

# RIGHTS OF PEOPLE WITH DEVELOPMENTAL DISABILITIES PATIENTS' RIGHTS ANNUAL TRAINING

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*Office of Clients' Rights Advocacy (OCRA),  
Disability Rights California*

## **Slide 2**

### **Rights of People with Developmental Disabilities**

“Persons with developmental disabilities have the same legal rights and responsibilities guaranteed all other individuals by the Federal Constitution and laws and the Constitution and laws of the State of California.”

*See Welfare & Institutions Code Section 4502*

**EVERYONE HAS RIGHTS UNLESS THE LAW OR COURT TAKES YOUR  
RIGHTS AWAY**

## **Slide 3**

### **The Purpose of the Lanterman Act**

- (1) To **prevent or minimize** the institutionalization of person with developmental disabilities and their dislocation from family and community;
- (2) To enable persons with developmental disabilities to **approximate the pattern of everyday living of nondisabled persons** of the same age and to lead more independent and productive lives.

**POLICY GOAL: LEAST RESTRICTIVE ENVIRONMENT**

*See Association for Retarded Citizens v. Department of Developmental Services (1985) 38 Cal.3d 384, 388 and Welfare and Institutions Code Section 4500 et seq.*

## **Slide 4**

### **Regional Center System**

The Lanterman Act establishes the regional center system. It is intended to give people with developmental disabilities the right to services and supports that will allow them to live a more normal and independent life.

*See Welfare & Institutions Code Section 4500 et seq.*

## **Slide 5**

### **Regional Centers**

Regional centers (RC) are nonprofit private corporations that contract with the Department of Developmental Services (DDS) to provide or coordinate free services and supports for individuals with developmental disabilities. There are 21 RC statewide to provide services and supports to California's developmental disability population.

RC provide case management, advocacy, and specialized services & supports under the Lanterman Act and Early Start programs. Eligibility is not means-based or dependent upon immigration status.

See <https://www.dds.ca.gov/RC/index.cfm>

## **Slide 6**

### **Regional Centers' Application Process**

Eligibility is established through diagnosis and assessment performed by a regional center.

1. Contact your local regional center. Look up RC by county or zip code at <https://www.dds.ca.gov/RC/RCLookup.cfm>
2. Regional center determines if assessments are needed.
3. 120 Days to complete assessments or 60 Days if 120 days could cause delays in development, health, or a more restrictive placement.

*See Welfare & Institutions Code Section 4642 et seq.*

## **Slide 7**

### **Regional Centers' Eligibility Criteria**

***\* This presentation will not discuss eligibility for children under three years.***

#### Disability:

- 1) Intellectual disability
- 2) Cerebral palsy
- 3) Epilepsy
- 4) Autism
- 5) "5th Category" - Disabling condition found to be closely related to intellectual disability or to require treatment similar to that required for individuals with an intellectual disability. TBI or FASD are examples of developmental disabilities that can lead to eligibility under 5th category.

#### Developmental Disability: disability that

- 1) Originates before an individual attains 18 years of age AND
- 2) Continues or can be expected to continue indefinitely AND
- 3) Constitutes a "substantial disability" for that individual.

*See Welfare & Institutions Code Section 4512*

## Slide 8

### Regional Centers' Eligibility Criteria

#### Substantial Disability:

Existence of significant functional limitations in three or more of the following areas of major life activity, as determined by a regional center, and as appropriate to the age of the person.

1. Self-Care
2. Receptive and Expressive Language
3. Learning
4. Mobility
5. Self-direction
6. Capacity for Independent Living
7. Economic Self-Sufficiency

A reassessment of substantial disability for purposes of continuing eligibility shall utilize the same criteria under which the individual was originally made eligible.

*See Welfare & Institutions Code Section 4512*

## Slide 9

### Regional Centers' Eligibility Criteria

Developmental Disability: Shall not include handicapping conditions that are:

1) **Solely Psychiatric Disorders:** Where there is impaired intellectual or social functioning, which originated as a result of the psychiatric disorder or treatment given for such a disorder. Such psychiatric disorders include psycho-social deprivation and/or psychosis, severe neurosis or personality disorders even where social and intellectual functioning have become seriously impaired as an integral manifestation of the disorder.

2) **Solely Learning Disabilities:** A learning disability is a condition, which manifests as a significant discrepancy between estimated cognitive potential

and actual level of educational performance and which is not a result of generalized mental retardation, educational or psycho-social deprivation, psychiatric disorder, or sensory loss.

3) **Solely Physical in Nature:** These conditions include congenital anomalies or conditions acquired through disease, accident, or faulty development which are not associated with a neurological impairment that results in a need for treatment similar to that required for mental retardation.

*See 17 California Code of Regulations Section 54000*

## **Slide 10**

### **Why Is Regional Center Eligibility Important?**

- Provides funding for services and supports for consumers to be successful in the community, which cannot be provided by other agencies.
- Services available to consumers.
- Placements available to support consumers in the Least Restrictive Environment

**Eligibility continues for life.**

## **Slide 11**

### **Regional Centers' Responsibility**

RC provides diagnosis and assessment of eligibility and help plan, access, coordinate and monitor the services and supports that are needed because of a developmental disability. A case manager is assigned to help develop a plan for services, tell you about available services, and help you get the services.

Services and supports provided must maximize a consumer's potential, provided in the least restrictive environment, and focus on the needs/preferences of the individual regardless of degree of disability.

## Slide 12

### Regional Centers' Key Obligations

- Generic Agency with legal responsibility to serve all members of the general public  
*17 CCR Section 54302(a)(31)*
- "Payers of Last Resort"  
*Welfare & Institutions Code Section 4659.10*
- Provide targeted case management  
*Welfare & Institutions Code Section 14132.48 and 42 USC 1396(g)*
- Must "gap-fund" IPP services if necessary to implement the IPP  
*Welfare & Institutions Code Section 4648(g)*

## Slide 13

### Regional Centers' Use of Generics

RC is prohibited from purchasing any service that would otherwise be provided by another agency.

- California Children's Services
- City, County, and State Housing Services
- Community Legal Services
- County Medical Clinics
- County Mental Health/Behavioral Health Services
- Department of Rehabilitation
- Education System (Private/Public)
- Family Resource Centers
- Health Care Insurance (Private/Public)
- In-Home Supportive Services (IHSS),
- If a consumer or a family meets the criteria to receive the service but chooses not to pursue that coverage.

RC can pay for services while the coverage is being pursued, pending a final administrative decision or until the commencement of the services.

## Slide 14

### Cross-System Collaboration

Individuals receiving regional center services may be dually or triply serviced by multiple service systems including county mental health, criminal justice system, dependency, and schools. Cross-system collaboration is absolutely necessary. Multidisciplinary planning is key.

Each system has different principles/mandates:

Regional Centers: Focus on client-centered services in the least restrictive setting (ADA) to maximize the potential and independence of an individual.

County Mental Health: Focus on clinical intervention that promotes independence, personal recovery, and community reintegration.

Criminal Justice System: Focus on public safety.

Dependency Court System: Focus on best interests of a child and keeping families together.

Schools: Focus on educational services needed for a student to benefit from an education.

## Slide 15

### Importance of IPP Process

**What is an IPP?** It is a list of the client's goals, objectives, strengths, needs, and the services and supports the regional center will provide.

**Why is an IPP important?** It is a contract between the client and the regional center. The regional center must list and provide the services and supports in the IPP.

**Who is part of an IPP team?** Consumer, regional center, and anyone invited by consumer. If the regional center's "decision maker" is not present at an

IPP meeting, the regional center must convene another IPP meeting with a “decision maker” within 15 days.

**How to change or add to an IPP?** Consumer must request an IPP meeting, which must be scheduled within 30 days of request. IPP is reviewed at least every 3 years or as circumstances change. Must provide written IPP within 45 days of IPP meeting in preferred language.

*See Welfare and Institutions Code Sections 4646.5 and 4710*

## **Slide 16**

### **Notice Of Action**

**What if a service or support is denied during an IPP meeting?**

Request a Notice of Action.

**When should the regional center provide Notice of Action (NOA)?**

Whenever it reduces services, changes services, terminates services, denies RC Eligibility, terminates RC Eligibility, denies new requested services.

**When should the regional center send NOA?**

Must be sent by certified mail no more than 5 working days for a new service OR at least 30 days prior to any action to reduce, terminate, or change services set forth in an IPP to consumer and representative. If you appeal, request Aid Paid Pending no later than 10 days after receipt of NOA.

*See Welfare and Institutions Code Section 4710*