



Special Education Instead of Adult Services for Consumers Age 18-22

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When the State Legislature required the Department of Developmental Services (DDS) to reduce its budget in past years, it also changed the law regarding the types and amounts of services that regional centers can purchase. This fact sheet describes the 2011 and 2017 changes in using 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 that apply, and what will happen if the regional center wants to change your services.

HOW THE LAW CHANGED

In 2011, section 4648.55 was added to the Lanterman Act. It says:

“...a regional center shall not purchase day program, vocational education, work services, independent living program, or mobility training and related transportation services for a consumer who is 18 to 22 years of age, inclusive, if that consumer is eligible for special education and related education services and has not received a diploma or certificate of completion unless the individual program plan (IPP) planning team determines that the consumer’s needs cannot be met in the education system or grants an exemption...”

There is an exception and several exemptions within section 4648.55, which are discussed below.

If you have received a diploma or certificate of completion from high school, section 4648.55 does not apply to you. It cannot be used to prohibit the regional center from purchasing a service listed in Section A below for you. However, the language of section 4648.55(a) creates a problem because,

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 special education, and because there are other laws in the Lanterman Act (such as Welfare and Institutions Code sections 4646(a), 4646.4(a)(2)&(3), 4646.5(a)(5), 4647(a), 4648(a)(8), and 4659) which say regional centers cannot purchase services you could get another way, regional centers may still deny a service in Section A below if your needs can be met through special education. Administrative law judges have upheld regional center denials of services based on these other Lanterman Act laws, unless the person proved the services offered by the school district will not meet their needs. As with any service you request the regional center to pay for, you must prove the service you need is not available to you from any other source.

Section 4648.55 talks about consumers who have Certificates of Completion. However, 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. See Education Code section 56390. A regional center should treat a Certificate of Achievement the same as a Certificate of Completion, but some regional centers don't. If you want to be sure this exception applies to you after high school, ask the school district give you a Certificate of Completion and not a Certificate or Achievement or any other acknowledgement.

A. List of Involved Services

Section 4648.55 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

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

If you are 18-22 and still in school, the Individual Program Plan (IPP) team has to determine whether the school can meet your need for the services under Section A. If the planning team determines that the school can meet your needs for any of those services, then the regional center must help you get those services. Welfare and Institutions Code section 4648.55(a). You (or your parent, legal guardian, or conservator) can ask the regional center service coordinator to attend the Individualized Education Program (IEP) team meeting. Each regional center is required to have staff with special education expertise who can help or attend meetings on your behalf. Welfare and Institutions Code section 4640.6(g)(2).

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

C. Exception and Exemptions within Section 4648.55

IPP Team Exception

If your IPP team determines that your needs cannot be met by the educational system, the regional center may purchase services under Section A. See Welfare and Institutions Code section 4648.55(a).

Exemptions for Employment

There is an exemption for participation in employment which allows the regional center to purchase the services under Section A for you. Welfare and Institutions Code section 4648.55(d)(1):

1. An exemption can be granted for participation in a specified paid internship program; or
2. An exemption can be granted for competitive integrated employment that is an outcome of a paid internship.

Under Welfare and Institutions Code Section 4870 (a)(1-4), paid internship programs are administered by regional center providers and must meet these criteria:

1. Payment to a person participating in a paid internship must not exceed \$10,400 per year.
2. Paid internships must be in a competitive, integrated work setting.
3. Internships must assist the person to develop skills necessary to get paid employment in the future.
4. Regional centers must increase awareness of the opportunity for people to participate in paid internship programs through specific outreach and at IPP meetings.

A person participating in a paid internship or competitive integrated employment can also continue to receive school services, if the services continue to meet the needs of the person. Welfare and Institutions Code section 4648.55 (d)(1).

Exemption for Inappropriateness of a Generic Service

There is also an exemption for extraordinary circumstances if the IPP team determines that the generic service is not appropriate to meet your need. See Welfare and Institutions Code section 4648.55(d)(2). If the regional center refers you to a special education service that would not enable you to meet your IPP goals, the availability of that service cannot support a regional center's refusal to purchase one or more services listed under Section A.

D. 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, contact your service coordinator and request an IPP meeting. An IPP meeting must be held within 30 days of your request.

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. The notice must be given 30 days before the change begins. The notice must tell you:

- 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.

If you are already receiving the service and you disagree with the regional center and want to keep getting it, you must request a fair hearing within 10 days of receiving the notice. Otherwise, the request must be made within 30 days. If exemptions are available and you think you meet an exemption, remember to write, "I meet an exemption" on your fair hearing request.

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