

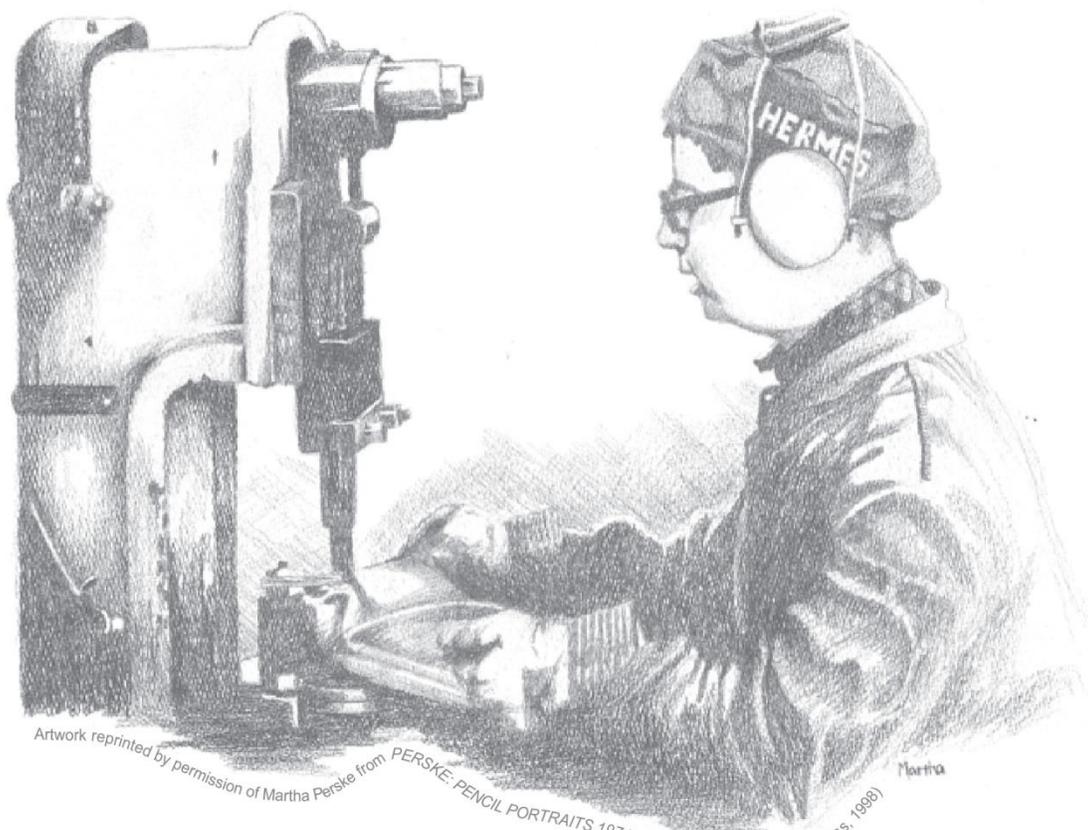
RIGHTS UNDER THE LANTERMAN ACT

Community Participation, Work, Day Activities and Leisure

Chapter 8

This chapter explains how to get services and supports to help you:

- Be involved in your community
- Find and keep a job, and
- Enjoy leisure activities



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Chapter 8: Community Participation, Work, Day Activities and Leisure

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Chapter 8

Community Participation, Work, Day Activities and Leisure

Being involved in your community, working, and enjoying leisure activities is an important part of life for everyone. This chapter gives you information on:

- *Community integration and participation*
- *Work, habilitation, vocational rehabilitation and day activities*
- *Supports for leisure time*
- *Transportation*
- *Transition from school to adult services, and*
- *Consumer rights in day programs*

This information is based on a state law called the Lanterman Act. We also give you the exact section of this state law where the information is found. You may have to refer to the law to get the services you need. When you see § 4512(a), for example, it means that information comes from the Lanterman Act, section (§) 4512, part a.

If you want to read the Lanterman Act, go to:

<http://www.dds.ca.gov/Statutes/LantermanAct.cfm>

1. Can I get supports to help me participate in my community?

Yes. The California Supreme Court said that one of the main purposes of the Lanterman Act is to allow people with developmental disabilities to live independent, productive lives just like people the same age without disabilities.¹

¹ *Assoc. for Retarded Citizens-Calif. v. Dept. of Developmental Services*, 38 Cal.3d 384, 388 (1985); § 4501. All references in this manual are to the Lanterman Act unless it says otherwise. The § symbol means “section.”

Adults without disabilities generally work during the day. Most have relationships and do different activities the rest of the time. People with disabilities often need supports to work, have relationships or do leisure activities. Everyone needs transportation to get from home to work or play.

The Lanterman Act gives you the right to get the services and supports you need to reach your full developmental potential. These services must help you lead the most independent, productive and normal life possible. And, your services and supports must be provided in the “least restrictive environment” (LRE for short).²

The Americans with Disabilities Act (ADA) gives you similar rights, sometimes called an “integration mandate.”³ So, services that are offered in segregated and isolated settings violate both the Lanterman Act and the ADA.

The Legislature says that it is a high priority for regional centers to offer more opportunities (called integrated services) for people with developmental disabilities to participate in their communities.⁴

Integrated services apply to:

- Where you live,
- What you do during the day, and
- How you spend your free time.

2. What is “community integration”?

Community integration means that people with disabilities:

- Live, work, and play in the same places as people without disabilities
- Live in regular communities
- Interact with non-disabled people in meaningful ways:
 - as friends,

² § 4502(a).

³ Code Fed. Regs., tit. 28, § 35.130(d).

⁴ § 4688.

- working together,
- participating in community groups and boards, and
- being good neighbors.

Community integration is an important part of “community inclusion” (See question 3). But, sometimes people with developmental disabilities need supports to help them fully participate in their communities.

3. What is “community inclusion”?

Community inclusion means participating in the community by:

- Living in a normal community setting, like a house or apartment, instead of an institution or nursing home,
- Being part of the local culture, like working as a farmhand in a rural community, owning a home or condo, or being a member of a church or group,
- Connecting to people who are not paid to support you, like a friend, co-worker, neighbor, spouse, etc. and
- Deciding for yourself what you want.

4. What is “community participation”?

Community participation means being involved in community life, including:

- Shopping at local stores,
- Joining local clubs or groups,
- Volunteering for activities in your community, and
- Going to doctors and dentists in your community.

5. Can I choose different kinds of daily activities?

Yes. The Lanterman Act says that you have the right to make choices in your life, including your:

- Daily routines,
- Education,
- Employment,

- Leisure,
- Relationships with people in the community, and
- Your personal future.⁵

You have the right to have a regular schedule of things you do every day. You have the right to socialize, exercise, and participate in community and recreational activities.⁶

Your regional center and service providers must give you information you understand to help you make choices. Information can be written in your primary language, on tape or video, or in Braille. They can also help you visit different kinds of services so you can decide what you like. Regional centers and service providers must respect your choices.⁷

6. Does the regional center have to offer more opportunities for me to be integrated into the community?

Yes. State law says the regional center must help you participate in community life. This includes programs, services, jobs and activities for people without disabilities. Your IPP can include the supports or facilitators you need to participate in your community, and help you develop natural supports like friends, clubs, or community programs.

The regional center must improve your community integration by:

- Training local agencies, businesses and programs to include people with disabilities,
- Giving you direct support to participate more fully in your community,
- Developing a list of community resources,
- Working with community support facilitators,
- Offering technical help to community support facilitators,

⁵ §§ 4502(j); 4503(i).

⁶ §§ 4502(f); 4502(g).

⁷ § 4502.1.

- Helping service coordinators and family members find new ways to integrate you into the community,
- Developing and supporting your natural support systems,
- Giving you information to help you make informed choices about job options. This can include information about:
 - Incentive programs,
 - How to get the benefits you need,
 - Interactions of earned income, asset building, or financial changes in benefits,
 - Job programs and protections,
 - Taxpayer requirements and responsibilities,
 - Training opportunities, and
 - Services and information available through other agencies, organizations, or on the Internet.⁸

7. How can I get the supports I need to work, build relationships, and participate in my community?

Think about how you like to spend your time, and what you want to do in the future. Think about the types of jobs that interest you, the community activities you like and what you want to learn. Also think about what you like to do for fun and to meet people. Ask your family, friends or staff of your programs to help you answer these questions.

Use Supplements J and K to answer questions about yourself and prepare for your IPP. DDS has a sticker book called *Picture Sticker Book for use with the "Making My Own Choices" Booklet and "Satisfaction Guide."* (To get this book, see Chapter 1, Question 25.)

⁸ § 4688

After you answer the questions, contact your regional center and ask for an IPP meeting. You should have your IPP meeting within 30 days after you ask for it. Or, answer the questions while you wait for your next regularly scheduled IPP. At the meeting, discuss your interests, what you want and the supports you need. Make sure that you talk about everything you need and want in your IPP.

The regional center must provide services based on your wants and needs.⁹ But, your services and supports must be cost-effective and the regional center must purchase services from the least costly provider that still meets your needs as identified in your IPP¹⁰. If the regional center tells you that the services, work or other daytime activities you want are not available, ask them to develop more choices. See Chapter 4 for more information on the IPP process

8. How can I work and participate in activities with people who do not have disabilities?

Talk about this at your IPP meeting. Your IPP process determines your needs and choices and the services and supports you need. It also makes sure that you have the opportunity to participate in your community. See Chapter 4 for more on the IPP process.

If you want day services, work or activities that are more integrated in the community, figure out what is stopping you from reaching these goals and what you need to reach them. Your assessment and planning process should focus on how to do that. Often, the problem is that there are no programs or activity supports in your area. If your IPP includes services and supports that allow you to participate in integrated work or activities, your IPP team must make a plan to find or develop those services.

9. Can my job coach be at my IPP meeting?

⁹ §§ 4512(b), 4646 & 4646.5.

¹⁰ § 4648(a)(6)(D)

Yes. Your job coach, or anyone else you want, can be at your IPP meeting. You can invite your job coach, or ask the regional center to do so. Write or call your service coordinator. Say something like “Please ask Virginia, my job coach, to come to my IPP meeting.”

You do not need to explain why you want someone to be at your IPP meeting. People who care about you are a big help at your IPP meeting. They understand what you like and do not like. They can give information about your life goals and things that can get in the way of you reaching your goals.

10. What types of work and day programs can I choose?

You have the right to choose activities that help you reach the goals and choices in your IPP.

If you are school age (K–12), your day program is school.

If you have finished school, you can choose activities that make the quality of your life better, including:

- Competitive employment
- Self-employment
- Supported employment
- Adult development centers or day programs
- Supported living
- Work activity programs
- Activity centers
- Behavior management program
- Social recreation program¹¹
- Other individualized day programs

¹¹ Social recreation programs were suspended in 2009. There are some exceptions. See question 19 below for details.

Read the questions below for more information on these programs. If these programs do not meet your needs, the regional center can develop a program especially for you.¹²

11. What is “competitive employment”?

Many people with developmental disabilities work directly for an employer in an integrated workplace. When you work in the open job market, it is called *competitive employment*. You can work with natural supports or without any help. And, your pay will be at least minimum wage. In Supported Employment or a Work Activity program, your pay can be lower. (See questions 14 and 17.)

12. Can I start my own business?

Yes! More and more people with developmental disabilities are starting their own businesses. This is called *self-employment*, or *micro-enterprise*. The regional center and your advocates can help you get started.

First, you need a team of people who can help you and advocate for you. Your team figures out what resources and money you can use to start your business. Think about what you are good at, and what you like to do with your time. Set goals for your business. Then, write a business plan and make it happen! (See Questions 31-32.)

13. What is “supported employment”?

Supported employment is when you get the services and supports you need to find and keep a job.¹³ You can be hired by an employer directly, or through a supported employment program. Your pay can be less than minimum wage, but you can get the supports you need to keep the job. If you contact your regional center for supported employment, it will refer you to the Department of Rehabilitation. (See Question 27.)

14. What are Adult Development Centers or Day Programs?

¹² § 4512(b).

¹³ § 4851(p).

These are day programs¹⁴ for adults who need self-help skills. You can learn how to interact with others, express what you need and follow instructions. The programs help you develop and keep the skills you need to advocate for yourself, be integrated in the community, care for yourself and get a job.¹⁵

Some programs offer different activities every day, such as work, volunteering, education, recreation, and independent living skills. Your activities depend on what you need and want, and your IPP. The programs can be in different places in the community.

Ask the regional center if there are programs like this near where you live. If not, ask the regional center to start a program. (See Chapter 4, Question 43.)

15. What other day services are available?

Effective July 1, 2011, DDS created two additional day service options for people. Tailored Day Service and Vouchered Community-Based Training Service allow you to choose and customize your day services.

A Tailored Day Service has to do two things.

1. Include an individualized service design developed through your IPP that maximizes your individualized choices and needs. This is usually fewer hours or days than a traditional day and often includes flexibility for the duration of the program.
2. Encourage opportunities for you to develop or maintain employment, volunteer activities, or education. Maximize your participation in the direction of the service and increase your ability to be integrated and included in your community.

A Vouchered Community-Based Training Service (VCBT Service) helps you develop the skills needed for community employment or to participate in volunteer work or education. There are many rules for this program including:

1. The Service must be provided in a natural environment in the community, but not in your own home;

¹⁴ Cal. Code Regs., tit. 17 § 54302(a)(16).

¹⁵ Cal. Code Regs., tit. 17 § 54302(a)(7).

2. If you, your parent, or your conservator is vendored as a VCBT service, you must use a financial management service provider (See Chapter 4, Question 46.);
3. Your parent or conservator cannot be your direct support worker;
4. If you are vendored as a VCBT Service, you 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.

The type and duration of either of these services has to be determined through the IPP process. Your IPP must contain a detailed description of your choices and needs and those will be met. It must also include the type and amount of services and staffing needed to implement your plan.

16. What are “supported living services” (SLS)?

Supported living services (SLS) may give you supports up to 24 hours a day for your living arrangement, work and other activities. SLS can help you get a job or get training and support for social, behavioral and daily living skills.¹⁶

To get these supports, your IPP must say that you need them. Your SLS Agency can provide supports for you to do volunteer work, work for pay, or start your own business. You can get these supports to work at night, weekends and holidays. (See Chapter 7, Questions 5 and 7-16 for more on Supported Living Services.)

17. What are work activity programs?

Work activity programs include:

- Sheltered workshops
- Work activity centers
- Community-based work activity programs certified by the Department of Rehabilitation (DOR) or accredited by CARF (Commission on Accreditation of Rehabilitation Facilities).¹⁷

¹⁶ § 4689(c).

Usually, sheltered workshops and work activity centers pay less than minimum wage. In general, either the regional center or the DOR pays for work activity programs. (See Question 34 below.)

18. What are activity centers?

Activity centers are places in your community that have day programs for people who:

- Already have basic self-care skills,
- Can interact with others a little,
- Can explain what they need, and
- Follow instructions.

These programs help you develop and keep the skills you need to advocate for yourself, be integrated in the community and work.¹⁸

19. What are Behavior Management Programs?

Behavior Management Programs are day programs for adults with severe behavioral disorders or both developmental and psychiatric disabilities. These adults are not eligible for other day programs because of behavior problems.¹⁹

20. What are Social Recreation Programs?

¹⁷ §§ 4851(e); 4851(f). Accreditation means a determination of compliance with the set of standards appropriate to the delivery of services by a work activity program or supported employment program, developed by CARF (Commission on Accreditation of Rehabilitation Facilities), and applied by the Commission or the Department of Developmental Services. § 4851(l).

¹⁸ Cal. Code Regs., tit. 17 § 54302(a)(2).

¹⁹ Cal. Code Regs., tit. 17 § 54302(a)(12).

Social Recreation Programs are day programs that help you be integrated in the community and advocate for yourself for recreation and leisure.²⁰ In July 2009, a new law was passed that prevents regional centers from purchasing social recreation services unless you meet the criteria for one of the exemptions.²¹ An exemption can be made when the regional center determines that the service is:

1. A primary or critical means for ameliorating the physical, cognitive or psychosocial effects of the consumer's developmental disability; or
2. The service is necessary to enable the consumer to remain in his or her home and no alternative service is available to meet the consumer's needs.

21. I just turned 50 years old. Are there any new options available to me?

Yes. As part of the Lanterman Act revisions of 2009, a law was passed that requires vendors of specific services to offer an alternative senior program for regional center consumers over 50 years old.²²

Effective July 1, 2011, this program ended. No new referrals can be made to this program. However, if you participated in a senior program prior to July 1, 2011, you may remain in that program.

22. What happens if the regional center wants to change my work or day program?

Once you are in a day program, the regional center can only ask to change it in an IPP meeting. If you do not agree with the regional center after the meeting, the regional center must send you a written notice about the change. The notice must tell you about your right to appeal its decision.

²⁰ Cal. Code Regs., tit. 17 § 54302(a)(64).

²¹ § 4648.5

²² § 4688.1

You have the right to file for a hearing. If you file less than **10 days** after you get the regional center's notice, you can stay in the program while you appeal.²³ (See Chapter 12, Question 2.) But, if the regional center thinks that your program is a risk to your health or safety, you cannot stay in the program during your appeal.²⁴

23. What if the day program cannot meet my needs?

If you think your day program no longer meets your needs, ask for an IPP meeting to talk about changing your program or services. (See Chapter 4 for more on the IPP process.)

Your IPP process determines what is the best work or day program for you. You have the right to consider day programs that help you reach your IPP goals. No one can force you to go to a day program if you do not want to.

If the day program can no longer meet your needs, it must give you written notice 30 days before it ends your program.²⁵ The notice must say why the day program cannot meet your needs.

All day programs must have a grievance procedure.²⁶ If you disagree with the program's decision, you can ask to use the grievance procedure. If the day program violated your rights, you can file a "Section 4731 complaint." (See Chapter 12, Question 35.)

If the program thinks you are a threat to the health and safety of others in the program, it can ask you to stay away from the program immediately. But, unless there is a prior written agreement, it must hold a meeting within 3 days with you and your service coordinator to discuss the problem and any program changes that may help solve the problem.²⁷

24. What if I want to get a job?

²³ § 4701(n).

²⁴ Cal. Code Regs., tit. 17 § 56718(a)(1), (d)-(e).

²⁵ § 4710(a)(2) ; Cal. Code Regs., tit. 17 § 56718(c).

²⁶ Cal. Code Regs., tit. 17 § 56710(a).

²⁷ Cal. Code Regs., tit. 17 § 56718(g).

If you want to work, talk about it at your IPP meeting. Discuss:

- Your interests and abilities,
- The environment, hours, and location you prefer,
- Career opportunities and the activities you want to do,
- The accommodations and supports you need,
- Potential social relationships,
- Pay and benefits,
- Transportation, and
- Long term plans.

Do not be discouraged if your first job does not work out. You may have to try several jobs before you find one that you like. This happens to people without disabilities, too. Many of the jobs available are programs where you do not earn much money. You may want to find something different that is closer to your work goals.

The Lanterman Act says your services and supports should help you be independent, productive, and a member of the community. If you are over 18, this means working or volunteering in integrated community settings.²⁸

(Questions 46-51 and 61-62 below have more information on working and transportation.)

25. Can I get a job in the community?

²⁸ See section 4640.7(a) (stating the intent of the Legislature that regional centers assist persons with developmental disabilities and their families in securing those services and supports which maximize opportunities and choices for living, working, learning, and recreating in the community); see also, section 4501 (protecting the right to an array of services and supports 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).

Yes. Integrated work usually means you work in the community and interact with people who do not have disabilities (not including your service providers). You should interact as much as people without disabilities in similar positions.²⁹

Competitive Employment and Supported Employment are integrated work.³⁰ The main difference is that you do not get services and supports for Competitive Employment. But, employers must make reasonable accommodations so that you can work. (See Question 47.)

If your IPP and Individual Habilitation Support Plan (IHSP) list services and supports you need beyond the accommodations your employer makes, the regional center must provide those services.³¹ The regional center pays for these services and supports as “habilitation services” (see Questions 33-41), or “vocational rehabilitation services.” (See Questions 42-46.)

Usually, case managers and providers talk about “supported employment” or “work activity centers.” They do not call them “habilitation services”. There are a lot of big words used to describe different programs. Just focus on what type of job or program you want and ask for that in your IPP.

See question 11 for a list of job and program types.

26. Can my day program help me get a job or volunteer in the community?

²⁹ § 4851(o).

³⁰ § 4851(n).

³¹ § 4861.

Yes. As part of the 2009 state budget cuts to the developmental disabilities' service system, the legislature passed a law requiring day programs to provide work and volunteer opportunities to some of the consumers they serve³². The alternative customized program³³ is an option for consumers who want to develop or maintain a job or do volunteer activities instead of their current day program.

The regional center can fund anywhere from 20 to 80 hours for this option per month, depending on the individualized need of the consumer. The following types of service providers must offer an alternative customized program option:

- Behavior management
- Activity center
- Adult development center adult day programs
- Community integration training programs
- Community activities support services programs

If you want to participate in the alternative customized program, you can request an Individual Program Plan (IPP) meeting. At your next IPP meeting, the regional center must give you information and make this option available to you.³⁴ The alternative customized program is only an option – you do not have to participate in it. At your IPP meeting, you can choose: 1) to continue with your current day services; 2) the new custom alternative option; or 3) ask the regional center for other service options.

27. What is “reverse integration”?

³² § 4688.2

³³ This program was originally called the “Custom Endeavors Option” in the trailer bill language. It is still sometimes referred to by the acronym “CEO”.

³⁴ Although the new alternative customized option has been slow to be implemented, the requirement that day programs make the option available is required by law.

Reverse integration is when people who do not have disabilities are hired to work with people who have disabilities. Some government contracts include reverse integration work or supported employment programs. To find out if there are any reverse integration programs in your area, contact the Department of Rehabilitation or your service coordinator.

28. Do I have to work in a Work Activity Program or Center before I get Supported, Competitive or Self-Employment?

No. You do not have to work in an activity center or sheltered workshop before getting a job.³⁵ You just have to say that you are interested in supported employment, competitive employment or self-employment. Then, the regional center can refer you to a provider to help you.

29. What services can I get for Supported Employment?

Supported Employment Services can:

- Develop a job for you.
- Figure out the best kind of job for you.
- Supervise or train you on the job, or before you get a job.
- Give you more training and skills to adjust to your job and keep your job.
- Give your family counseling to make sure you have the support you need for your job.
- Advocate for you if there are problems with your employer.

³⁵ See, e.g., section 4648(a)(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....(T)he planning team shall give highest preference to those services and supports which would allow...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.” See, also, section 4648(a)(2) which states “In implementing IPPs, 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.”

- Give you ongoing support once you get a job.³⁶

Your Supported Employment Services must be in your IHSP or IPP. The services are paid for by the Department of Developmental Services (through the regional center) or the Department of Rehabilitation (DOR). (See Questions 29-33).

30. What is the difference between a job developer and a job coach?

A job developer helps you find or develop a job specifically for you. Good job developers constantly build relationships with new employers. That way, a job developer knows many different companies that can offer a variety of jobs to consumers.

A job coach trains and supports you, on or off the job, so you can become successful in your job. Sometimes, a job coach teaches your employer or other employees to provide support. This helps you learn the job and fit into the company culture. The job coach's goal is to develop natural supports so that you can work with as little help as possible and no longer need a coach.³⁷

31. What is the difference between group and individual job coaching?

When you start your job, you can ask for one-on-one support services from a "job coach." Your coach will work with you at the work place or off-site, but coaching services decrease over time.³⁸

Or you can meet with about 2-7 other people at your work place in a group setting to get coaching. The regional center or the DOR will pay for one job coach for at least three consumers in a group, but not more than eight, including you.³⁹

Make sure the initial or ongoing services that you may need to help you keep your job are listed in your IPP or IHSP.

³⁶ § 4851(q)(1-7).

³⁷ DDS publication "*Work for All: The World of Work in 2005-2006*" page 5, available from the Work Services Section of DDS at 1-916-654-1690 or send an email to work.services@dds.ca.gov.

³⁸ § 4851(s).

³⁹ § 4851(r).

32. What does “customized employment” mean?

Customized employment is when your provider matches your strengths, needs and interests with an employer or self-employment. The goal is for you to be happier with your job and stay on the job longer. Ask your service coordinator if you have this type of provider in your area. If not, ask the regional center to develop this resource. (See Chapter 4, Question 43.)

33. What type of business can I start?

Starting your own business is also called micro-enterprise or small business development. There are many different things you can do. For example, you can:

- Repair computers,
- Be a personal assistant,
- Own a vending machine business, recycling business, or card and stationary business,
- Do arts and crafts, word processing, yard maintenance, or gift wrapping,
- Offer paper shredding, pet sitting or day care referral services,
- Be an entertainer,
- Design jewelry.

34. How do I start my own business?

First, you will need a business design team. Your team does not have to be the same as your circle of support or IPP team. It’s a good idea to have someone on your team with business experience.

Follow these steps with your business team:

- 1) Figure out what you love to do and how you can make money doing it. This is called a “person centered” business plan. You should also figure out how much money you need or want to make.
- 2) Conduct a feasibility study to make sure there are enough people who want your product or service to keep you in business.

- 3) Ask a business professional to conduct a benefit analysis and get counseling to be sure that you continue to get the benefits you need.
- 4) Make a business plan that shows what your business will look like, how you will make money and what help you need to run your business.
- 5) Once you are ready, start your business.
- 6) Monitor your ongoing operations and support needs to make sure your business will continue to run smoothly.

Ask your regional center service coordinator if local providers or resources can help you start your business. Have an IPP meeting to discuss your options. You can get money to start your business from private funds, generic services, special grants or services paid for by the regional center like supported living, day programs and self-directed services. (See Question 67.) If the regional center cannot help you start your own business, contact Disability Rights California or OCRA.

35. What are “habilitation services”?

Regional center programs like Supported Employment or Work Activity Programs are called “habilitation services” in the Lanterman Act. Many of the programs discussed above are habilitation services. They prepare you to work at the highest level possible, or prepare you for vocational rehabilitation services.⁴⁰ DDS administers the Habilitation Services Program.⁴¹

36. What are “vocational rehabilitation services”?

The Department of Rehabilitation (DOR) provides vocational rehabilitation services to people who want to work in Supported Employment or Competitive Employment.

Vocational rehabilitation services include:

- Counseling, guidance, and referral
- Training materials

⁴⁰ § 4851(a).

⁴¹ § 4850.1.

- Placement in an appropriate environment
- Physical and mental restoration services
- Transportation
- Maintenance
- Personal services, like note takers, readers, interpreters, attendants and drivers
- Assistive technology, like telecommunication, sensory, and other devices
- Job coaching
- Services to your family members
- Post employment services⁴²

When you start your job, DOR will pay for 100% of these services. When your job is stable, the funding slowly decreases.

For more information about DOR services, see Disability Rights California's publication "Vocational Rehabilitation Services" at:
www.disabilityrightsca.org/pubs/540101.pdf.

Or visit DOR's website: www.rehab.cahwnet.gov.

37. What is the difference between habilitation services and vocational rehabilitation services?

They are run by different public agencies and offer some different services. DDS runs the Habilitation Services Program, and DOR runs the Vocational Rehabilitation Services Program. Habilitation services can be long-term. You can get them until you retire. You can only get vocational rehabilitation services for a limited time. (See Question 45.)

⁴² Cal. Code Regs., tit. 9 § 7150.

After you decide that you want to work, the regional center will find a provider to help you. Some providers use funding from DOR to help you find a job, then later transfer your supports to DDS. Other providers do not work with DOR. They receive funding from DDS to help you to find and keep a job. Both programs give you support for employment and work-related activities.

38. Am I eligible for a Habilitation Services Program?

You are eligible for a Habilitation Services Program if:

- You are an adult with a developmental disability, and
- Your IPP and IHSP process determined that you need and want habilitation services.⁴³

If you are eligible, the regional center will refer you to a habilitation services provider.

When you start a work activity program, you are automatically eligible for services for up to 90 days. During this time, the program evaluates your work skills and writes a report for the regional center. Your IPP team reviews the report and decides if the placement is appropriate.⁴⁴

The report says:

- If you can behave appropriately in the work setting.
- If you can pay attention long enough to do paid work.
- If you can understand simple instructions in a reasonable amount of time.
- If you can communicate your basic needs and understand what others say.
- Your attendance.⁴⁵

⁴³ § 4852.

⁴⁴ § 4853(c).

⁴⁵ § 4853(b)(1-5).

Your status in the program is reviewed at least once a year. The review determines if you need vocational rehabilitation services, including supported employment.⁴⁶ But, you can ask to change your work experience or placement anytime. If you decide that a program or placement is not working for you, call an IPP meeting to talk about changes.

The regional centers must monitor, evaluate, and audit habilitation service providers. The regional centers must make sure that the program is effective by looking at the quality of the services, the protections the program offers you and if they comply with CARF standards.⁴⁷

39. I am 17. Can I get habilitation services?

No. Habilitation services are only for regional center consumers who are over 18. If you are in school, you can get transition services from the school district and DOR.

Read *Special Education Rights and Responsibilities*, Chapter 10, *Information on Vocational Education*. To get a copy, call Disability Rights California or OCRA and ask for Publication Number 5050.01. For more on transition services, see Questions 63-66.

40. Is the planning process different for habilitation services?

Yes. Your habilitation service provider develops an Individual Habilitation Service Plan (IHSP) for you to meet the employment goals in your IPP.⁴⁸

To develop your IHSP, your provider considers specific objectives to see if you can:

- Keep up the paid work for a certain amount of time.
- Maintain a certain workload.
- Keep up your attendance level.
- Behave appropriately at work.⁴⁹

⁴⁶ § 4858.

⁴⁷ § 4856.

⁴⁸ § 4851(c).

Your IPP team can review your IHSP whenever necessary to determine if the services in your program are appropriate, and if your job is appropriate.⁵⁰ If the regional center makes a decision that you disagree with, you can appeal. See Chapter 12 for more on appeals.⁵¹

41. How long can I get habilitation services?

The regional center will keep paying for the habilitation services in your IHSP, if:

- You make enough progress toward your habilitation goals,
- The regional center determines that the services are necessary for you to stay at your highest level of “vocational functioning”, or
- The services prepare you for vocational rehabilitation services.⁵²

42. The regional center changed my habilitation services. Can I appeal?

Yes. If the regional center makes a decision that affects your habilitation services, you can appeal. Use the IPP appeals process described in Chapter 12.⁵³

43. How do I get referred for vocational rehabilitation services?

Ask for an IPP meeting. Say that you are interested in Supported or Competitive Employment. If you already work in a Work Activity Program, your program reviews your progress every year and decides if vocational rehabilitation devices are right for you.

If your IPP team decides that vocational services will benefit you, it will refer you to the DOR.⁵⁴

44. Am I eligible for the Vocational Rehabilitation Program?

⁴⁹ § 4854.

⁵⁰ § 4854.1.

⁵¹ §§ 4646, 4701, 4710.5, 4712.

⁵² § 4857.

⁵³ §§ 4646, 4701, 4710.5, 4712.

⁵⁴ § 4858 (a)-(b).

You are eligible for vocational rehabilitation services if:

- You are an “individual with a disability”, and
- You need the services to get a job.⁵⁵

“Individual with a disability” means you have a physical or mental impairment that makes it significantly harder for you to get a job, and vocational rehabilitation services would help you get a job.⁵⁶

If you get SSI or SSDI, you are automatically eligible for services.⁵⁷

45. Can I be denied services under the Vocational Rehabilitation Program?

Yes. You can be denied services if your disability is so severe that DOR services would not help you. Before it denies you services, the DOR must show clear and convincing proof that vocational rehabilitation services will not help you get a job in any way, because your disability is too severe.⁵⁸

46. I am on a waiting list for DOR services. Can I still get services from the regional center?

Yes. If you have been referred to the DOR and put on a waiting list for vocational rehabilitation services, the regional center must give you the services you need until your DOR services begin.⁵⁹

47. How long can I get vocational rehabilitation services?

You can get vocational rehabilitation services for up to 18 months. The services can end sooner if you are independent, or if your supports have helped you as much as possible. After 18 months, DOR transfers you to DDS. Then you can get services from the Habilitation Services Program.

⁵⁵ Cal Code Regs., tit. 9 § 7062.

⁵⁶ § 19151; 29 U.S.C. § 705(20); Cal. Code Regs., tit. 9 § 7017.

⁵⁷ 29 U.S.C. § 722.

⁵⁸ 29 U.S.C. § 722(a)(2)(A); see also 34 C.F.R. § 361.42; Cal. Welf. & Inst. Code § 19103(b); Cal Code Regs., tit. 9 § 7062(b)(3).

⁵⁹ § 4855.

For more information about vocational rehabilitation services, see Disability Rights California's publication *Vocational Rehabilitation Services* at: www.disabilityrightsca.org/pubs/540101.pdf.

48. What "reasonable accommodation" can I get to allow me to do my job?

Under the Americans with Disabilities Act, "reasonable accommodations" are modifications or adjustments that let you perform the essential functions of your job.

Accommodations can be:

- Time off for doctor appointments,
- A flexible work schedule so you can work more hours on "good days" and fewer hours when necessary,
- Removing functions that are not essential from your job description,
- Technological devices,
- Accessible restrooms, or
- Educating and changing you co-workers' attitudes.

The ADA does not say that employers have to hire a certain number of people with disabilities. It only says that employers must give people with disabilities the same employment opportunities as employees without disabilities. You must be able to perform the essential functions of your job, with or without reasonable accommodations, to be protected under the ADA. If you can't, your employer does not have to hire you or keep you.

For more information about reasonable accommodations and other questions about your job, see Disability Rights California's publication *Employment Rights Under the Americans with Disabilities Act* at: www.disabilityrightsca.org/pubs/506801.pdf.

Even if your need for employment supports is greater than what the ADA would require the employer to provide, you may still be able to work in a job with additional regional center or vocational rehabilitation supports.

49. Do I need to report my earned income to anyone?

Yes. If you get Social Security or Medi-Cal benefits, ask your habilitation or supported employment programs for help. See Question 49 for more information about Benefits Planning Assistance and Outreach agencies (BPAOs).

50. If I make money working, will it affect my other benefits?

It depends on how much money you make and what other benefits you get. Talk to your service coordinator and/or a public benefits planner before you begin working to be sure that you will not lose important benefits like Supplemental Security Income (SSI), Social Security Disability Income (SSDI), Medi-Cal, Medicare or other health coverage, Section 8 housing, In-Home Supportive Services or food programs. Plan ahead so you do not lose your benefits.⁶⁰

51. Where can I get information about work incentive benefits?

The regional centers must give you information about employment options for people with developmental disabilities.⁶¹ And the Department of Developmental Services (DDS) also has helpful information on many topics, including:

- Work incentive programs
- Training materials
- Training opportunities
- How to get and keep job benefits, including earned income interactions, how to build your assets, and other financial benefit changes
- Job resources and protections

⁶⁰ Ask your service coordinator for help in determining whether you may in the future qualify for Social Security benefits based on your parent's work history. If so, then you may need help from the regional center or your supported employment or habilitation program to document that your earnings that are above the Social Security Substantial Gainful Activity (SGA) level should be offset by subsidy or by work under special circumstances, so that you will not be disqualified for these benefits and Medicare in the future.

⁶¹ § 4688(b)(7).

- Taxpayer requirements and responsibilities
- Benefits planning (*Ask your regional center about services and providers to help you with benefits planning.*)
- How to get information from other sources⁶²

DDS and the regional centers must develop a plan for training regional center staff about the employment issues that affect people with developmental disabilities. But, they do not have to actually train them if they do not have enough resources.⁶³ You can learn more at the DDS website: www.dds.ca.gov/Habilitation/WorkForAll_SymposiumDocs.cfm.

- **The Social Security Administration (SSA)**

- SSA contracts with 13 agencies in California to help people with disabilities with benefits counseling and planning. These agencies are called Benefits Planning Assistance and Outreach (BPAO). You can find the names and addresses of the agencies at: www.vcu-barc.org (Virginia Commonwealth University Benefits Assistance Resource Center).

- **Benefits 101 Website**

- The World Institute on Disability and its partners created a website to help Californians with disabilities go to work. The website has current information about all national and state work service programs and public benefits. It does not include services paid for by the regional center. Visit www.disabilitybenefits101.com.

52. Are there work incentive programs that help me keep my income without losing benefits?

Yes.

- **The SSI section 1619(b) program** is for SSI recipients who cannot get cash benefits because they make too much money. You qualify if you live

⁶² § 4639.75.

⁶³ § 4639.75.

in a medical facility or in the community and get \$50 a month in SSI benefits. You can still qualify for Medi-Cal.

- **Ticket to work** is for people who want to stop getting public benefits by going back to work or working for the first time. You can use the program if you get Social Security and are between 18 and 65.

The program gives you a Ticket that lets you get job services from agencies called “Employment Networks.” After you are accepted, you can get free services or supports to help you work for up to five years. You can use the tickets for:

- Career services,
- Mentoring or job coaching,
- Accommodations and personal assistants,
- Help with transportation,
- Help to start your own business,
- Counseling about incentives and language services, and
- Other services.

For more information about the Ticket to work program, call 866-968-7842. Or, visit www.yourtickettowork.org.

- **Plan to Achieve Self-Support (PASS) Incentive** can give you money to start your own business, pay for training or college, buy a computer, a car for work, or work supplies and more. The Social Security Administration runs PASS. Fill out an application with a detailed plan for the money you want. You can submit the plan at the PASS Cadre in Anaheim or Oakland. If your plan is approved, you can set aside your income to use for a vocational goal. This does not lower your monthly social security benefit. Contact the Social Security Administration or your service coordinator for more information.
- **Medi-Cal 250% California Working Disabled Program** can help you get full scope Medi-Cal if you earn up to 250% of the federal poverty level. You have to pay a monthly fee based on your income. Contact your

county health department or your regional center service coordinator to apply and find out how much you have to pay.

The Social Security Administration also offers other incentive programs. Contact Disability Rights California or OCRA for more information.

53. What other generic resources can help me look for jobs?

If you decide to work, there are other generic resources that can help you. Some of them are:

- **One Stop Career Centers** which provide free services for people without a job. The services include job skills evaluations, job searches, placement and training. The California Employment Development Department runs the center in multiple offices. In California, there are 31 “Disability Navigators”, who are experts in finding jobs for people with disabilities. To find one near you, go to www.edd.ca.gov/one-stop/DPNList.pdf. For more information, go to www.CareerOneStop.org.
- **Disability Benefits 101 website**, www.disabilitybenefits101.com, dedicated to helping Californians go to work. It can give you information on various programs and incentives.

54. Can I get IHSS at work?

Yes. You can use some In-Home Supportive Services (IHSS) hours to help you get a job, keep a job, or go back to work. You will get the same number of IHSS hours you would get at home. You have to meet certain conditions. You cannot get extra IHSS hours for work. And you cannot use it to travel to and from work. Talk to your IHSS service coordinator or social services agency to find out if you are eligible.⁶⁴

55. Can I retire?

⁶⁴ §§ 12300(d); 14132.955.

Yes. People without disabilities retire when they get older. You have the same right.⁶⁵ If you want to retire, tell your regional center at your IPP meeting. You do not have to keep working just because your group home does not have staff during the day.

56. What kind of help can I get from the regional center for leisure activities?

The regional center must respect your choices and help you enjoy your leisure time.⁶⁶ Leisure and recreation are an important part of life. There are many things you can do, like:

- Play or watch sports.
- Play sports with non-disabled people in an event or league.
- Play sports in the Special Olympics or other league for people with disabilities.
- Go to a concert or an amusement park or a restaurant.
- Go shopping, to a gym, park or the beach.

You know best what you need to enjoy your free time. Think about the things you want to do. Include the activities and recreation you want to participate in, and the supports you need, in your IPP. See Supplement K, Community Participation: Questions for IPP Preparation.

The regional center does not have to pay for the activity you want. But, they do have to give you the supports you need to do the activity. For example, if you want to go to a baseball game, you need to buy your own ticket, food and souvenirs. The regional center may give you transportation to and from the game, and pay for someone to go with you to the game.

If you need a reasonable accommodation, the regional center can help you get it from the person who organizes the activity. If the accommodation is too much of a burden, or if it changes the nature of the activity, the regional center can provide the accommodation.

⁶⁵ The Lanterman Act is intended to enable people with developmental disabilities to approximate the patterns of living of people without disabilities of the same age. § 4501.

⁶⁶ § 4502.1.

The regional center can also train and teach you social skills, mobility training and transportation to see friends.

57. Can I get reasonable accommodations for recreation and leisure activities?

Yes, but you must first meet the “essential eligibility” requirements of the activity, just like everyone else. You might need reasonable accommodations to meet these requirements, or to be able to participate in the activity.

Reasonable accommodations for recreation or leisure activities include:

- Changes in rules and policies
- Extra staff
- A sign language interpreter or other aids if you are deaf or hard of hearing
- Braille or large print documents if you are blind or have vision problems
- Adapted equipment

The organizer or sponsor of the activity must provide the accommodations you need, unless it would be too expensive, too hard, or would change the fundamental nature of the activity.

The activity organizer **cannot** charge you more for your activity because you need an accommodation.

58. Can a program or activity refuse to include me because I am a liability risk?

No. The program must do an evaluation to decide if you are a risk, taking into account your ability and experience. The evaluation must consider if reasonable accommodations, like rule changes and adaptive equipment, would lower your risk enough for you to participate.

59. Can I be excluded from an activity if my disability affects my behavior?

Only if your behavior is a direct threat to others. Disruptive or annoying behavior usually does not threaten others with physical harm. You must have an assessment before a program can exclude you for this. The evaluation must consider if reasonable accommodations can lower the threat.

Reasonable accommodations can be changing the rules, training their staff, adding more staff, or developing a behavior plan to deal with challenging behavior. The activity program must give you the accommodations you need unless it would be too expensive, too difficult, or would fundamentally change the activity or program.

60. Do I need an aide to join the Youth League at the Y?

Maybe. The YMCA can require you to have an aide if:

- You do not meet the eligibility requirements, or
- You can harm yourself or others without an aide.

If you need an aide, the YMCA probably will not have to pay for it. The regional center should pay for the aide, because it is suppose to help you participate in recreation, just like people without disabilities.⁶⁷

61. Can I get the regional center to pay for camp?

Possibly. Prior to July 2009, camp was a Lanterman Act service and support. In 2009, regional centers' authority to pay for camp and related travel expenses was suspended until the Individual Choice Budget (ICB) option is in place⁶⁸ (see Chapter 4, question 48 for more information on the ICB option.) However, regional centers *can* grant an exemption on an individual basis and purchase camp services for the consumer if there are extraordinary circumstances.

An exemption can be made when the regional center determines that the service is:

1. A primary or critical means for ameliorating the physical, cognitive or psychosocial effects of the consumer's developmental disability; or
2. The service is necessary to enable the consumer to remain in his or her home and no alternative service is available to meet the consumer's needs.

⁶⁷ § 4502.1.

⁶⁸ § 4648.5

Even if you meet the exemption above:

- The regional center will only pay for camp if another agency will not.
- If you are still in school, the regional center will only pay for camp during breaks from both the regular and extended school year (ESY).
- If you are under 18 and do not get full scope Medi-Cal, the new Family Cost Participation Program says that your parents will have to pay for part of your camp costs. (See Chapter 1, Questions 15-22 for more on Family Cost Participation.)

Camp may also be used in lieu of out-of-home respite care. For those people who need out-of-home respite, that service can take place at a camp or a more traditional facility.

62. Can I get help with romantic relationships and parenting?

Yes. You have the right to have relationships, get married, have children and a family. To help you, the regional center can provide:

- Sexuality training
- Family counseling and support services
- Parenting skills training
- Protection from abuse and from allegations of abuse
- Help to reunite your family
- Supported living for you and your children, if you are a parent with a developmental disability.⁶⁹ (See Chapter 7, Questions 7-12 for more on supported living.)

63. Can the regional center help me with transportation?

Maybe. In 2009, the law was changed to put certain restrictions on getting transportation services from regional centers. The restrictions are as follows⁷⁰:

⁶⁹ § 4687.

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. For a minor child living with his or her family, the regional center will pay 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.⁷¹

Effective July 1, 2011, if you receive transportation services from the regional center, 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 (not including vouchered service providers) to transport you to and from day or work services;
2. Your IPP team has determined that you would be safe and that your inclusion in the community would be better if you use public transportation; and
3. Your IPP team has determined that generic transportation services are available and accessible for you.

⁷⁰ When the new law came into effect in 2009, it was to be implemented during any development, review, or modification of a person's IPP or IFSP. (see W&I § 4648.35)

⁷¹ § 4648.35

The transportation access plan should maximize your independence and community integration. The plan shall identify the services and supports necessary for you to access public transportation. Such services may include, but are not limited to, mobility training services and transportation aides.

If you need transportation services, include them in your IPP. (See Chapter 4.)

64. Can the regional center help me use public transportation?

Yes. The regional center can teach you to use transportation as independently as possible. This is called mobility training. You can learn how to use public buses or how to walk to school, a store or other places. Ask for this in your IPP. (See Chapter 4.) This should be included in your transportation access plan. (See Question 62, above.)

65. How can the regional center help me transition from school to adult services?

The regional center can provide special education transition services to help you move from school to college, vocational training, work (including supported employment), continuing education, adult services, independent living and community participation.⁷²

⁷² However, regional centers are prohibited from purchasing educational services for children age 3 to 17 (inclusive) years of age. W&I Code § 4648.5(a)(3)

Your special education transition services should start by the time you turn 16.⁷³ In some cases, you can keep getting services until you are 22.⁷⁴ Before your services start, a regional center service coordinator goes to your IEP meeting and helps you plan your transition from school. Regional centers have a lot of experience with young adults and know about many resources in the community. It can help you develop your IEP transition goals and choose the services that will help you reach those goals.

The services you get depend on what you need and want. Your services can be community experiences, job development and other goals for your life as an adult. You can also get training in daily living skills and have an evaluation to see what your strengths and abilities are (called a functional vocational evaluation).⁷⁵

The regional center will expect you to use the services offered by your local school district until you are 22 unless you receive a diploma or certificate of completion from high school. In fact, effective July 1, 2011, the regional centers cannot pay for the following services:

1. Day programs,
2. Vocational education,
3. Work services,
4. Independent living programs, or
5. Mobility training and related transportation services

⁷³ 20 U.S.C. § 1414(d)(1)(A)(vii); 34 C.F.R. § 300.374(b). A child can have an Individual Transition Plan (ITP) at 14 (or even younger as deemed appropriate by an IEP team), but must have one in place by their first IEP following their 16th birthday. The legislature added the “younger as appropriate” language specifically to combat concerns about high school drop out rates of young persons with disabilities. It is often used when students are at risk of dropping out or have significant disabilities and require more transition planning. It is important to note that this does not mean that transition planning (without an ITP) should not or cannot begin much sooner (even in elementary school).

⁷⁴ See, generally, Cal. Educ. Code § 56345.1.

⁷⁵ Code Fed. Regs., tit. 34 § 300.102(a)(3).

for people 18-22 years old who are eligible for special education and related services unless exemptions are met.

All of your services should be determined in the IPP process. This is especially important for you during the transition out of school.

When the law changed, it created three groups of people. Each of these groups is entitled to different services.

If you are 18-22 and still in school, then the IPP team decides whether or not the school can meet your needs in the five areas listed above. If the school can, then the regional center should help you get the necessary services from the school. If the IPP team decides that the school cannot meet your needs or grants an exemption then the regional center provides the services.

If you are 18-22 and prior to July 1, 2011, left school and began receiving any of the five services listed above from the regional center, the IPP team needs to determine if the school can provide those services. If the IPP team determines that the school can provide the services, then the regional center should help you get them from the school. If the IPP team decides that the school cannot meet your needs or grants an exemption then the regional center provides the services. However, because you are already receiving the service, if the regional center wants to reduce or terminate a service and you do not agree with that, you are entitled to a written notice of action. (See Chapter 12.)

If you are 18-22 and not attending school or receiving any of the five services listed above, you should call an IPP meeting to discuss what services you need. If the IPP team determines that the school can provide these services, then the regional center must first try to get those services for you from the school. The IPP team should also discuss if you meet an exemption.

There are two exemptions to the general rule that regional centers cannot purchase day programs, vocational education, work services, independent living programs, and mobility training and related transportation services. An exemption may be granted if there was a determination made that an extraordinary circumstance exists in your case or if the IPP team determines that the school cannot appropriately meet your needs for any of the five services listed above. Some examples of extraordinary circumstances could be: health and safety, failure to provide services in the least restrictive environment, or unique family circumstances. Be sure to discuss exemptions at your IPP.

66. Does the regional center pay for the transition services in my IEP?

No. Your school and school district pay for the services in your IEP. The regional center can offer to help the school coordinate and provide services, but it does not have to. The regional center may have to pay for other transition services if they are in your IPP.

67. I graduated from high school when I was 20. Can I still get transition services from my school?

No. If you have a high school diploma, you cannot get any more special education services, including transition services from your school. If you get a certificate or document instead of a diploma, you can still get special education and transition services from your school district.⁷⁶ Once you graduate, you can get similar services from your regional center.

68. I dropped out of school at 18. The regional center will not help me get a job because I should be getting services from my school district. Where can I get services?

The school district gets funding for services for people under 22. But, some students drop out of school because they do not get the services or work experience they want.

⁷⁶ In Disability Rights California's experience, some regional centers will agree to fund daytime services for people who have chosen not to continue in school-funded transition programs while other regional centers will not without a fair hearing.

You have two choices:

- Many schools provide services for 18-22 year olds at community colleges, or help them get work experience. Others coordinate with regional centers to help with independent living experience. Ask the regional center to help you in an IEP meeting to get the school district to give you the services you need. The regional center can also help you in a special education hearing, if necessary.
- Ask for the services or job supports you want in an IPP meeting. (See Question 65, above.)

69. Can I use money for Self-Directed Services for work, leisure, recreation and education services?

Yes. You can use funds for Self-Directed Services for:

- Supported employment and pre-vocational services
- Transportation and communication support
- Community living supports, including socialization, personal skill development, community participation, recreation, leisure, home and personal care
- Individual training and education, and transition services.⁷⁷

See Chapter 11 for information about the SDS Program. If you get day program or habilitation services from the regional center, you cannot use the SDS Program. But, you can ask the regional center for person-centered planning services so you can switch to the SDS Program. After you ask, the regional center has 60 days to start your person-centered planning services.⁷⁸

The SDS program is voluntary. If the services you get do not meet your needs, you can switch back to your day program or habilitation services.

⁷⁷ § 4685.7(b)(6).

⁷⁸ § 4685.7(i)(3).