



*California's Protection & Advocacy System
Toll-Free (800) 776-5746*

Special Education Instead of Adult Services for Consumers between the Ages of 18-22 - Fact Sheet¹

July 2011, Pub #F050.01

The State Legislature required the Department of Developmental Services (DDS) to reduce its budget by 174 million dollars for this fiscal year (2011-2012), in addition to the required 334 million dollar reduction effective July, 2009.² As a result, there are changes to the types and amounts of services that regional centers can purchase. This fact sheet describes the 2011 changes in the use of school services for consumers between the ages of 18 to 22 who are eligible for special education and have not received a diploma or certificate of completion, any exemptions to those changes, and what will happen if the regional center wants to change your services.

¹ The changes are part of the Budget Trailer Bill (TBL) AB104. You may find the law at http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_0101-0150/ab_104_bill_20110630_chaptered.html. The changes regarding Special Education are found at Welfare and Institutions Code section 4648.55.

² The new law requires DDS to obtain even greater savings if certain triggers are not met in the state budget throughout the year. Disability Rights California will discuss this on its website if the triggers are not met.

HOW THE LAW CHANGED

A section added to the Lanterman Act prohibits a regional center from purchasing certain services for consumers between the ages of 18 to 22 who are eligible for special education and related services and have not received a diploma or certificate of completion from high school.³ The statute divides this group into three separate groups, each of which is discussed separately below. There are certain exemptions to the new statute, which are also discussed below. Remember, if you have received a diploma or certificate of completion from high school, the changes in the law made by the Budget Trailer Bill do not apply to you.

However, under special education law, students who have earned certificates of completion are still eligible for special education services until they earn a regular diploma or reach the age of 22. Because these students are still entitled to services from special education, and because there are other, older laws in the Lanterman Act which prohibit regional centers from purchasing services that a consumer is able to receive from other sources, like special education, regional centers may still deny one or more of the services listed in Section B below if these service needs can be met through special education. Regional centers' denials of services in these situations have been upheld by administrative law judges based on these other Lanterman Act laws. As with any service a consumer is requesting the regional center to pay for, the consumer must be ready to prove that the service which the consumer really needs is not available to the consumer from any other source.

Because the Budget Trailer Bill talks only about consumers who have Certificates of Completion, the changes in the law do not apply to only consumers with Certificates of Completion. Education law gives school districts the ability to award a special education student, who is not getting a diploma, either a Certificate of Completion or a Certificate of Achievement. A regional center should treat any Certificate of Achievement the same as a Certificate of Completion, but some regional centers may not. If a consumer wants to be sure that this new law applies

³ Welfare and Institutions Code section 4648.55

to him/her after high school, he/she should try to have the school district label the document a Certificate of Completion and not a Certificate or Achievement or any other type of certificate.

A. The Three Groups Identified by the Statute

It is important to understand which group you are in as the changes are different for each group.

Group #1. If you are 18-22 and you are still in school and you are either receiving or you want/need to receive one or more of the services listed under Section B below.

Group #2. If you are 18-22 and you are not in school but are currently receiving services under Section B from the regional center.

Group #3. If you are 18-22 and you are not in school and you are not getting - either from the school or from the regional center - any of the listed services in Section B below.

B. List of Involved Services

The new law only applies to the five services listed below. It does not apply to other services the regional center provides such as respite, supported living services (SLS), nursing and other health services or residential placement.

- 1) Day program
- 2) Vocational education
- 3) Work services
- 4) Independent living program
- 5) Mobility training and related transportation services

C. IPP Planning Team Process to Determine If Regional Center May Purchase Services.

Group #1: Consumers 18-22 Who Are Attending School and Are Either Receiving or Want/Need to Receive the Listed Services⁴

For Group #1, if you are 18-22 and are still in school, the Individual Program Plan (IPP) planning team has to determine whether the school can meet your need for the services listed under Section B. If the planning team determines that the school can meet your needs for any of the five listed services under Section B, then the regional center is required by law to help you get those services. You, or where appropriate, your parent, legal guardian, or conservator, can ask the regional center service coordinator to attend the Individualized Education Program (IEP) planning team meeting.⁵ Additionally, each regional center is required to have staff identified as having special education expertise who may be asked to help or attend meetings on your behalf.⁶

If the IPP planning team determines that the school cannot meet your needs for the services under Section B, or grants you an exemption (discussed in Section D below), then the regional center has to purchase or continue to purchase those services for you.

Group #2: Consumers 18-22 Who Have Left School and Are Currently Receiving the Listed Services from the Regional Center⁷

For Group #2, if you are 18-22 and have left school and you are receiving the listed services under Section B from the regional center, the IPP planning team has to make a determination whether the school can provide those services to you instead. If the planning team determines that your needs for the listed services under Section B can be met by the school,

⁴ Welfare and Institutions Code section 4648.55(a)

⁵ Welfare and Institutions Code section 4648.55(a)

⁶ Welfare and Institutions Code section 4640.6(g)(2)

⁷ Welfare and Institutions Code section 4648.55(b)

then the regional center is required by law to help you get those services from the school. You can always ask the regional center to attend the IEP planning team meeting with you.⁸

If the IPP planning team determines that your needs for the services listed under Section B cannot be met by the school, then the regional center can continue to purchase those services for you. Although the law is not as clear, Disability Rights California believes that you can also get an exemption (see Section D below) in order for the regional center to purchase those services for you.

Because you are currently receiving services from the regional center, the regional center must provide you with a notice of action before it takes any action to reduce, terminate or change the services that are in your IPP. Please see Section E below for more information about your due process rights.

Group #3: Consumers 18-22 Who Are Not Attending School and NOT Receiving the Listed Services from Either the School or the Regional Center⁹

For Group #3, if you are 18-22 and you are not attending school and currently NOT getting any of the services listed under Section B - from either the regional center or from the school - you can request an IPP meeting and identify in your IPP that you need these services. Once you identify in your IPP that you need these services, then the regional center must first try to get those services for you from the school. If the IPP planning team determines that the school can meet your needs for services listed under Section B, then the regional center is required by law to help you get these services. Again, you can always ask the regional center to attend the IEP planning team meeting with you.¹⁰ Generally, the regional center will not be able to purchase those services listed under Section B for you unless you meet an exemption as explained in Section D below.

⁸ Welfare and Institutions Code section 4640.6(g)(2)

⁹ Welfare and Institutions Code section 4648.55(c)

¹⁰ Welfare and Institutions Code section 4640.6(g)(2)

D. Exemption in Extraordinary Circumstances

There are two ways to get an exemption which will allow the regional center to purchase services listed under Section B for you:¹¹

1. An exemption may be granted if there was an individualized determination that an extraordinary circumstance exists in your case that justifies granting you an exemption;
or
2. An exemption must be granted if, through the IPP process, it is determined that the school cannot appropriately meet your needs for services listed under Section B.

Examples of extraordinary circumstances could be: health and safety; failure to provide services in the most inclusive environment as required by special education law and the Lanterman Act; the services specified in the IEP are not available; or, extraordinary family circumstances (e.g. the family member who provided transportation to the appropriate out of school district placement has a disability which renders him/her unable to continue to provide transportation; siblings are not advised to attend the same school and there is no other appropriate school program for the consumer, and other such other extraordinary family circumstances that may exist).

What Should You Do If You Think You Qualify for an Exemption?

If you want to receive regional center services instead of school services and you think you qualify for an exemption, you should contact your service coordinator and request an IPP meeting. An IPP meeting must be held within 30 days of your request.¹²

¹¹ Welfare and Institutions Code section 4648.55(d). The second part of the exemption in subparagraph (d) is confusing. It says “shall be granted ... based on a determination that the generic service is not appropriate to meet the consumer’s needs.” This standard is very similar to the requirement that the IPP team determines if the consumer’s needs can be met in the educational system although it adds the words “not appropriate to meet.” To reconcile the two provisions, Disability Rights California reads this to require the regional center to grant exemptions in the two ways described in Section D of this fact sheet.

¹² Welfare and Institutions Code section 4646.5(b)

E. What If the Regional Center Wants to Change Your Services?

If your regional center wants to change or deny your request for services, it must either hold an IPP meeting and reach agreement with you about the change or give you a written notice.¹³ The notice must be given 30 days before the change begins.¹⁴ The notice must give you the following information:

- the action the regional center is taking;
- the basic facts about why the regional center is making its decision;
- the reason for the action;
- the effective date; and,
- the specific law, regulation or policy that supports the action.¹⁵

If you are already receiving the service and you disagree with the regional center's decision and want to continue to receive it, you must request a fair hearing within 10 days of receiving the notice.¹⁶ Otherwise, the request must be made within 30 days.¹⁷ If exemptions are available and you think you meet an exemption, remember to additionally put "I meet an exemption" into your fair hearing request.

For information on how to appeal decisions by the regional center, read our chapter on Disagreements with Regional Centers and Developmental Centers at: <http://www.disabilityrightsca.org/pubs/506301Ch12.pdf>

Disability Rights California is funded by a variety of sources, for a complete list of funders, go to <http://www.disabilityrightsca.org/Documents/ListofGrantsAndContracts.html>.

¹³ Usually, decisions about the services you need must be decided by an IPP team. Welfare and Institutions Code section 4646.4(a)-(c). However, the law says if a regional center wants to reduce, end or change a service in your IPP without your consent, it has to give you a 30 day notice first. Welfare and Institutions Code section 4710

¹⁴ Welfare and Institutions Code section 4710

¹⁵ Welfare and Institutions Code section 4701. The information must also be in the language you understand.

¹⁶ Welfare and Institutions Code section 4715

¹⁷ Welfare and Institutions Code section 4710.5(a)



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Transportation Services¹ – Fact Sheet

July 2011, Pub #F051.01

The State Legislature required the Department of Developmental Services (DDS) to reduce its budget by 174 million dollars for this fiscal year (2011-2012), in addition to the required 334 million dollar reduction effective July, 2009.² As a result, there are changes to the types and amounts of services that regional centers can purchase. This fact sheet describes the 2011 changes to transportation services, any exemptions to those changes (including references to the 2009 changes), and what will happen if the regional center wants to change your services.

The Lanterman Act requires regional centers to purchase transportation for consumers when no appropriate generic transportation is available and the Individual Program Plan (IPP) team decides that transportation is a needed service. The 2009 changes to the Lanterman Act provided additional criteria that must be considered before a regional center can purchase transportation, and the 2011 changes require the development of a transportation access plan, if appropriate.

HOW THE LAW CHANGED

In 2009, the law changed so that when an IPP or Individualized Family Service Plan (IFSP) is developed, reviewed or changed, the following transportation criteria apply:³

¹ The changes are part of the Budget Trailer Bill (TBL) AB104. You may find the law at http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_0101-0150/ab_104_bill_20110630_chaptered.html. The changes affecting Transportation are found in Welfare and Institutions Code sections 4646.5, 4648.35.

² The new law requires DDS to obtain even greater savings if certain triggers are not met in the state budget throughout the year. Disability Rights California will discuss this on its website if the triggers are not met.

³ This section is effective upon enactment of the TBL, which was July 28, 2009.

1. Regional centers cannot fund private, specialized transportation for adults who can safely access and use available public transportation.
2. Regional centers must fund the least expensive transportation that meets the consumer's needs as set forth in the IPP or IFSP.
3. When required, the regional center must fund transportation from the place where a consumer lives to the least expensive service provider that meets the consumer's needs as set forth in the IPP or IFSP.⁴
4. For a minor child living with his or her family, the regional center will fund for transportation only when the family cannot provide transportation. If the family needs the regional center to pay for transportation, the family must provide written information, such as a brief letter, to the regional center.

Effective July 1, 2011, if the consumer is receiving transportation services from the regional center, then a transportation access plan shall be developed when:

1. The regional center is purchasing private, specialized transportation services or services from a residential, day or other provider, excluding vouchered service providers, to transport the consumer to and from day or work services;
2. The planning team has determined that a consumer's community integration and participation could be safe and enhanced through the use of public transportation services; and,
3. The planning team has determined that such generic transportation services are available and accessible.

⁴ The cost of the program is determined by combining the program costs with the cost of transporting a consumer to and from the program location.

The transportation access plan must be determined to be appropriate by the planning team, and shall be developed by the IPP team to maximize independence and community integration and participation for the consumer. The transportation access plan shall identify the services and supports necessary to assist the consumer in accessing public transportation. Such services and supports may include, but are not limited to, mobility training services and the use of transportation aides.

What Will Happen If the Regional Center Wants to Change Your Services?

If your regional center wants to change your transportation services, it must either hold an IPP meeting and reach agreement with you about the change, or give you a written notice.⁵ The notice must be given 30 days before the change begins.⁶ The notice must give you the following information:

- the action the regional center is taking;
- the basic facts about why the regional center is making its decision;
- the reason for the action;
- the effective date; and,
- the specific law, regulation or policy that supports the action.⁷

If you are already receiving the service and you disagree with the regional center's decision and want to continue to receive it, you must request a fair hearing within 10 days of receiving the notice.⁸ Otherwise, the request must be made within 30 days.⁹ If exemptions are available and you think

⁵ Usually, decisions about the services you need must be decided by an IPP team. Welfare and Institutions Code section 4646.4(a)-(c). However, the law says if a regional center wants to reduce, end or change a service in your IPP without your consent, it has to give you a 30 day notice first. Welfare and Institutions Code section 4710

⁶ Welfare and Institutions Code section 4710

⁷ Welfare and Institutions Code section 4701. The information must also be in the language you understand.

⁸ Welfare and Institutions Code section 4715

⁹ Welfare and Institutions Code section 4710.5(a)

you meet an exemption, remember to additionally put “I meet an exemption” into your fair hearing request.

For more important information on how to appeal decisions by the regional center, read our fact sheet, Regional Center Due Process and Hearing Rights at <http://www.disabilityrightsca.org/pubs/F02601.pdf>.

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Maximizing Resources for Behavioral Services¹ - Fact Sheet

July 2011, Pub # F053.01

The State Legislature required the Department of Developmental Services (DDS) to reduce its budget by 174 million dollars for this fiscal year (2011-2012), in addition to the required 334 million dollar reduction effective July, 2009.² As a result, there are changes to the types and amounts of services that regional centers can purchase. This fact sheet describes the changes in the use of behavioral services, any exemptions to those changes, and what will happen if the regional center wants to change your services.

¹ The changes are part of the Budget Trailer Bill (TBL) AB104. You may find the law at http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_0101-0150/ab_104_bill_20110630_chaptered.html Changes affecting behavioral services are found in Welfare and Institutions Code section 4686.31.

² The new law requires DDS to obtain even greater savings if certain triggers are not met in the state budget throughout the year. Disability Rights California will discuss this on its website if the triggers are not met.

HOW THE LAW CHANGED

The Lanterman Act requires that behavioral services that have been received be verified in writing by the parent or guardian of a child under the age of 18 residing in the family home who is receiving behavioral services. This will help ensure that services billed for were actually received. Further, a new behavioral paraprofessional position will be developed.

A. Verification of Behavioral Services³

The parent or legal guardian of a minor child receiving behavioral services will have to sign a verification of services form to indicate receipt of services. This form is to be a standardized DDS form which will then be submitted by the vendor to the regional center for payment of services rendered to the consumer. The form shall include, but not be limited to, the name and title of the vendor, the vendor identification number, the name of the consumer, the unique client identifier, the location of the service, the date and start and end times of the service, and a description of the service provided. If the parent or guardian cannot sign the form, they should contact their regional center service coordinator immediately.

Failure to sign the form cannot result in a change or termination of your behavioral services. If the regional center changes or terminates your behavioral services, it must either hold an Individual Program Plan (IPP) meeting and reach agreement with you about the change, or give you a written notice. (See Section C below.)

B. Behavioral Services Paraprofessional⁴

The Department of Developmental Services will adopt regulations that address the use of paraprofessionals in group practice provider behavioral intervention services. The qualifications, supervision requirements, and rate of pay are still to be determined.

The regional center must provide you with a written notice before making any changes to your services including changing your current behavioral services to include the use of a paraprofessional.

³ Welfare and Institutions Code section 4686.31

⁴ Welfare and Institutions Code section 4686.3

C. What Will Happen If the Regional Center Wants to Change Your Services?

If your regional center wants to change your services by requiring you to use a behavioral services paraprofessional, it must either hold an IPP meeting and reach agreement with you about the change, or give you a written notice.⁵ The notice must be given 30 days before the change begins.⁶ The notice must give you the following information:

- the action the regional center is taking;
- the basic facts about why the regional center is making its decision;
- the reason for the action;
- the effective date; and,
- the specific law, regulation or policy that supports the action.⁷

If you are already receiving the service and you disagree with the regional center's decision and want to continue to receive it, you must request a fair hearing within 10 days of receiving the notice.⁸ Otherwise, the request must be made within 30 days.⁹ If exemptions are available and you think you meet an exemption, remember to additionally put "I meet an exemption" into your fair hearing request.

For more important information on how to appeal decisions by the regional center, read our fact sheet, Regional Center Due Process and Hearing Rights at <http://www.disabilityrightsca.org/pubs/F02601.pdf>.

⁵ Usually, decisions about the services you need must be decided by an IPP team. Welfare and Institutions Code section 4646.4(a)-(c). However, the law says if a regional center wants to reduce, end or change a service in your IPP without your consent, it has to give you a 30 day notice first. Welfare and Institutions Code section 4710

⁶ Welfare and Institutions Code section 4710

⁷ Welfare and Institutions Code section 4701. The information must also be in the language you understand.

⁸ Welfare and Institutions Code section 4715

⁹ Welfare and Institutions Code section 4710.5(a)

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Tailored Day Service and Vouchered Community-Based Training Service¹ - Fact Sheet

July 2011, Pub #F055.01

The State Legislature required the Department of Developmental Services (DDS) to reduce its budget by 174 million dollars for this fiscal year (2011-2012), in addition to the required 334 million dollar reduction effective July, 2009.² As a result, there are changes to the types and amounts of services that regional centers can purchase. This fact sheet describes the 2011 changes in determining your day services, any exemptions to those changes, and what will happen if the regional center wants to change your services.

¹ The changes are part of the Budget Trailer Bill (TBL) AB 104. You may find the law at http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_0101-0150/ab_104_bill_20110630_chaptered.html. The changes related to Tailored Day Service and Vouchered Community-Based Training Services are found in Welfare and Institutions Code section 4688.21.

² The new law requires DDS to obtain even greater savings if certain triggers are not met in the state budget throughout the year. Disability Rights California will discuss this on its website if the triggers are not met.

Regional centers currently fund services and programs that consumers can participate in during the day.³ Some of these services include day program, look-alike day program, supported employment program, and work activity program.

How the Law Changed

The new law creates two additional day service options for consumers: 1) Tailored Day Service, and 2) Vouchered Community-Based Training Services.⁴ The intent of the law in providing these two options is to further the following opportunities for adult consumers: to choose and customize their day services, to develop or maintain employment or volunteer activities, to direct their services, to pursue postsecondary education (i.e. going to college), and to increase their ability to lead integrated and inclusive lives.

A. Tailored Day Services

A “Tailored Day Service” has to do two things.

- Include an individualized service design determined through the Individual Program Plan (IPP) process that maximizes the consumer’s individualized choices and needs. The service design will generally include fewer days or hours than a traditional day program and allows for flexibility in the duration and intensity of services depending on the individual’s needs. The statute provides specific rate and maximum unit requirements for programs that want to offer a Tailored Day Service Option.⁵

- Encourage opportunities to further develop or maintain employment, volunteer activities, or pursuit of postsecondary education; maximize consumer direction of the service; and increase the consumer’s ability to lead an integrated and inclusive life.

B. Vouchered Community-Based Training Services (VCBT Service)

A “Vouchered Community-Based Training Service” (VCBT Service) is a consumer-directed service that assists the consumer in developing skills

³ Starting July 1, 2011, regional centers can no longer refer any additional consumers to either the Alternative Senior Programs or the Alternative Customized Programs. Welfare and Institutions Code sections 4688.1(c) and 4688.2(c)

⁴ Welfare and Institutions Code section 4688.21

⁵ Welfare and Institutions Code section 4688.21(b)(4)&(6)

required for community integrated employment or to participate in volunteer activities, or both, and the assistance that is needed for the consumer to secure employment or volunteer positions or pursue secondary education.⁶

A Vouchered Community-Based Training Service has specific rules that participants in this program will have to follow. Some of these requirements include the following⁷:

- 1) Service must be provided in natural environments in the community that is separate from the consumer's residence;
- 2) A consumer, parent, or conservator that is vendored as a VCBT Service must use the services of a financial management services (FMS) entity;
- 3) A consumer's parent or conservator cannot be a direct support worker employed by the VCBT Service vendor;
- 4) A consumer that is vendored as a VCBT Service must also be eligible for a regional center-funded bus pass, if appropriate; and,
- 5) A VCBT Service is limited to a maximum of 150 hours per quarter.

C. IPP Requirements for Both Services

The type and amount of Tailored Day Service or the VCBT Service has to be determined through the IPP process. The IPP has to contain at least all of the following:

- 1) A detailed description of the consumer's individualized choices and needs and how these choices and needs will be met; and,
- 2) The type and amount of services and staffing needed to meet the consumer's individualized choices and needs, and unique health, safety, and other needs.

⁶ The VCBT Service will not be implemented until the Federal Centers for Medicare and Medicaid Services (CMS) approves it.

⁷ Welfare and Institutions Code section 4688.21(c)

D. Effective Date

Starting July 1, 2011, and prior to the time of development, review, or changes to your IPP, the regional center has to provide eligible adult consumers with information about Tailored Day Service and Vouchered Community-Based Training Service. If you are interested in these two new options, you do not have to wait until your next IPP. You can ask the regional center for information at any time and you can request an IPP meeting to secure these services.

E. What Will Happen If the Regional Center Will Not Agree to Change Your Services?

If you want to change your services, the regional center must either hold an IPP meeting and reach agreement with you about the change, or give you a written notice.⁸ The notice must be given 30 days before the change begins.⁹ The notice must give you the following information:

- the action the regional center is taking;
- the basic facts about why the regional center is making its decision;
- the reason for the action;
- the effective date; and,
- the specific law, regulation or policy that supports the action.¹⁰

If you are already receiving the service and you disagree with the regional center's decision and want to continue to receive it, you must request a fair hearing within 10 days of receiving the notice.¹¹ Otherwise, the request must be made within 30 days.¹² If exemptions are available and you think

⁸ Usually, decisions about the services you need must be decided by an IPP team. Welfare and Institutions Code section 4646.4(a)-(c). However, the law says if a regional center wants to reduce, end or change a service in your IPP without your consent, it has to give you a 30 day notice first. Welfare and Institutions Code section 4710

⁹ Welfare and Institutions Code section 4710

¹⁰ Welfare and Institutions Code section 4701. The information must also be in the language you understand.

¹¹ Welfare and Institutions Code section 4715

¹² Welfare and Institutions Code section 4710.5(a)

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