes of extending the council's or area boards' activities as authorized by state or federal law.~~

~~(c) (1) Each area board shall have an executive director, nominated by the affirmative votes of a majority of the members of the area board, appointed by the executive director of the state council, and approved by the state council. The executive director shall select and supervise persons to serve in any staff positions as the area board and state council may authorize, pursuant to subdivision (a) of Section 4551. The affirmative votes of a majority of the members of the area board and approval of the state council shall be necessary for removal of an executive director by the executive director of the state council.~~

~~(2) Each area board, with the approval of the state council, may contract for additional assistance to carry out its duties as established by this division.~~

~~(3) Notwithstanding the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2), an area board may meet in executive session for purposes of discussing confidential matters, including, but not limited to, personnel matters.~~

SEC. 30.

Section 4553 is added to the Welfare and Institutions Code, to read:

4553.

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

SEC. 31.

Section 4560 of the Welfare and Institutions Code is repealed.

~~4560.~~

~~The Legislature finds that whenever multiple, uncoordinated, and duplicative planning activities are conducted by different state agencies on behalf of persons with developmental disabilities, the result is confusion of responsibilities, a lack of systemwide priorities, and failure to make the most appropriate use of all federal, state, and local funds and programs.~~

SEC. 32.

Section 4561 of the Welfare and Institutions Code is amended to read:

4561.

~~In~~ *(a)* ~~order to integrate all relevant state planning and budgeting, and in order to comply with federal requirements, a California Developmental Disabilities State Plan~~ *A state plan* shall be prepared by the state council not less often than once every five years, and shall be reviewed and revised, as necessary, on an annual basis. All references in this part to "state plan" shall be references to the ~~California Developmental Disabilities State Plan.~~ *state plan described by Public Law 106-402 (42 U.S.C. Sec. 15001 et seq.).*

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

SEC. 33.

Section 4562 of the Welfare and Institutions Code is amended to read:

4562.

(a) The state council ~~and the area boards on developmental disabilities~~ shall conduct activities necessary to develop ~~or~~ *and* implement the state plan in the various regions of the state.

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

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

~~(b)~~ *(d)* ~~In preparing this plan, the council shall utilize information provided by the area boards, statewide and local entities, individuals with developmental disabilities, family members, and other interested parties, to help identify and prioritize actions needed to improve California's system of~~

~~services and supports for persons with developmental disabilities.~~ The purpose of the plan shall be to ensure a coordinated and comprehensive system of community services and supports that is consumer and family centered and consumer and family directed, and to enable individuals with developmental disabilities to exercise self-determination, independence, productivity, and to be integrated and included in all facets of community life.

SEC. 34.

Section 4563 of the Welfare and Institutions Code is repealed.

~~4563.~~

~~(a) Area boards shall assess the extent to which services, supports, and other forms of assistance are available to individuals with developmental disabilities and their families within the area board catchment area, and shall make recommendations of objectives in both policy reform and service demonstration, based on identified service and support needs and priorities within the area board catchment area, to be included in the state plan.~~

~~(b) Area boards shall participate with the state council in the development and implementation of the state plan and shall submit any information concerning the area's services, needs, and priorities to the state council in a time and format as may be required to meet federal reporting requirements.~~

SEC. 35.

Section 4563 is added to the Welfare and Institutions Code, to read:

4563.

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

SEC. 36.

Section 4564 of the Welfare and Institutions Code is amended to read:

4564.

The state ~~council, in conjunction with the area boards, shall conduct open~~ *council shall conduct public* hearings on the state plan and related budgetary issues prior to submission of the plan pursuant to Section 4565.

SEC. 37.

Section 4565 of the Welfare and Institutions Code is amended to read:

4565.

(a) The state plan shall be given to the Governor, the Secretary of the California Health and Human Services Agency, the *University Centers for Excellence in Developmental Disabilities established pursuant to the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000, the* protection and advocacy agency designated by the Governor to fulfill the requirements and assurances of the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000, *and* the Superintendent of Public ~~Instruction, the Legislature, and to the chairpersons of all area boards~~ *Instruction* for review and comment prior to its submission by the chairperson of the state council to the United States Secretary of Health and Human Services.

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

SEC. 38.

Section 4566 of the Welfare and Institutions Code is repealed.

~~4566.~~

~~The state plan shall, in addition to the requirements established herein, comply in substance and format with requests of the Secretary of Health and Human Services.~~

SEC. 39.

Section 4626 of the Welfare and Institutions Code is amended to read:

4626.

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

(b) In order to prevent potential conflicts of interest, ~~no~~ *a* member of the governing board or member of the program policy committee of a regional center shall *not* be any of the following:

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

(2) An employee or a member of the state council or ~~an area board.~~ *a state council regional advisory committee.*

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

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

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

(d) The department shall ensure that no regional center employee or board member has a conflict of interest with an entity that receives regional center funding, including, but not limited to, a nonprofit housing organization and an organization qualified under Section 501(c)(3) of the Internal Revenue Code, that actively functions in a supporting relationship to the regional center.

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

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

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

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

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

(j) A person who knowingly provides false information on a conflict-of-interest statement required by this section shall be subject to a civil penalty in an amount up to fifty thousand dollars ($50,000), in addition to any civil remedies available to the department. An action for a civil penalty under this provision may be brought by the department or any public prosecutor in the name of the people of the State of California.

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

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

SEC. 40.

Section 4628 of the Welfare and Institutions Code is amended to read:

4628.

If, for good reason, a contracting agency is unable to meet all the criteria for a governing board established in this chapter, the director may waive ~~such~~ *those* criteria for a period of time, not to exceed one year, with the approval of the ~~area board in the area and with the approval of the~~ state council.

SEC. 41.

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.

(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~~ *state council* 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.

(c) 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 (1) of subdivision (c).

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

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

SEC. 41.5.

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~~ *state council 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. 42.

Section 4635 of the Welfare and Institutions Code is amended to read:

4635.

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

(b) (1) If the department finds that any regional center is not fulfilling its contractual obligations, the department shall make reasonable efforts to resolve the problem within a reasonable period of time

with the cooperation of the regional center, including the action described in paragraph (2) of subdivision (b) of Section 4629 or renegotiation of the contract.

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

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

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

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

(1) Notify the ~~area board,~~ State Council on Developmental Disabilities, all personnel employed by the regional center, all service providers to the regional center, and all consumers of the regional

center informing them that it proposes to terminate or not renew the contract with the regional center, and that the state will continue to fulfill its obligations to ensure a continuity of services, as required by state law, through a contract with a new governing board.

(2) Issue a request for proposals prior to selecting and negotiating with another governing board for a regional center contract. The ~~local area board~~ *state council* shall review all proposals and make recommendations to the department.

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

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

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

SEC. 43.

Section 4640.6 of the Welfare and Institutions Code is amended to read:

4640.6.

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

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

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

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

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

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

(A) All consumers three years of age and younger and for consumers enrolled in the Home and Community-based Services Waiver program for persons with developmental disabilities, an average service coordinator-to-consumer ratio of 1 to 62.

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

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

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

(d) For purposes of this section, "service coordinator" means a regional center employee whose primary responsibility includes preparing, implementing, and monitoring consumers' individual program plans, securing and coordinating consumer services and supports, and providing placement and monitoring activities.

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

(1) Only include data on service coordinator positions as defined in subdivision (d). Regional centers shall identify the number of positions that perform service coordinator duties on less than a full-time

basis. Staffing ratios reported pursuant to this subdivision shall reflect the appropriate proportionality of these staff to consumers served.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(6) Quality assurance expertise, to assist the regional center to provide the necessary coordination and cooperation with the ~~area board~~ *state council,* in conducting quality-of-life assessments and coordinating the regional center quality assurance efforts.

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 44.

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

4646.

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

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

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

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

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

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

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

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

(2) A regional center shall provide alternative communication services, including providing a copy of the individual program plan in the native language of the consumer or his or her family, legal

guardian, conservator, or authorized representative, or both, as required by Sections 11135 to 11139.7, inclusive, of the Government Code and implementing regulations.

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

SEC. 45.

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

4646.5.

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

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

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

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

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

(5) A schedule of the type and amount of services and supports to be purchased by the regional center or obtained from generic agencies or other resources in order to achieve the individual program plan goals and objectives, and identification of the provider or providers of service

responsible for attaining each objective, including, but not limited to, vendors, contracted providers, generic service agencies, and natural supports. The individual program plan shall specify the approximate scheduled start date for services and supports and shall contain timelines for actions necessary to begin services and supports, including generic services.

(6) When agreed to by the consumer, the parents, legally appointed guardian, or authorized representative of a minor consumer, or the legally appointed conservator of an adult consumer or the authorized representative, including those appointed pursuant to subdivision ~~(d)~~ *(a)* of Section~~4548,~~ *4541,* subdivision (b) of Section 4701.6, and subdivision (e) of Section 4705, a review of the general health status of the adult or child, including medical, dental, and mental health needs, shall be conducted. This review shall include a discussion of current medications, any observed side effects, and the date of the last review of the medication. Service providers shall cooperate with the planning team to provide any information necessary to complete the health status review. If any concerns are noted during the review, referrals shall be made to regional center clinicians or to the consumer's physician, as appropriate. Documentation of health status and referrals shall be made in the consumer's record by the service coordinator.

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

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

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

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

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

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

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

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

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

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

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

SEC. 46.

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

4648.

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

(a) Securing needed services and supports.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(7) No service or support provided by any agency or individual shall be continued unless the consumer or, ~~where~~ *when* appropriate, his or her parents, legal guardian, or conservator, or authorized representative, including those appointed pursuant to subdivision ~~(d)~~ *(a)* of Section~~4548,~~ *4541,* subdivision (b) of Section 4701.6, or subdivision (e) of Section 4705, is satisfied and the regional center and the consumer or, when appropriate, the person's parents or legal guardian or conservator agree that planned services and supports have been provided, and reasonable progress toward objectives have been made.

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

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

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

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

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

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

(I) The facility is eligible for Medicaid reimbursement.

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

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

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

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

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

(iv) The clients' rights advocate shall be notified of each admission and individual program planning meeting pursuant to this subparagraph and may participate in all individual program planning meetings unless the consumer objects on his or her own behalf. For purposes of this clause, notification to the clients' rights advocate shall include a copy of the most recent comprehensive

assessment or updated assessment and the time, date, and location of the meeting, and shall be provided as soon as practicable, but not less than seven calendar days prior to the meeting.

(v) Regional centers shall complete a comprehensive assessment of any consumer residing in an institution for mental disease as of July 1, 2012, for which federal Medicaid funding is not available, and for any consumer residing in an institution for mental disease as of July 1, 2013, without regard to federal funding. The comprehensive assessment shall be completed prior to the consumer's next scheduled individual program plan meeting and shall include identification of the services and supports needed and the timeline for identifying or developing those services needed to transition the consumer back to the community. Effective October 1, 2012, the regional center shall also consider resource options identified by the statewide specialized resource service. For each individual program plan meeting convened pursuant to this subparagraph, the clients' rights advocate for the regional center shall be notified of the meeting and may participate in the meeting unless the consumer objects on his or her own behalf. For purposes of this clause, notification to the clients' rights advocate shall include the time, date, and location of the meeting, and shall be provided as soon as practicable, but not less than seven calendar days prior to the meeting.

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

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

(10) Emergency and crisis intervention services including, but not limited to, mental health services and behavior modification services, may be provided, as needed, to maintain persons with

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

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

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

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

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

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

(C) Developing unpaid natural supports when possible.

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

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

(16) Notwithstanding any other ~~provision of~~ law or ~~regulation to the contrary,~~ *regulation,* effective July 1, 2009, regional centers shall not purchase experimental treatments, therapeutic services, or devices that have not been clinically determined or scientifically proven to be effective or safe or for which risks and complications are unknown. Experimental treatments or therapeutic services include

experimental medical or nutritional therapy when the use of the product for that purpose is not a general physician practice. For regional center consumers receiving these services as part of their individual program plan (IPP) or individualized family service plan (IFSP) on July 1, 2009, this prohibition shall apply on August 1, 2009.

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 47.

Section 4649 of the Welfare and Institutions Code is amended to read:

4649.

Regional centers shall cooperate with ~~area boards~~ *the state council* in joint efforts to inform the public of services available to persons with developmental disabilities and of their unmet needs, provide materials and education programs to community groups and agencies with interest in, or responsibility for, persons with developmental disabilities, and develop resource materials, if necessary, containing information about local agencies, facilities, and service providers offering services to persons with developmental disabilities.

SEC. 48.

Section 4650 of the Welfare and Institutions Code is amended to read:

4650.

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

SEC. 49.

Section 4659 of the Welfare and Institutions Code is amended to read:

4659.

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

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

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

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

(c) Effective July 1, 2009, notwithstanding any other ~~provision of~~ law or ~~regulation to the contrary,~~ *regulation,* regional centers shall not purchase any service that would otherwise be available from Medi-Cal, Medicare, the Civilian Health and Medical Program for Uniform Services, In-Home Support Services, California Children's Services, private insurance, or a health care service plan when a consumer or a family meets the criteria of this coverage but chooses not to pursue that coverage. If, on July 1, 2009, a regional center is purchasing that service as part of a consumer's individual program plan (IPP), the prohibition shall take effect on October 1, 2009.

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

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

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

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

(2) When necessary, the consumer or family may receive assistance from the regional center, the Clients' Rights Advocate funded by the department, or ~~area boards on developmental disabilities~~ *the state council* in pursuing these appeals.

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

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

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

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

SEC. 50.

Section 4662 of the Welfare and Institutions Code is amended to read:

4662.

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

SEC. 51.

Section 4669.2 of the Welfare and Institutions Code is amended to read:

4669.2.

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

(1) Alternative service coordination for consumers.

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

(3) Procedures whereby regional centers may negotiate levels of payment with providers for delivery of specific services to a group of consumers through a mutually agreed upon contract with a specific term and a guaranteed reimbursement amount. Contracted services may be for any specific service or combination of services across vendor categories.

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

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

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

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

(8) Proposals for a regional center to purchase a facility for its own office space if it can be shown to be cost-effective. ~~No funds~~ *Funds* from a regional center's purchase of services budget shall *not* be used for this purchase.

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

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

SEC. 52.

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

4677.

(a) (1) All parental fees collected by or for regional centers shall be remitted to the State Treasury to be deposited in the Developmental Disabilities Program Development Fund, which is hereby created and hereinafter called the Program Development Fund. The purpose of the Program Development Fund shall be to provide resources needed to initiate new programs, and to expand or convert existing programs. Within the context of, and consistent with, approved priorities for program development in the state plan, program development funds shall promote integrated residential, work, instructional, social, civic, volunteer, and recreational services and supports that increase opportunities for self-determination and maximum independence of persons with developmental disabilities. Notwithstanding any other ~~provision of~~ law or ~~regulation to the contrary,~~ *regulation,* commencing July 1, 2009, parental fees remitted to the State Treasury shall be deposited in accordance with Section 4784.

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

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

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

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

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

(5) Based on the information provided by the regional centers and other agencies, the state council shall develop an assessment of the need for new, expanded, or converted community services and support, and make that assessment available to the public. The assessment shall include a discussion of the type and amount of services and supports necessary but currently unavailable including the impact on consumers with common characteristics, including, but not limited to, disability, specified

geographic regions, age, and ethnicity, face distinct challenges. The assessment shall highlight alternative and innovative service delivery models identified through their assessment process.

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

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

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

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

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

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

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

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

SEC. 53.

Section 4685.8 of the Welfare and Institutions Code is amended to read:

4685.8.

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

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

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

(2) Ensure all of the following:

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

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

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

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

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

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

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

(1) "Financial management services" means services or functions that assist the participant to manage and direct the distribution of funds contained in the individual budget, and ensure that the participant has the financial resources to implement his or her IPP throughout the year. These may include bill paying services and activities that facilitate the employment of service and support workers by the participant, including, but not limited to, fiscal accounting, tax withholding, compliance with relevant state and federal employment laws, assisting the participant in verifying provider qualifications, including criminal background checks, and expenditure reports. The financial management services provider shall meet the requirements of Sections 58884, 58886, and 58887 of Title 17 of the California Code of Regulations and other specific qualifications established by the department. The costs of financial management services shall be paid by the participant out of his or her individual budget, except for the cost of obtaining the criminal background check specified in subdivision (w).

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

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

(4) "IPP" means individual program plan, as described in Section 4646.

(5) "Participant" means an individual, and when appropriate, his or her parents, legal guardian or conservator, or authorized representative, who has been deemed eligible for, and has voluntarily agreed to participate in, the Self-Determination Program.

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

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

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

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

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

(A) The participant shall receive an orientation to the Self-Determination Program prior to enrollment, which includes the principles of self-determination, the role of the independent facilitator and the financial management services provider, person-centered planning, and development of a budget.

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

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

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

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

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

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

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

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

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

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

(h) If at any time during participation in the Self-Determination Program a regional center determines that a participant is no longer eligible to continue in, or a participant voluntarily chooses to exit, the

Self-Determination Program, the regional center shall provide for the participant's transition from the Self-Determination Program to other services and supports. This transition shall include the development of a new IPP that reflects the services and supports necessary to meet the individual's needs. The regional center shall ensure that there is no gap in services and supports during the transition period.

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

(j) An individual who participates in the Self-Determination Program may elect to continue to receive self-determination services and supports if he or she transfers to another regional center catchment area, provided that he or she remains eligible for the Self-Determination Program pursuant to subdivision (d). The balance of the participant's individual budget shall be reallocated to the regional center to which he or she transfers.

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

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

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

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

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

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

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

(II) The regional center certifies on the individual budget document that regional center expenditures for the individual budget, including any adjustment, would have occurred regardless of the individual's participation in the Self-Determination Program.

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

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

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

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

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

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

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

(4) The department, in consultation with stakeholders, may develop alternative methodologies for individual budgets that are computed in a fair, transparent, and equitable manner and are based on consumer characteristics and needs, and that include a method for adjusting individual budgets to address a participant's change in circumstances or needs.

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

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

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

(A) Applying for a state plan amendment.

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

(C) Applying for a new waiver.

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

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

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

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

(2) Notwithstanding paragraph (1) and Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and only to the extent that all necessary federal

approvals are obtained, the department, without taking any further regulatory action, shall implement, interpret, or make specific this section by means of program directives or similar instructions until the time regulations are adopted. It is the intent of the Legislature that the department be allowed this temporary authority as necessary to implement program changes only until completion of the regulatory process.

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

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

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

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

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

(v) Only the financial management services provider is required to apply for vendorization in accordance with Subchapter 2 (commencing with Section 54300) of Chapter 3 of *Division 2 of* Title 17 of the California Code of Regulations, for the Self-Determination Program. All other service and support providers shall not be on the federal debarment list and shall have applicable state licenses, certifications, or other state required documentation, including documentation of any other qualifications required by the department, but are exempt from the vendorization requirements set forth in Title 17 of the California Code of Regulations when serving participants in the Self-Determination Program.

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

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

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

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

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

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

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

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

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

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

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

(9) If the criminal record information report shows a criminal history, the department shall take the steps specified in Section 4689.2. The department may prohibit a provider of services and supports

from becoming employed, or continuing to be employed, based on the criminal background check, as authorized in Section 4689.6. The provider of services and supports who has been denied employment shall have the rights set forth in Section 4689.6.

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

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

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

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

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

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

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

(2) Types and amount of services and supports purchased under the Self-Determination Program, by regional center.

(3) Range and average of individual budgets, by regional center, including adjustments to the budget to address the adjustments permitted in clause (ii) of subparagraph (A) of paragraph (1) of subdivision (n).

(4) The number and outcome of appeals concerning individual budgets, by regional center.

(5) The number and outcome of fair hearing appeals, by regional center.

(6) The number of participants who voluntarily withdraw from the Self-Determination Program and a summary of the reasons why, by regional center.

(7) The number of participants who are subsequently determined to no longer be eligible for the Self-Determination Program and a summary of the reasons why, by regional center.

(z) (1) The State Council on Developmental Disabilities, in collaboration with the protection and advocacy agency identified in Section 4900 and the federally funded University Centers for Excellence in Developmental Disabilities Education, Research, and Service, may work with regional centers to survey participants regarding participant satisfaction under the Self-Determination ~~Program,~~ *Program* and, when data is available, the traditional service delivery system, including the proportion of participants who report that their choices and decisions are respected and supported and who report that they are able to recruit and hire qualified service providers, and to identify barriers to participation and recommendations for improvement.

(2) The council, in collaboration with the protection and advocacy agency identified in Section 4900 and the federally funded University Centers for Excellence in Developmental Disabilities Education, Research, and Service, shall issue a report to the Legislature, in compliance with Section 9795 of the Government Code, no later than three years following the approval of the federal funding on the status of the Self-Determination Program authorized by this section, and provide recommendations to enhance the effectiveness of the program. This review shall include the program's effectiveness in furthering the principles of self-determination, including all of the following:

(A) Freedom, which includes the ability of adults with developmental disabilities to exercise the same rights as all ~~citizens;~~ *citizens* to establish, with freely chosen supporters, family and friends, where they want to live, with whom they want to live, how their time will be occupied, and who supports them; ~~and,~~ *and* for ~~families,~~ *families* to have the freedom to receive unbiased assistance of

their own choosing when developing a plan and to select all personnel and supports to further the life goals of a minor child.

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

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

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

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

SEC. 54.

Section 4701 of the Welfare and Institutions Code is amended to read:

4701.

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

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

(b) The reason or reasons for that action.

(c) The effective date of that action.

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

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

(f) That if a fair hearing is requested, the claimant has the following rights:

(1) The opportunity to be present in all proceedings and to present written and oral evidence.

(2) The opportunity to confront and cross-examine witnesses.

(3) The right to appear in person with counsel or other representatives of his or her own choosing.

(4) The right to access to records pursuant to Article 5 (commencing with Section 4725).

(5) The right to an interpreter.

(g) Information on availability of advocacy assistance, including referral to the developmental center or regional center clients' rights advocate, ~~area board,~~ *the State Council on Developmental Disabilities,* publicly funded legal services corporations, and other publicly or privately funded advocacy organizations, including the protection and advocacy system required under federal Public Law 95-602, the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C.A. Sec. 6000 et seq.).

(h) The fair hearing procedure, including deadlines, access to service agency records under Article 5 (commencing with Section 4725), the opportunity to request an informal meeting to resolve the issue or issues, and the opportunity to request mediation which shall be voluntary for both the claimant and the service agency.

(i) If the claimant has requested an informal meeting, information that it shall be held within 10 days of the date the hearing request form is received by the service agency.

(j) The option of requesting mediation prior to a fair hearing, as provided in Section 4711.5. ~~Nothing in this~~ *This* section shall *not* preclude the claimant or his or her authorized representative from proceeding directly to a fair hearing in the event that mediation is unsuccessful.

(k) The fair hearing shall be completed and a final administrative decision rendered within 90 days of the date the hearing request form is received by the service agency, unless the fair hearing request has been withdrawn or the time period has been extended in accordance with this chapter.

(l) Prior to a voluntary informal meeting, voluntary mediation or a fair hearing, the claimant or his or her authorized representative shall have the right to examine any or all documents contained in the individual's service agency file. Access to records shall be provided pursuant to Article 5 (commencing with Section 4725).

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

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

comprehend English, the notice shall be provided in ~~such~~ *any* other language as the claimant or authorized representative comprehends.

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

SEC. 55.

Section 4702.6 of the Welfare and Institutions Code is amended to read:

4702.6.

"Hearing request form" means a document that shall include the name, address, and birth date of the claimant, date of request, reason for the request, and name, address, and relationship to the claimant of the authorized representative, if any, and whether the claimant is a participant in the medicaid home and community-based waiver. The hearing request form shall also indicate whether the claimant or his or her authorized representative is requesting mediation. A copy of the appointment of the authorized representative, by the claimant or the ~~area board~~ *State Council on Developmental Disabilities* if any, shall also be included.

SEC. 56.

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

4705.

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

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

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

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

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

(e) If, in the opinion of any person, the rights or interests of a claimant who has not personally authorized a representative will not be properly protected or advocated, the ~~local area board~~ *State Council on Developmental Disabilities* and the clients' right advocate assigned to the regional center or developmental center shall be notified, and the ~~area board~~ *State Council on Developmental Disabilities* may appoint a person or agency as representative, pursuant to ~~subdivision (d) of Section 4548,~~ *subparagraph (A) of paragraph (2) of subdivision (e) of Section 4540,* to assist the claimant in the mediation and fair hearing procedure. The appointment shall be in writing to the authorized representative and a copy of the appointment shall be immediately mailed to the service agency director.

SEC. 57.

Section 4775 of the Welfare and Institutions Code is amended to read:

4775.

The Legislature finds that the method of appropriating funds for numerous programs for the developmentally disabled affects the availability and distribution of services and must be related to statewide planning. Therefore, the process for determining levels of funding of programs must involve consideration of the state plan established pursuant to Chapter 3 (commencing with Section ~~4560)~~ *4561)* of this division and the participation of citizens who may be directly affected by funding decisions.

SEC. 58.

Section 4830 of the Welfare and Institutions Code is amended to read:

4830.

As used in this chapter:

(a) "Continuum" means a coordinated multicomponent services system within ~~the~~ geographic ~~borders~~ *regions* of ~~each of the 13 area boards on developmental disabilities~~ *the state* whose design shall support the sequential developmental needs of persons ~~such~~ *so* that the pattern of these services provides an unbroken chain of experience, maximum personal ~~growth~~ *growth,* and liberty.

(b) "Normalization" means making available programs, methods, and titles ~~which~~ *that* are culturally normative, and patterns and conditions of everyday life ~~which~~ *that* are as close as possible to the norms and patterns of the mainstream of society.

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

SEC. 59.

Section 4831 of the Welfare and Institutions Code is amended to read:

4831.

The State Department of Developmental Services may develop the design and phase-in plan for continuums and may designate one or more designated agencies to implement community living continuums throughout the state, after consideration of a recommendation from the ~~respective area board on developmental disabilities~~ *State Council on Developmental Disabilities* in conjunction with recommendations from the appropriate regional center.

SEC. 60.

Section 4832 of the Welfare and Institutions Code is amended to read:

4832.

~~An~~ *(a)* ~~area board~~ *The State Council on Developmental Disabilities* may review and evaluate existing and proposed community living arrangement programs within ~~their jurisdiction~~ *the various regions of the state* and may make a recommendation to the Director of ~~the Department of~~ Developmental Services concerning programs ~~which~~ *that* should be considered as the most appropriate agency to be designated as responsible for the implementation of the community living continuum within their area. These programs shall include, but not be limited to, those~~which~~ *that* have been funded through the issuance of Mental Retardation Private Institutions' Fund grants, ~~Developmental Disability Community Development~~ *state council program development* grants, and model state hospital programs. Consideration shall be given to all of the following:

~~(a)~~ *(1)* Private nonprofit corporations.

~~(b)~~ *(2)* Public agencies.

~~(c)~~ *(3)* A joint powers agreement agency.

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

~~No~~ *(c) A* person shall *not* serve as a director or advisory committee member who has a financial interest, as defined in Section 87103 of the Government Code, in designated agency operations, except with respect to any interest as a consumer of a designated agency or regional center services.

SEC. 61.

Section 4835 of the Welfare and Institutions Code is amended to read:

4835.

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

(b) These standards and criteria shall be developed with participation by consumer organizations, ~~area boards on developmental disabilities,~~ *the State Council on Developmental Disabilities,* the Association of Regional Center Agencies, the State Department of Social Services, the State Department of Health Care Services, the State Department of Education, and the Department of Rehabilitation, and consultations with individuals with experience in developmental services programming.

SEC. 62.

Section 41.5 of this bill incorporates amendments to Section 4629 of the Welfare and Institutions Code proposed by both this bill and Senate Bill 1093. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2015, (2) each bill amends Section 4629 of the Welfare and Institutions Code, and (3) this bill is enacted after Senate Bill 1093, in which case Section 41 of this bill shall not become operative.

DRAFT

MEMBERSHIP COMMITTEE MEETING MINUTES
July 30, 2014

Members Present	Members Absent	Others Attending
April Lopez (chair)	Robert Jacobs	Mike Clark
Sandra Smith		Thomas Johnson

Teleconference
Linda Landry
David Forderer

1. **CALL TO ORDER/ESTABLISHMENT OF QUORUM**

   April Lopez, Chairperson, called the meeting to order at 1:00 p.m. A quorum was established.

2. **WELCOME AND INTRODUCTIONS**

   Everyone present introduced themselves.

3. **PUBLIC COMMENT**

   There was no public comment

4. **APPROVAL OF JUNE 19, 2014 MINUTES**

   It was moved/seconded (Landry/Lopez) and carried to approve the June 19, 2014 MTARS Committee minutes as presented. The only two members present at June 19 meeting were April, Mike, and Linda.

5. **SCDD BYLAWS & DESCRIPTION OF MEMBERSHIP COMMITTEE DUTIES**

   Committee Members reviewed the SCDD BYLAWS and the Description of Membership Committee Duties, contained in the packet of materials

handed out. There was also a brief discussion on who makes up Council Membership and the appointment process in general.

It was also mentioned that the Membership Committee develop a system that coordinates and facilitates appointments with the Governor's Office. There was also a discussion on how to gain public input regarding possible nominees and appointments. It was mentioned that the Membership Committee could utilize social media (like Facebook or Twitter) to facilitate this process. It was also suggested that prospective applicants send a copy of their application to SCDD. For this, it was emphasized that the Membership Committee has direct contact with the Governor's Office.

Sandra Smith emphasized that the Membership Committee should meet more often than quarterly in order to gather as much information as possible, and to invigorate the recruiting process. Sandra also suggested the development of a recruiting flyer that specifically caters to each Regional Advisory Board. Moreover, recruiting flyers should incorporate as much diversity as possible.

In short, a description of Membership Committee duties was summarized verbatim from the BYLAWS. This document can be accessed at: http://www.scdd.ca.gov/res/docs/BYLAWS%20Revised%20May%2029%202014.pdf

6. **UPDATE ON CURRENT STATE COUNCIL APPOINTMENTS, MEMBERS, AND VACANCIES**

Members discussed current vacancies and how the Membership Committee can facilitate the process for new appointments and acquire the status on applicants currently held up for review in the Governor's Office.

7. **COUNCIL RECRUITING FLYER**

It was moved/seconded (Lopez/Smith) and carried to approve that Staff develop a recruiting document for review and input at the next Executive Committee Meeting.

8. **NEXT MEETING DATES**

The next Membership Committee Meeting was scheduled for September 8, 2014; from 1:00pm to 3:00pm

9. **ADJOURNMENT**

The meeting was adjourned at 2:20pm.

CALIFORNIA SCDD State Council on Developmental Disabilities

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Council Policy
On
Sheltered Work and Subminimum Wage
And the Transition to Integrated Competitive Employment

Adopted July 16, 2014

Introduction

The Employment First Policy seeks to further the values of the Lanterman Act to enable persons with developmental disabilities to approximate the pattern of everyday living available to people without disabilities of the same age, to support the integration of persons with developmental disabilities into the mainstream life of the community, and to bring about more independent, productive, and normal lives. Therefore, the Council must advocate for the transition to integrated competitive employment while also promoting supports and services that support individuals in all aspects of community living.

Policy

Whereas, the State Council on Developmental Disabilities is committed to promoting systems change and quality supports so that all working age people with developmental disabilities will have the option to work in integrated employment at regular wages.

Whereas, the State of California has adopted *the Employment First Policy* stating 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.

Whereas, state and federal minimum wage laws seek to protect working people from exploitation and improve their quality of life through ensuring a minimum level of pay.

"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."

Whereas, the 1938 Fair Labor Standards Act's subminimum wage provisions were created in the era of the Great Depression when employment opportunities were scarce and little was known about supporting people with disabilities in integrated competitive employment.

Whereas, knowledge and services have evolved, state systems and employment supports have improved so that segregated work environments and payment of subminimum wages are not necessary to provide work opportunities for people with disabilities.

Whereas, there is a lack of oversight and enforcement by the Department of Labor Wage and Hour Division for the special minimum wage certificates, a lack of consistency in the time study tests done by employers to assess the wage level, and a singling out of workers with disabilities given that the general workforce is not subjected to standards of timed productivity.

Whereas, subminimum wages have been described by workers with disabilities as humiliating, degrading, and making them feel like "second-class citizens."

Whereas, sheltered workshops are generally ineffective at progressing workers with disabilities to integrated competitive employment, and the subminimum wage certificates serve as a counter-incentive to integrate workers into the mainstream economy.

Whereas, the growth of integrated competitive employment opportunities are necessary to replace employment in sheltered work and paying subminimum wage.

Whereas, the United Nations Convention on the Rights of People with Disabilities recognizes the right of persons with disabilities to work on an equal basis with others; and the opportunity to gain a living in a work environment that is open, inclusive and accessible.

Whereas, the Universal Declaration on Human Rights recognizes that everyone has the right to work, and, without any discrimination, receive equal pay for equal work to ensure an existence worthy of human dignity.

Whereas, individuals with disabilities share the same human aspirations and rights as persons without disabilities.

Therefore, be it resolved that the State Council on Developmental Disabilities shall:

(1)Advocate for systematically phasing out sheltered workshops and subminimum wage.

(2)Promote services that best support individuals in integrated competitive employment through advocating for rate incentives, disseminating best practices, and educating individuals and their families on the Employment First Policy.

(3)Advocate for a systematic transition away from sheltered work through phased in measures such as limiting referrals for transition age youth, limiting referrals for all individuals, and targets for downsizing, closure, and restructuring into integrated services.

(4)Research other states that have shown leadership in reducing reliance on sheltered work and subminimum wage to determine best practices and systems change efforts that could be applied to California. Identify successful practices and system change efforts within California for replication in other areas of the state.

(5)Request that the Department of Developmental Services develop, with stakeholder input, a plan for the systematic phasing out of sheltered workshops and the use of subminimum wage.

(6)As segregated and subminimum wage employment is phased out, individuals exiting those services must have access to replacement services and supports, as determined through their IPP, including options for integrated competitive employment.

PLAIN LANGUAGE VERSION

State Council on Developmental Disabilities
Policy On

SHELTERED WORKSHOPS AND SUBMINIUM WAGE

The State Council shall:

(1)Advocate for phasing out sheltered workshops and subminimum wage.

(2)Advocate for services that support people in regular jobs making regular pay.

(3)Advocate for limiting referrals to sheltered workshops and a time to close them.

(4)Find out what other states have done to do that. Find what is happening in California that may work.

(5)Ask the Department of Developmental Services to develop a plan to do that.

(6)Make sure people in sheltered workshops and making subminimum wage have other options.