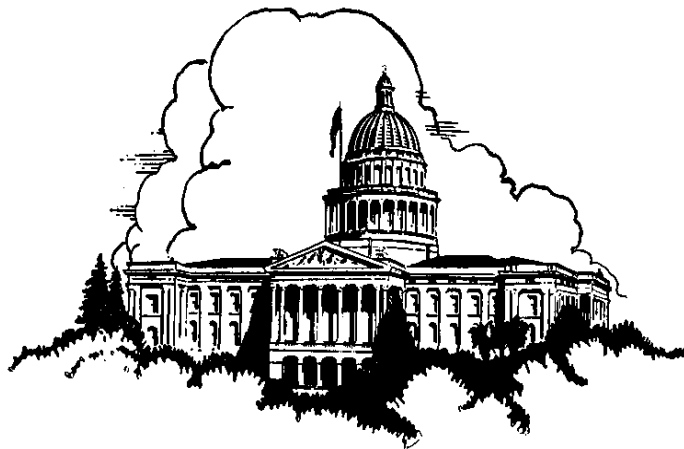


# 1997 LEGISLATIVE SESSION

IMPACT  
OF

*SB 391, SB 1039, AND AB 1543  
ON SERVICES FOR PEOPLE WITH  
DEVELOPMENTAL DISABILITIES*



## INTRODUCTION

During the 1997 Legislative session, provisions of the Welfare and Institutions Code were either revised or added by several key pieces of legislation, as follows:

- C SB 391 (Solis) was signed into law by Governor Pete Wilson on August 18, 1997. This act is an emergency statute and takes effect immediately.
- C SB 1039 (Thompson) was signed into law on September 21, 1997. This act is an emergency statute and takes effect immediately.
- C AB 1543 (Committee on Human Services) was signed into law September 27, 1997. This act takes effect January 1, 1998.

The purpose of this document is to provide a quick reference for identifying the numerous and important changes the above legislation has made.

The text is presented in strike out and italic form. Italicized text is new or revised. Strikeout indicates previous language which is now omitted. The right hand column (in bold print) contains a brief explanation of the revisions and clarifying comments.

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The following is a compilation of the amendments made by:

SB 1039, Chapter 414, Statutes of 1997  
SB 391, Chapter 294, Statutes of 1997  
AB 1543, Chapter 474, Statutes of 1997

## DEVELOPMENTAL SERVICES

### Welfare and Institutions Code

#### Division 4.1

#### General Administration, Powers and Duties of the Department

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

**This section was added by SB 1039.**

*4418.1. (a) The Legislature recognizes that it has a special obligation to ensure the well-being of persons with developmental disabilities who are moved from state hospitals to the community.*

**This section was added by SB 391 to require the Department to contract with an independent agency or organization to track persons who are moved from developmental centers (DCs) to the community to ensure that all necessary services and supports are provided. The contractor is required to report annually to the Governor, the Legislature and the Department regarding its activities and findings.**

*(b) To ensure that persons with developmental disabilities who are moved from state hospitals to the community are receiving necessary services and supports, the department shall contract with an independent agency or organization for the tracking and monitoring of those persons, including all persons moved as a result of the Coffelt v. State Department of Developmental Services settlement agreement and any persons moved after the terms of that agreement have been met.*

*(c) The contractor shall be experienced in all of the following:*

*(1) Designing valid tracking instruments.*

*(2) Tracking the quality of community programs, including outcome-based measures such as health and safety, quality of life, integration, choice, and consumer satisfaction.*

*(3) Tracking the quality and appropriateness of community placements for persons moving from large institutions into community settings.*

*(4) Developing data systems.*

*(5) Data analysis and report preparation.*

*(d) The contractor shall measure consumer and family satisfaction with services provided, including case management and quality of life, including, but not limited to, health and safety, independence, productivity, integration, opportunities for choice, and delivery of needed services.*

*(e) The information maintained for each person shall include the person's name, address, nature of disability, medical condition, scope of community-based services and supports, and the annual data collected by the contractor.*

*(f) The contractor shall meet with each person, and the person's family, legal guardian, or conservator, when appropriate, no less than once a year to discuss quality of life and observe the person's services and supports. In cases where the consumer is not capable of communicating his or her responses and where there is no family member, guardian, or conservator involved, the contractor shall meet with no less than two persons familiar with the consumer. Additionally, the contractor shall interview staff and friends who know the consumer best and review records, as appropriate.*

*(g) If the contractor identifies any suspected violation of the legal, civil, or service rights of an individual, or if the contractor determines that the health and welfare of the individual is at risk, that information shall be provided immediately to the regional center providing case management services, the client rights advocate, and to the department.*

*(h) The department shall monitor the corrective actions taken by the regional center and maintain a report in the person's file. The consumer and, when appropriate, his or her parents, legal guardian, or conservator, shall be provided with access to the person's file and be provided with copies of all reports filed with the regional center or department relative to them.*

(i) The department shall establish a taskforce, including representatives from stakeholder organizations, to annually review the findings of the contractor and make recommendations regarding additional or differing criteria for information to be gathered by the contractor in future interviews.

(j) As of July 1, 1998, and annually thereafter, the contractor shall provide a report to the Governor, the Legislature, and the department outlining the activities and findings of this process. The reports shall be public and shall contain no personally identifying information about the persons being monitored.

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

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

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

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

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

**4418.7.** (a) If the regional center determines, or is informed by the consumer's parents, legal guardian, or conservator, that the community placement of a consumer is at risk of failing, and that admittance to a state developmental center is a likelihood, the regional center shall immediately notify the department, the consumer, and the parents, legal guardian, or conservator.

(b) In these cases, the department shall immediately arrange for an assessment of the situation. If, based on the assessment, the department determines that additional or different services and supports are necessary, the department shall ensure that the regional center provides those services and supports on an emergency basis. An individual program plan meeting, including the department's representative, shall be convened as soon as possible to review the emergency services and supports and determine the consumer's ongoing needs for services and supports.

**SB 391 continued.**

This section was added by SB 1039 to provide a transition process for consumers placed into the community from the DC and to require the regional center to conduct face-to-face reviews no less than once every 30 days for the first 90 days. These reviews may be conducted less often after the first 90 days upon notification to the Department by the regional center. This section also requires DC staff participation on the planning team; consumer or family opportunities to visit, if feasible, a variety of community living arrangements; and a transition conference convened after the IPP is completed and no less than 15 days before a move. The Department will implement this transition process through the Regional Resource Development Projects.

This section was added by SB 391 to require regional centers to notify the Department, (the Department has delegated the Regional Resource Development Projects to receive notification), when a consumer's community placement is at risk of failing.

*(c) If the department, in consultation with the regional center, the consumer, and the consumer’s parents, legal guardian, or conservator, when appropriate, determines that admittance to a state developmental center is necessary to protect the health and welfare of the consumer, the department shall immediately seek that admission.*

**The Regional Resource Development Project is required to immediately arrange for an assessment and ensure necessary follow-up, including other services on an emergency basis, and, when appropriate, admission to a DC.**

**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, and the services provided by the department’s Office of Human Rights may have conflicts of 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.*

*(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.*

**This section was added by SB 391 to require the Department to contract, by January 1, 1998, on a multi-year basis, with a nonprofit agency for clients’ rights advocacy services for individuals with developmental disabilities. This section further establishes criteria for selection of the contractor, and the advocacy functions of the contractor once selected.**

*(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, or concerning persons 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.*

*(f) The department shall contract on a multiyear basis for a contract term of up to three 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.*

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

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

**SB 391 continued.**

**This section was added by SB 1039 to require the Department to ensure that regional centers operate in compliance with federal and state laws and regulations, and that the contract between the Department and the regional centers include such a provision.**



*(c) The contract between the department and individual regional centers required by Chapter 5 (commencing with Section 4620) of Division 4.5 shall include a provision requiring each regional center to render services in accordance with applicable provisions of state laws and regulations. In the event that the department finds a regional center has violated this requirement, or whenever it appears that any regional center has engaged in or is about to engage in any act or practice constituting a violation of any provision of Division 4.5 (commencing with Section 4500) or any regulation adopted thereunder, the department shall promptly take the appropriate steps necessary to ensure compliance with the law, including actions authorized under Section 4632 or 4635. The department, as the director deems appropriate, may pursue other legal or equitable remedies for enforcement of the obligations of regional centers including, but not limited to, seeking specific performance of the contract between the department and the regional center or otherwise act to enforce compliance with Division 4.5 (commencing with Section 4500) or any regulation adopted thereunder.*

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

**The Department is required to take action when a regional center is in violation of this provision. The Department is required to include a review of policies and guidelines in its monitoring of the regional center.**

LANTERMAN DEVELOPMENTAL DISABILITIES SERVICES ACT

Welfare and Institutions Code
Division 4.5
Services for the Developmentally Disabled

CHAPTER 1. GENERAL PROVISIONS

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

- (a) Since the enactment of this division in 1977, the number of consumers receiving services under this division has substantially increased and the nature, variety, and types of services necessary to meet the needs of the consumers and their families have also changed. Over the years the concept of service delivery has undergone numerous revisions. Services that were once deemed desirable by consumers and families may now no longer be appropriate, or the means of service delivery may be outdated.
(b) As a result of the increased demands for services and changes in the methods in which those services are provided to consumers and their families, the value statements and principles contained in this division should be updated.
(c) It is the intent of the Legislature, in enacting the act that added this section, to update existing law; clarify the role of consumers and their families in determining service needs; and to describe more fully service options available to consumers and their families, pursuant to the individual program plan. Nothing in these provisions shall be construed to expand the existing entitlement to services for persons with developmental disabilities set forth in this division.
(d) It is the intent of the Legislature that the department monitor regional centers so that an individual consumer eligible for services and supports under this division receive the services and supports identified in his or her individual program plan.

This section was amended by SB 1039 to establish the intent of the Legislature that the Department monitor regional centers to ensure that eligible consumers receive the services and supports identified in their individual program plans.

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

This section was amended by SB 1039 to further establish the intent of the Legislature that the Department, through appropriate and regular monitoring activities, ensures that regional centers meet their statutory, regulatory and contractual obligations in providing services to persons with developmental disabilities.

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

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

Services and supports should be available to enable persons with developmental disabilities to approximate the pattern of everyday living available to people without disabilities of the same age. Consumers of services and supports, and where appropriate,

their parents, legal guardian, or conservator, should be empowered to make choices in all life areas. These include promoting opportunities for individuals with developmental disabilities to be integrated into the mainstream of life in their home communities, including supported living and other appropriate community living arrangements. In providing these services, consumers and their families, when appropriate, should participate in decisions affecting their own lives, including, but not limited to, where and with whom they live, their relationships with people in their community, the way in which they spend their time, including education, employment, and leisure, the pursuit of their own personal future, and program planning and implementation. The contributions made by parents and family members in support of their children and relatives with developmental disabilities are important and those relationships should also be respected and fostered, to the maximum extent feasible, so that consumers and their families can build circles of support within the community.

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

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

**4512.** As used in this part:

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

(b) "Services and supports for persons with developmental disabilities" means specialized services and supports or special adaptations of generic services and supports directed toward the alleviation of a developmental disability or toward the social, personal, physical, or economic habilitation or rehabilitation of an individual with a developmental disability, or toward the achievement and maintenance of independent, productive, normal lives. The determination of which services and supports are necessary for each consumer shall be made through the individual program plan process.

**SB 1039 continued.**

**This section was amended by SB 1039 to increase the period for provisional placement for consumers released from DCs from 6 months to 12 months.**

**This section was amended by SB 1039 to define "planning team" and "stakeholder organizations."**

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

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

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

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

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

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

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

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

**SB 1039 continued.**

**SB 1039 continued.**

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

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

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

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

**This section was added by SB 1039 to require the Health and Welfare Agency to contract with an independent consultant to conduct an evaluation of the policies and procedures of the Department and regional centers in providing services and supports to consumers, and moving of persons from developmental centers to the community. The results must be reported to the legislature in March, 1998, and at least two public hearings must be conducted.**

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

**This section was added by SB 1039.**

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

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

**This section was amended by SB 1039 to permit area boards to appoint a representative to assist consumers who have no parent guardian or conservator to represent their interests. To make such an appointment, the consumer must either have requested the appointment of a representative or,**

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

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

The area board shall identify any evidence of the denial of ~~such~~ these rights, shall inform the appropriate local, state, or federal officials of their findings, and shall assist ~~such~~ 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.

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

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

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

**as determined by the area board, the consumer's rights or interests will not be properly protected or advocated without a representative being appointed.**

**Where there is no guardian or conservator, the consumer's choice shall be honored. If no choice is expressed, the order of preference for selection shall be parent, involved family member, or volunteer selected by the area board. Parents or involved family members are not required to be appointed guardian or conservator in order to be selected. Unless the consumer objects, or good cause exists, the request of family members to be appointed shall be honored.**

**This section was amended by SB 1039 to streamline the existing process for the area board's review of the policies and practices of publicly funded agencies that provide services to people with developmental disabilities.**

~~If any noncompliance is determined, the area board shall inform, in writing, the director and the managing board of such noncomplying agency of its findings.~~

~~If the agency fails to alter its policies in order to comply with the law within 30 days and after all other informal efforts to assist the agency have been exhausted, the area board may conduct a public hearing to receive testimony on the issue of the agency's noncompliance.~~

~~If the problem has not been resolved within 30 days following the public hearing, The the area board may ~~notify~~ 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 than may pursue litigation related to the area board's findings.~~

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

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

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

**4596.5.** (a) *In order to remain informed about the quality of services in the area and protect the legal, civil, and service rights of persons with developmental disabilities pursuant to Section 4590, the Legislature finds that it is necessary to conduct life quality assessments with consumers served by the regional centers.*

(b) *It is the intent of the Legislature that life quality assessments described in this section be conducted by area boards, unless an independent evaluation of the life quality assessment process, that shall be completed by April 30, 1998, identifies compelling reasons why this function should not be conducted by area boards.*

(c) *By July 1, 1998, the department shall enter into an interagency agreement with the Organization of Area Boards, on behalf of the area boards, to conduct the life quality assessments described in this section.*

(d) *Consistent with the responsibilities described in this chapter, the area board, with the consent of the consumer and, when appropriate, a family member, shall conduct life quality assessments with consumers living in out-of-home placements, supported living arrangements, or independent living arrangements no less than once every three years or more frequently upon the request of a consumer, or, when appropriate, a family member. A regional center shall annually provide the local area board with a list, including the name, address, and telephone number of each consumer, and, when appropriate, a family member, the consumer's date of birth, and the consumer's case manager, for all consumers living in out-of-home placements, supported living arrangements, or independent living arrangements, in order to facilitate area board contact with consumers and, when appropriate, family members, for the purpose of conducting life quality assessments.*

(e) *The life quality assessments shall be conducted by utilizing the State Department of Developmental Services' Looking at Life Quality Handbook.*

(f) *The assessments shall be conducted by consumers, families, providers, and others, including volunteer surveyors. Each area board shall recruit, train, supervise, and coordinate surveyors. Upon request, and if feasible, the area board shall respect the request of a consumer and, when appropriate, family member, for a specific surveyor to conduct the life quality assessment. An area board may provide stipends to surveyors.*

**SB 1039 continued.**

**This section was amended by SB 1039 to authorize the executive director of the state council to conduct additional factfinding investigations.**

**This section was added by SB 391 to require that, by July 1, 1998, the Department enter into an interagency agreement with the Organization of Area Boards, on behalf of the area boards, to conduct Life Quality Assessments (LQAs) at least once every three years for all consumers living in out-of-home placements, supported and independent living arrangements.**

**This section establishes requirements for the regional centers, area boards and the Department relative to the LQA process. The Organization of Area Boards is required to prepare and**

(g) *A life quality assessment shall be conducted within 90 days prior to a consumer's triennial individual program plan meeting, so that the consumer and regional center may use this information as part of the planning process.*

(h) *Prior to conducting a life quality assessment, the area board shall meet with the regional center to coordinate the exchange of appropriate information necessary to conduct the assessment and ensure timely followup to identified violations of any legal, civil, or service rights.*

(i) *Following the conduct of each life quality assessment, the area board shall develop a report of its findings and provide a copy of the report to the consumer, when appropriate, family members, and the regional center providing case management services to the consumer. In the event that a report identifies alleged violations of any legal, civil, or service right, the area board shall notify the regional center and the department of the alleged violation. The department shall monitor the regional center to ensure that violations are addressed and resolved in a timely manner.*

(j) *Regional centers shall review information from the life quality assessments on a systemic basis in order to identify training and resource development needs.*

(k) *Effective August 1, 1999, and annually thereafter, the Organization of Area Boards shall prepare and submit a report to the Governor, the Legislature, and the department describing the activities and accomplishments related to the implementation of this section. The report shall include, but not be limited to, the number of life quality assessments conducted, the number of surveyors, including those provided stipends, a description of the surveyor recruitment process and training program, including any barriers to recruitment, the number, nature, and outcome of any identified violations of legal, civil, or service rights reported to regional centers, and recommendations for improvement in the life quality assessment process.*

(l) *Implementation of this section shall be subject to an annual appropriation of funds in the state Budget Act for this purpose.*

(m) *If the department finds, based on the results of the independent study described in subdivision (b), that there is a compelling reason why the area boards should not conduct the life quality assessments, it may select an alternative governmental agency or contract with a nonprofit agency to conduct the life quality assessments as described in this section. The department shall notify the Governor and the Legislature of such a finding, including the reasons for the finding and a description of the alternative method by which the department will ensure the life quality assessment process is completed.*

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

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

**4622.** (a) ~~After July 1, 1996, the~~ *The state shall contract only with agencies, the governing boards of which conform to all of the following criteria:*

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

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

**submit an annual report to the Governor, the Legislature and the Department summarizing LQA activities.**

**This section was amended by SB 1039.**

**This section was added by SB 1039.**

**This section was amended by SB 1039 to specify an inoperative date of July 1, 1999.**



- (3) The membership of the governing board shall include representatives of the various categories of disability to be served by the regional center. **SB 1039 continued.**
- (4) The governing board shall reflect the geographic and ethnic characteristics of the area to be served by the regional center.
- (5) (A) A minimum of 50 percent of the members of the governing board shall be persons with developmental disabilities or their parents or legal guardians.
- (B) By July 1, 1993, persons with developmental disabilities shall comprise no less than 5 percent of each governing board, or the governing board shall issue a finding to the department and the local area board as to why this is not achievable.
- (C) By July 1, 1994, persons with developmental disabilities shall comprise no less than 10 percent of each governing board, or the governing board shall issue a finding to the department and the local area board as to why this is not achievable.
- (D) By July 1, 1995, persons with developmental disabilities shall comprise no less than 15 percent of each governing board, or the governing board shall issue a finding to the department and the local area board as to why this is not achievable.
- (E) By July 1, 1996, persons with developmental disabilities shall comprise no less than 25 percent of each governing board, or the governing board shall issue a finding to the department and the local area board as to why this is not achievable.
- (F) The regional center shall provide necessary training and support to these board members to facilitate their understanding and participation.
- (G) The governing board shall appoint a consumers' advisory committee composed of persons with developmental disabilities representing the various categories of disability served by the regional center. A consumers' advisory committee shall remain in existence at least until the regional center has achieved a governing board membership of which persons with developmental disabilities make up at least 25 percent.
- (6) Members of the governing board shall not be permitted to serve longer than six consecutive years.
- (7) The governing board shall appoint an advisory committee composed of a wide variety of persons representing the various categories of providers from which the regional center purchases client services. The advisory committee shall provide advice, guidance, recommendations, and technical assistance to the regional center board in order to assist the regional center in carrying out its mandated functions. The advisory committee shall designate one of its members to serve as a member of the regional center board.
- (8) The governing board shall annually review the performance of the director of the regional center.
- (9) No member of the board who is an employee or member of the governing board of a provider from which the regional center purchases client services shall do any of the following:
- (A) Serve as an officer of the board.
- (B) Vote on any fiscal matter affecting the purchase of services from any regional center provider.
- (C) Vote on any issue other than as described in subparagraph (B), in which the member has a financial interest, as defined in Section 87103 of the Government Code, and determined by the regional center board. The member shall provide a list of his or her financial interests, as defined in Section 87103, to the regional center board.
- (b) Nothing in this section shall prevent the appointment to a regional center governing board of a person who meets the criteria for more than one of the categories listed above.
- (c) *This section shall become inoperative on July 1, 1999, and, as of January 1, 2000, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2000, deletes or extends the dates on which it becomes inoperative and is repealed.*

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

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

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

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

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

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

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

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

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

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

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

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

*(1) Serve as an officer of the board.*

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

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

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

*This section shall become operative on July 1, 1999.*

**4625.** ~~After January 1, 1977, the~~ *The department shall not contract with any new regional center contracting agency unless the governing board of such the agency is composed of individuals as specified in subdivisions (a) to (f) paragraphs (1) to (6), inclusive, of Section 4622.*

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

**This section was added by SB 1039 to specify revised requirements for regional center governing boards which shall become operative on July 1, 1999.**

**The governing board shall:**  
**1) be composed of individuals with a demonstrated interest in developmental disabilities; 2) include persons with specific skills; 3) represent the categories of developmental disabilities served by the regional center; 4) reflect the geographic and ethnic characteristics of the area served by the regional center; and, 5) include specific percentages of parents, legal guardians and consumers. Terms for the governing board are limited to six years within each eight-year period.**

**The regional center shall provide necessary training and support to board members, and appoint an advisory committee of providers to assist the board in carrying out its mandated functions. The Department is required to review and approve regional centers' provision of board training and support.**

**This section was amended by SB 1039 to conform with changes to Section 4622. This section becomes inoperative July 1, 1999.**

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

*This section shall become operative on July 1, 1999.*

~~4629. (a) Beginning January 1, 1994, the~~ The state shall enter into five-year contracts with regional centers, subject to the annual appropriation of funds by the Legislature. ~~The department shall establish a staggered schedule for entering into five-year performance contracts with one third of the regional centers by January 1, 1994, one third of the regional centers by January 1, 1995, and one third of the regional centers by January 1, 1996. The performance contracts shall include reasonable specific performance and reporting requirements based on consumer outcomes, relative to the responsibilities of the regional centers defined in this division, and the timing for compliance with those requirements. The renewal of each contract shall be contingent upon the regional center meeting a reasonable standard of compliance with the contract.~~

~~The department, in consultation with statewide constituency organizations, including, but not limited to, a statewide consumer organization, the Association of Regional Center Agencies, the Organization of Area Boards, and the State Council on Developmental Disabilities shall develop performance standards, including tools for measuring client outcomes, and shall specify regional center activities and procedures designed to ensure that performance standards are met, which shall include, but not be limited to, all of the following~~

~~(1) Establishment of review activities by the department, to be accomplished within existing resources, to assess the yearly progress of the regional center in meeting performance standards:~~

~~(2) A public process through which the regional center establishes local goals and objectives for the contract period:~~

~~(3) A public process through which the regional center conducts a mid-contract review of its progress in meeting performance standards and local goals:~~

~~(4) Uniform procedures to be used by all regional centers which shall do all of the following:~~

~~(A) Define "active" and "inactive" cases:~~

~~(B) Account for all funds received or expended by regional centers:~~

~~(C) Define a unit of direct service performed by regional center personnel:~~

~~(D) Allocate indirect, administrative, and overhead expenditures to a unit of direct service:~~

~~(E) Calculate costs per unit of direct service:~~

~~(F) Provide any other information the department may require to analyze expenditures, conduct comparative cost and performance reviews, and implement the evaluation requirements in Chapter 8 (commencing with Section 4750) of this division:~~

~~Contracting agencies shall agree to use procedures specified by the department to produce caseload and unit of service cost reports.)~~

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

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

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

~~(A) Assist consumers to achieve life quality outcomes.~~

~~(B) Achieve meaningful progress above the current baselines.~~

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

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

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

**This section was added by SB 1039 to specify an operative date of July 1, 1999.**

**This section was amended by SB 1039 to revise requirements for regional center performance contracts and to establish additional requirements for departmental monitoring of performance contracts. Renewal of each contract shall be contingent upon compliance with the contract as determined by the Department. The Department shall evaluate the regional centers' compliance with their contracts performance objectives by annually assessing each regional center's achievements of its prior year's objectives and making that assessment available to the public.**

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

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

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

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

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

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

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

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

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

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

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

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

**4639.** *The governing board of a regional center shall annually contract with an independent accounting firm for an audited financial statement. The audit report and accompanying management letter shall be reviewed and approved by the regional center board and submitted to the department within 60 days of completion and before April 1 of each year. Upon submission to the department, the audit report and accompanying management letter shall be made available to the public by the regional center. It is the intent of the Legislature that no additional funds be appropriated for this purpose.*

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

**The Department must also review each regional center's public process for setting objectives, the objectives themselves and any public comments on the process or final standards.**

**This section was added by SB 391 to require the governing board of a regional center to contract annually with an independent accounting firm for an audited financial statement.**

**This section was added by SB 1039.**

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

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

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

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

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

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

~~(d) Individual program plans shall be prepared jointly by one or more representatives of the regional center, including the service coordinator, the person with developmental disabilities, and where appropriate, the person's parents, legal guardian, or conservator. 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.*

**This section was amended by SB 391 to require that, when a consumer transfers from one regional center catchment area to another, the level and types of services and supports specified in the consumer's IPP will continue to be provided, if available, pending a new IPP. The Department is required to develop guidelines for ensuring a smooth transition of services.**

**This section was amended by SB 1039 to require that the IPP be prepared jointly by the planning team. Decisions regarding consumer goals, objectives, services and supports that will be purchased by the regional center will be made by agreement between the regional center representative and the consumer or the consumer's parents or authorized representative at the program plan meeting. If final agreement cannot be reached, a subsequent meeting shall be held within 15 days.**

**The authorized representative of the regional center and the consumer, or where appropriate, the parents, legal guardian, conservator or authorized representative must make decisions on necessary**

When invited by the consumer or, where appropriate, the consumer's parents, legal guardian, or conservator, participants in the individual program plan meeting may also include other persons:

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

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

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

services and supports at the program plan meeting and sign the IPP prior to its implementation.

**If an agreement cannot be reached at the first meeting, a second meeting must be held within 15 days or later with the consent of the consumer or his/her representative. The consumer or his/her representative may agree in whole or in part with the IPP. Disagreement with the IPP shall not prohibit implementation of agreed-upon services and supports. In the case of a disagreement, the consumer or the consumer's representative shall be sent written notice of the fair hearing rights on those issues concerning services upon which the consumer or his/her representative and the regional center have not reached agreement.**

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

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

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

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

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

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

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

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

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

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

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

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

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

**This section was amended by SB 1039 to require the IPP to specify start dates for services and supports and timelines for necessary actions. The responsibility for review and modification of the IPP is to be made by the planning team. This section adds the requirement that the Department annually review a random sample of IPPs.**

**This section was amended by SB 1039 to require the planning team to consider all appropriate options for meeting IPP objectives.**

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

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

**SB 1039 continued.**

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

(a) Securing needed services and supports.

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

**SB 1039 continued.**

**This section was amended by SB 1039 to specify the involvement of the planning team in activities conducted by the regional center to achieve the stated objectives of the IPP. This section allows consumers to receive supplemental services, including additional staffing, as determined necessary by the planning team and establishes requirements for regional center monitoring of supplemental services.**

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

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

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

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

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

(C) Developing unpaid natural supports when possible.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**SB 1039 continued.**

**This section was amended by SB 1039 to require that, at each regional center board meeting, time be allowed for public input on any issue whether or not it was included on the agenda. The amendment also expands the list of ways in which the meetings may be recorded.**

**This section was amended by SB 1039 to require regional centers to mail board meeting notices to anyone who requests a notice and to maintain all recordings and written comments regarding board meetings for no less than two years.**

**SB 1039 continued.**

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

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

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

**This section was amended by SB 1039.**

**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, 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:

**This section was amended by AB 1543 to clarify when regional center consultation regarding proposed service delivery alternatives is to occur, and to require the regional center to annually report to the Department on the implementation of service delivery alternatives.**

(~~a~~)(1) Alternative service coordination for consumers.

(~~b~~)(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 center 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.

(~~c~~)(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.

(~~d~~)(4) Procedures whereby consumers, regional center representatives, area board representatives, 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.

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

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

(~~g~~)(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.

(~~h~~)(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 from a regional center's purchase of services budget shall 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.*

**4669.75.** (a) Any proposal approved by the department pursuant to this ~~article chapter~~ may be implemented immediately upon approval. Prior to submitting a proposal to the department, the regional center shall, ~~except as provided for in this section,~~ conduct ~~a at least one~~ public hearing to receive comments on the proposal. Notice of the public hearing shall be given at least 10 business days in advance of the hearing. *The public hearing shall be conducted in accordance with this section.* ~~Copies of the proposal shall be available for review at least 10 business days prior to the hearing. However, no additional hearing shall be required when the proposal is part of another plan requiring public hearings under statute or regulation. Except for subdivision (i) of Section 4669.2, the proposal shall cease to be implemented by no later than December 31, 1997.~~

(b) *Notice shall include a summary of the proposal, analysis of the effect of the proposal upon the regional center budget and the state budget, the impact on regional center services, and the impact on consumers served under the proposal, and a list of the statutes and regulations that will be waived under the proposal. No proposal approved under this article shall authorize a regional center to implement proposals that have not met all the requirements of this article. The department may not delegate its authority to review and approve proposals in accordance with this article.*

(c) *Each written comment submitted prior to the close of the final public hearing, and a summary of verbal testimony received, shall be considered by the regional center, and a summary of the responses to all comments shall be submitted as part of the proposal to the department. These comments and responses shall be made available, along with the proposal, for public review.*

(d) A service delivery alternative shall be required to be implemented within the existing regional center funding allocation and shall be cost-effective to the state. No additional allocation shall be made to permit a regional center to implement a service delivery alternative. *No proposal approved under this article shall authorize or give authority to a regional center to go forward with any other specific action or proposal that has not met all of the requirements of this article. The department may not delegate its authority to review and approve proposals in accordance with this article to a regional center or any other entity.*

(e) *Proposals approved by the department shall meet freedom of choice requirements pursuant to the assurances required in the home and community-based waiver under Section 136n of Title 42 of the United States Code.*

(f) Information on regional center alternative systems, including recommendations regarding the maintenance or expansion of service delivery alternatives, shall be available to the Legislature, upon request, not later than March 31, 1998.

**4669.8** ~~This article shall become inoperative on June 30, 1998, and, as of January 1, 1999, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1999, deletes or extends that date the dates on which it becomes inoperative and is repealed.~~

*This article shall remain in effect only until January 1, 2000, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2000, deletes or extends that date.*

**This section was amended by AB 1543 to revise requirements for public hearings on proposed service delivery options and to establish additional requirements for these proposals.**

**This section was amended by AB 1543 to extend the repeal date for provisions pertaining to regional center service delivery alternatives until January 1, 2000.**

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

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

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

~~On or before October 1, 1982, the State Council on Developmental Disabilities shall request from all regional centers information on priority services needed but currently unavailable. Based on the information provided by the regional centers and other local agencies, the State Council on Developmental Disabilities shall annually develop an assessment of the level of need for new community programs. This needs assessment shall be included in the state plan. The State Council on Developmental Disabilities, in consultation with the State Department of Developmental Services, shall make a recommendation to the Department of Finance as to the level of funding for program development to be included in the Governor's Budget, based upon this needs assessment.~~

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

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

*(e)(d) 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 programs services and supports for developmentally disabled persons with developmental disabilities.*

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

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

~~For the 1982-83 fiscal year only, parental fees in excess of those appropriated in the Budget Act of 1982 are hereby appropriated to the State Department of Developmental Services for purchasing services by regional centers.~~

**This section was amended by SB 1039 to require the State Council on Developmental Disabilities to request, every three years, information from all regional centers on the types and amounts of services and supports needed but currently unavailable. A report is to be developed and made available to the public, and used for funding recommendations.**

~~(f)(e)~~ 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.

**SB 1039 continued.**

**4681.1.** (a) By July 1, ~~1989~~, and each year, ~~thereafter~~, the department shall establish rates, that shall be reviewed by the state council. Payment of these rates shall be subject to the appropriation of sufficient funds for that purpose in the Budget Act. In reviewing the sufficiency of these rates that is required by March 1, 1989, the department shall take into account the findings and recommendations of the study conducted by the State Council on Developmental Disabilities pursuant to Section 4541.

**This section was amended by SB 391 to extend the due date for the Alternative Residential Model cost study to March 1, 2001.**

(b) In establishing rates to be paid for out-of-home care, the department shall include each of the cost elements in this section as follows:

(1) Rates established for all facilities shall include an adequate amount to care for "basic living needs" of a person with developmental disabilities. "Basic living needs" shall include housing, shelter, utilities, furnishings, food, incidental transportation, housekeeping, and personal care items. The amount required for basic living needs shall be calculated each year as the average cost of these items in community care facilities. The department shall annually publish a listing of the allowable cost components of these cost items and the methodology used to determine the amounts of each item. The amount for basic living needs shall be adjusted depending on the extent to which there is a demonstrated variation based on the size of the out-of-home facility. These amounts shall be adjusted annually to reflect cost-of-living changes. A redetermination of basic living costs shall be undertaken every three years by the State Department of Developmental Services, using the best available estimating methods. The first report shall be made on March 1, ~~1996~~2001. The department shall convene an advisory committee and develop a plan, including a proposal for an appropriate study methodology, for the redetermination of basic living costs. The advisory committee shall include, but not be limited to, service consumers, family members, residential service providers, and advocacy groups.

(2) Rates established for all facilities that provide direct supervision for persons with developmental disabilities shall include an amount for "direct supervision." The cost of "direct supervision" shall vary with the person's functioning in the areas of self-care and daily living skills, physical coordination and mobility, and behavioral self-control and shall reflect one of the following:

(A) Basic self-help and daily living skills, no significant limitations in physical coordination and mobility, and behavioral self-control.

(B) Poor self-help and daily living skills, some limitations in physical coordination and mobility, or some disruptive or self-injurious behavior.

(C) Severe deficits in self-care and daily living skills, severe impairments in physical coordination and mobility, or severely disruptive or self-injurious behavior.

The individual program plan developed pursuant to Section 4646 shall determine the amount of direct supervision required for each individual. The cost of direct supervision shall be calculated as the wage and benefit costs of caregiving staff depending on the level of service being provided to meet the functional needs of the person with developmental disabilities. These rates shall be adjusted annually to reflect wage changes and shall comply with all federal regulations for hospitals and residential care establishments under the federal Fair Labor Standards Act.

**SB 391 continued.**

(3) Rates established for all facilities that provide "special services" for persons with developmental disabilities shall include an amount to pay for such "special services" for each person receiving special services. "Special services" include specialized training, treatment, supervision, or other services which the individual program plan of each person requires to be provided by the residential facility in addition to the direct supervision provided pursuant to the person's individual program plan in subdivision (b). Facilities shall be paid for providing special services for each individual to the extent that such services are specified in the person's individual program plan and the facility is a designated provider of such special services. Rates of payment for special services shall be the same as prevailing rates paid for similar services in the area.

(4) To the extent applicable, rates established for facilities shall include a reasonable amount for "unallocated services." These costs shall be determined using generally accepted accounting principles. "Unallocated services" means the indirect costs of managing a facility and includes costs of managerial personnel, facility operation, maintenance and repair, employee benefits, taxes, interest, insurance, depreciation, and general and administrative support.

If a facility serves other persons in addition to developmentally disabled persons, unallocated services expenses shall be reimbursed under this section, only for the proportion of the costs associated with the care of developmentally disabled persons. The amount for unallocated services shall be adjusted depending on the extent to which there is a demonstrated variation due to such factors as facility size or administrative structure.

(5) Rates established for facilities shall include an amount to reimburse facilities for the depreciation of "mandated capital improvements and equipment" as established in the state's uniform accounting manual. For purposes of this section, "mandated capital improvements and equipment" are only those remodeling and equipment costs incurred by a facility because an agency of government has required such remodeling or equipment as a condition for the use of the facility as a provider of out-of-home care to persons with developmental disabilities.

(6) When applicable, rates established for proprietary facilities shall include a reasonable "proprietary fee."

(7) Rates established for all facilities shall include as a "factor" an amount to reflect differences in the cost of living for different geographic areas in the state.

(8) Rates established for developmentally disabled persons who are also mentally disordered may be fixed at a higher rate. The State Department of Mental Health shall establish criteria upon which higher rates may be fixed pursuant to this subdivision. The higher rate for developmentally disabled persons who are also mentally disordered may be paid when requested by the director of the regional center and approved by the Director of Developmental Services.

(c) This section shall apply to facility rates paid under the alternative residential model originally authorized in Item 4300-101-001 of the Budget Act of 1985 and as identified in the department's report of April 1987 entitled Alternative Residential Model (ARM).

(d) The department shall approve additional facilities to receive rates pursuant to this section upon the appropriation of funds for that purpose.

(e) It is the intent of the Legislature that the department phase in implementation of the alternative residential model during the fiscal years 1987-88, 1988-89, 1989-90, and 1990-91. The department shall include all facilities providing services pursuant to this article in the alternative residential model by January 1, 1991.



(f) By April 1, 1989, the State Department of Developmental Services shall prepare draft regulations establishing quality service standards for facilities and procedures for administering the alternative residential model. The department shall confer with interested parties concerning the draft regulations by July 1, 1989. By July 1, 1990, the department shall submit to the Office of Administrative Law regulations establishing quality service standards for facilities, procedures for administering the Alternative Residential Model, and ratesetting methodology. Full statewide implementation of the Alternative Residential Model shall not occur until the department has submitted these regulations.

**SB 391 continued.**

(g) In addition to establishing rates as required by this section, the State Department of Developmental Services shall detail obstacles to ensuring sufficient numbers of living arrangements for persons served by the department, and to providing an adequate quality of care and services to persons served by the department who reside in residential facilities, and make recommendations for overcoming these obstacles.

**4681.3.** (a) Notwithstanding any other provision of this article, for the 1996-97 fiscal year, the rate schedule authorized by the department in operation June 30, 1996, shall be increased based upon the amount appropriated in the Budget Act of 1996 for that purpose. The increase shall be applied as a percentage, and the percentage shall be the same for all providers.

**This section was amended by SB 391 to require that the amount appropriated in the Budget Act to increase the June 30, 1997 rate schedule shall be applied as a percentage increase and that percentage be the same for all providers.**

(b) *Notwithstanding any other provision of this article, for the 1997-98 fiscal year, the rate schedule authorized by the department in operation on June 30, 1997, shall be increased based upon the amount appropriated in the Budget Act of 1997 for that purpose. The increase shall be applied as a percentage, and the percentage shall be the same for all providers.*

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

**This section was amended by SB 1039 to revise the definition of "authorized representative" to include a representative appointed by the area board to assist a consumer.**

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

**This section was amended by SB 1039 to require notice to the area board and clients' right advocate when a consumer needs assistance with the fair hearing appeals procedure (language moved from Section 4710.8 ).**

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

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

(c) The service agency's fair hearing procedure shall be stated in writing, in English and ~~such~~ any other language as 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 such recipients or applicants, shall be informed verbally of, and shall be notified in writing in a language which they comprehend of, the service agency's fair hearing procedure when they apply for service, when they are denied service, and when notice of service modification is given pursuant to Section 4710.

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

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

~~(b) If, in the opinion of any person, the rights or best interests of a claimant who has not personally authorized a representative will not be properly protected or advocated in any appeals procedure, the local area board and the service agency clients' rights advocate shall be notified, and the area board may appoint a representative to assist the claimant in the appeals procedure. The appointment shall be made in writing to the authorized representative and a copy of the appointment shall be immediately mailed to the service agency director.~~

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

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

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

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

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

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

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

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

**SB 1039 continued.**

**This section was amended by SB 1039. Deleted language is moved to Section 4705.**

**This section was added by SB 1039 to establish, effective January 1, 1998, a consumer complaint process. A consumer, or any consumer's representative who believes that a consumer's rights have been abused, punitively withheld, or denied by a regional center, DC, or service provider, may make a complaint to the clients' rights advocate for that regional center or developmental center.**

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

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

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

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

**The advocate is required to investigate and send a written proposed solution to the complainant, and to the regional center, DC or service provider within 10 working days.**

**If the complaint is not resolved, the complainant is referred to the director of the DC or the regional center who has 10 days to resolve, and finally to the Director of the Department who has 45 days to issue a written decision. The Department is also required to publish a summary of each decision and make those available to the public. This complaint process is separate and distinct from others currently available in law or regulation.**

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

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

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

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

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

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

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

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

(A) Innovative and cost-effective methods of services delivery that include, but are not limited to, the use of vouchers; the use of consumers and parents as service coordinators; alternative methods of case management; the use of volunteer teams, made up of consumers, parents, other family members, and advocates, to conduct the monitoring activities described in Section 4648.1; increased administrative efficiencies; alternative sources of payment for services; use of available assessments in determining eligibility; and alternative nonresidential rate methodologies or service delivery models, or both. In addition, the regional center shall take into account, in identifying the consumer's service needs, the family's responsibility for providing similar services to a child without disabilities.

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

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

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

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

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

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

(2) Require a regional center to reduce office space through the decentralization of service coordinators by allowing service coordinators to work in their homes and in community-based programs.

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

**SB 1039 continued.**

**This section was amended by SB 1039 to require the regional center to hold an additional public hearing on the expenditure plan if the Department, after its review, requires significant modifications to the plan.**

- (4) Require a regional center to contract for specified functions currently conducted directly by the regional center.
- (5) Require regional centers to seek Medi-Cal provider status for regional center staff performing reimbursable activities.
- (h) Notwithstanding any other provisions of law, the director may terminate a regional center contract if he or she determines that the regional center is unable or unwilling to make the necessary reductions in its operations budget or if the action is necessary to avoid reductions in the purchase of services for regional center consumers.
- (i) Notwithstanding any other provisions of law, the department may directly operate a regional center after the termination of a contract.
- (j) If the director determines that regional centers cannot provide services throughout the fiscal year within the funds provided by the Budget Act, he or she shall immediately report to the Governor and the appropriate fiscal committees of the Legislature and recommend actions to secure additional funds or reduce expenditures, including any actions which require the suspension of the entitlement to service set forth in this division.
- (k) Developing and implementing the plan shall be considered a contractual obligation pursuant to Section 4635 of the Welfare and Institutions Code. Accordingly, the department shall make reasonable efforts to assist regional centers in fulfilling their contractual obligations and provide technical assistance, as necessary. In addition, a regional center's failure to develop and implement the plan may be considered grounds for contract termination or nonrenewal. If at any time the director of the department determines that a regional center's plan does not adequately address a funding deficiency during the fiscal year, the director may require the use of operational funds to reduce the deficiency in purchase of services funds.
- (l) This section shall become inoperative on July 1, 2000, and, as of January 1, 2001, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2001, deletes or extends the dates on which it becomes inoperative and is repealed.

**SB 1039 continued.**

**4803.** If a regional center recommends that ~~an adult~~ *a person* be admitted to a community care facility or health facility as a developmentally disabled resident, the employee or designee of the regional center responsible for making such recommendations shall certify in writing that neither the person recommended for admission to a community care facility or health facility, nor the parent of a minor or conservator of an adult, if appropriate, *nor the person or agency appointed pursuant to Section 4590 or subdivision (e) of Section 4705* has made an objection to ~~such~~ the admission to the person making ~~such~~ the recommendation. The regional center shall transmit ~~such~~ the certificate, or a copy thereof, to the community care facility or health facility.

**This section was amended by SB 1039 to add the representative appointed by the area board to the list of individuals whom the regional center must certify as having made no objection to the placement of the consumer in a licensed facility.**

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

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

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