

**Introduced by Senator Menjivar**  
(Principal coauthor: Assembly Member Addis)

February 15, 2024

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An act to amend Sections 4435.1 and 4685.8 of the Welfare and Institutions Code, relating to developmental services.

LEGISLATIVE COUNSEL'S DIGEST

SB 1281, as introduced, Menjivar. Advancing Equity and Access in the Self-Determination Program Act.

Existing law, the Lanterman Developmental Disabilities Services Act (act), requires the State Department of Developmental Services to contract with regional centers to provide services and supports to individuals with developmental disabilities and their families. Under existing law, the regional centers purchase needed services and supports for individuals with developmental disabilities through approved service providers, or arrange for their provision through other publicly funded agencies. The services and supports to be provided to a regional center consumer are contained in an individual program plan (IPP), which is developed by the planning team according to specified procedures.

Existing law requires the department to establish and implement a statewide Self-Determination Program to provide participants and their families, within an individual budget, increased flexibility and choice, and greater control over decisions, resources, and needed and desired services and supports to implement their IPP, in accordance with prescribed requirements. Existing law declares the intent of the Legislature to provide more statewide uniformity and consistency and promote equity in the administrative practices and services of regional centers, consistent with the act.

This bill, the Advancing Equity and Access in the Self-Determination Program Act, would require the department, by January 1, 2026, to establish statewide standardized processes and procedures for the Self-Determination Program, as specified, and to ensure that those processes and procedures are applied consistently by regional centers, and that enrollment is equitable by race, ethnicity, and regional center. The bill would require deviation from the standardized processes and procedures to be approved by the department.

Existing law provides participants with a choice of financial management services providers who assist the participant to manage and direct the distribution of funds contained in the individual budget, and ensure that the participant has the financial resources to implement their IPP throughout the year. Existing law requires the regional center to pay the full costs of the participant's financial management services provider.

This bill would make an exception to that requirement, and instead would specify "employer burden" costs to be paid by the participant, defined to include state and federally mandated employee benefits included as part of the participant's spending plan, limited to the mandated costs for Federal Insurance Contributions Act for Social Security and Medicare employer contributions, federal unemployment tax, state unemployment tax, employment training tax, and sick leave. The bill would require workers' compensation and liability insurance to be included in the employer burden for financial management services. The bill would require the department to obtain and post employer burden rates from each financial management service provider. The bill would require regional centers to ensure that participants have a choice of financial management services providers for all budget sizes, and the department to annually assess the availability, adequacy, and solvency of financial management services providers at each regional center, as prescribed.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. This act shall be known, and may be cited, as the
- 2 Advancing Equity and Access in the Self-Determination Program
- 3 Act.

1 SEC. 2. Section 4435.1 of the Welfare and Institutions Code  
2 is amended to read:

3 4435.1. (a) It is the intent of the Legislature to provide more  
4 statewide uniformity and consistency and promote equity in the  
5 administrative practices and services of regional centers, consistent  
6 with the Lanterman Developmental Disabilities Services Act  
7 (Division 4.5 (commencing with Section 4500)), as specified in  
8 this section.

9 (b) (1) No later than June 30, 2024, the department shall  
10 establish common data definitions that shall be used to promote  
11 service access and equity in all regional center services and  
12 programs. No later than January 1, 2025, regional centers shall  
13 start recording the race and ethnicity and preferred language  
14 identified by each individual, subject to paragraph (4), at the time  
15 of initial intake, assessment, and the individual program plan  
16 meeting following the individual's 18th birthday. Individuals have  
17 the right to update their demographic information at any time.

18 (2) The categories for race and ethnicity shall be based on the  
19 latest categories adopted by the United States Core Data for  
20 Interoperability set forth by the United States Office of the National  
21 Coordinator for Health Information Technology.

22 (3) "Preferred language" means the language chosen by the  
23 applicant or individual, or, when appropriate, the individual's  
24 parent, legal guardian or conservator, or authorized representative.

25 (4) Nothing in this section shall be construed to compel an  
26 individual, their parent, their legal guardian or conservator, or their  
27 authorized representative to provide requested information  
28 regarding the race, ethnicity, or preferred language of any of those  
29 persons.

30 (5) The data requirements described in this subdivision shall be  
31 integrated with the department's new case management system.

32 (c) (1) No later than June 30, 2025, the department shall  
33 establish standardized processes, including standardized templates,  
34 for assessing a consumer's need for respite services. Regional  
35 centers shall implement these standardized processes no later than  
36 January 1, 2026.

37 (2) The processes shall include a requirement that the regional  
38 center obtain information about respite needs from family members  
39 and, when appropriate, from other caregivers. The information

1 obtained from these standardized processes shall be considered by  
2 the individual's individual program planning team.

3 (3) Regional centers shall make any modifications to their  
4 purchase-of-service policies as necessary for implementation of  
5 this subdivision.

6 (d) No later than June 30, 2024, the department shall establish  
7 a standardized individual program plan template and standardized  
8 procedures, including frequency of meetings, that are consistent  
9 with person-centered services planning requirements. The template  
10 shall be integrated with the department's new case management  
11 system. Regional centers shall implement the standardized  
12 individual program plan template and procedures no later than  
13 January 1, 2025.

14 (e) No later than June 30, 2025, the department shall establish  
15 standardized vendorization procedures. These procedures may  
16 include, but are not limited to, standardized vendorization forms  
17 and requirements to streamline vendorization elements, including  
18 when services are provided through more than one regional center.  
19 Regional centers shall implement these standardized vendorization  
20 procedures and provide updated vendor lists to the department on  
21 a quarterly basis no later than January 1, 2026.

22 (f) (1) No later than January 1, 2025, the department shall  
23 establish a standardized intake process consistent with the  
24 requirements and timelines specified in Section 4642.

25 (2) No later than June 30, 2025, and to the extent allowed by  
26 current data systems, regional centers shall report to the  
27 department, quarterly as described in paragraph (4), the number  
28 of assessments and the length of time that it took to determine  
29 eligibility.

30 (3) The department shall include all of the following information  
31 in its new case management system:

32 (A) The number of individuals for whom intake was requested.

33 (B) The outcome of that intake, including whether an assessment  
34 was determined to be necessary.

35 (C) The length of time that it took to complete the assessment.

36 (D) The number of notices of action sent pursuant to paragraph  
37 (3) of subdivision (a) of Section 4642.

38 (4) Regional centers shall report the data described in this  
39 subdivision to the department on a quarterly basis, based on the

criteria specified in paragraphs (1) to (5), inclusive, of subdivision (a) of Section 4519.5.

*(g) No later than January 1, 2026, the department shall establish statewide standardized processes and procedures for the Self-Determination Program established by Section 4685.8. The department shall ensure that they are consistently applied by each regional center and ensure equitable enrollment by race, ethnicity, and regional center. The standardized processes and procedures shall also include the requirement that any regional center variation from the standardized process and procedures shall be approved by the department. The standardized processes and procedures shall include, but not be limited to, all of the following:*

*(1) Enrollment.*

*(2) Individual budgets.*

*(3) Financial management services.*

*(4) Access to self-directed and transition supports.*

*(5) Spending plan.*

*(6) Financial management service monthly spending report.*

~~*(g)*~~

*(h) The department shall develop the standardized processes specified in this section with input from stakeholders, including consumers and families, who reflect the demographic diversity of California, to the extent practicable. In developing the standardized processes specified in this section, the department shall address barriers that may impact access to services.*

~~*(h)*~~

*(i) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specific this section through written directives until regulations are effective.*

~~*(i)*~~

*(j) As part of its quarterly updates to the Legislature pursuant to Section 4474.17, the department shall provide information on the status of implementation of this section.*

SEC. 3. Section 4685.8 of the Welfare and Institutions Code is amended to read:

4685.8. (a) The department shall implement a statewide Self-Determination Program. The Self-Determination Program shall be available in every regional center catchment area to provide participants and their families, within an individual budget,

1 increased flexibility and choice, and greater control over decisions,  
2 resources, and needed and desired services and supports to  
3 implement their IPP. As of July 1, 2021, the program shall begin  
4 to be available on a voluntary basis to all regional center consumers  
5 who are eligible for the Self-Determination Program.

6 (b) The department, in establishing the statewide program, shall  
7 do both of the following:

8 (1) Set targets and benchmarks as set forth in paragraph (1) of  
9 subdivision (r).

10 (2) Address all of the following:

11 (A) Oversight of expenditure of self-determined funds and the  
12 achievement of participant outcomes over time.

13 (B) Increased participant control over which services and  
14 supports best meet the participant's needs and the IPP objectives.  
15 A participant's unique support system may include the purchase  
16 of existing service offerings from service providers or local  
17 businesses, hiring their own support workers, or negotiating unique  
18 service arrangements with local community resources.

19 (C) Comprehensive person-centered planning, including an  
20 individual budget and services that are outcome based.

21 (D) Consumer and family training to ensure understanding of  
22 the principles of self-determination, the planning process, and the  
23 management of budgets, services, and staff.

24 (E) Choice of independent facilitators, who meet standards and  
25 certification requirements established by the department, and who  
26 can assist with the functions specified in paragraph~~(2)~~ (3) of  
27 subdivision (c).

28 (F) Choice of financial management services providers who  
29 meet standards and certification requirements established by the  
30 department, and who can carry out the functions specified in  
31 paragraph~~(4)~~ (2) of subdivision (c).

32 (G) Innovation that will more effectively allow participants to  
33 achieve their goals.

34 (H) Long-term sustainability of the Self-Determination Program  
35 by doing all of the following:

36 (i) Requiring IPP teams, when developing the individual budget,  
37 to determine the services, supports and goods necessary for each  
38 consumer based on the needs and preferences of the consumer,  
39 and when appropriate the consumer's family, and the effectiveness  
40 of each option in meeting the goals specified in the IPP, and the

1 cost effectiveness of each option, as specified in subparagraph (D)  
2 of paragraph (6) of subdivision (a) of Section 4648.

3 (ii) The department may review final individual budgets that  
4 are at or above a spending threshold determined by the department  
5 of all individual budgets and use information from its review in  
6 the aggregate to develop additional program guidance and verify  
7 compliance with federal and state laws and other requirements.

8 (c) For purposes of this section, the following definitions apply:

9 (1) *“Employer burden” means the state and federally mandated*  
10 *employee benefits that shall be included as part of a participant’s*  
11 *spending plan and are limited to the mandated costs for Federal*  
12 *Insurance Contributions Act (FICA) for Social Security and*  
13 *Medicare employer contributions, federal unemployment tax, state*  
14 *unemployment tax, employment training tax, and sick leave.*  
15 *Workers’ compensation and liability insurance shall be included*  
16 *in the employer burden for financial management services using*  
17 *the coemployer model. If a sole employer model is used, the*  
18 *participant shall have the option of providing their own workers’*  
19 *compensation, employer liability insurance, or other employee*  
20 *benefits in their spending plan or the participant may pay them*  
21 *privately. The employer burden shall not include any fees or costs*  
22 *for financial management services beyond those paid by the*  
23 *regional center outside of the participant’s individual budget as*  
24 *part of the financial management service monthly rate determined*  
25 *by the department. The department shall obtain from each financial*  
26 *management service provider its employer burden rates and post*  
27 *them on the department’s internet website.*

28 (1)

29 (2) *“Financial management services” means services or*  
30 *functions that assist the participant to manage and direct the*  
31 *distribution of funds contained in the individual budget, and ensure*  
32 *that the participant has the financial resources to implement their*  
33 *IPP throughout the year. These may include bill paying services*  
34 *and activities that facilitate the employment of service and support*  
35 *workers by the participant, including, but not limited to, fiscal*  
36 *accounting, tax withholding, compliance with relevant state and*  
37 *federal employment laws, assisting the participant in verifying*  
38 *provider qualifications, including criminal background checks,*  
39 *and expenditure reports. The financial management services*  
40 *provider shall meet the applicable requirements of Title 17 of the*

1 California Code of Regulations and other specific qualifications  
2 or certifications established by the department.

3 ~~(2)~~

4 (3) “Independent facilitator” means a person, selected and  
5 directed by the participant, who is not otherwise providing services  
6 to the participant pursuant to their IPP and is not employed by a  
7 person providing services to the participant. The independent  
8 facilitator may assist the participant in making informed decisions  
9 about the individual budget, and in locating, accessing, and  
10 coordinating services and supports consistent with the participant’s  
11 IPP. The independent facilitator is available to assist in identifying  
12 immediate and long-term needs, developing options to meet those  
13 needs, leading, participating, or advocating on behalf of the  
14 participant in the person-centered planning process and  
15 development of the IPP, and obtaining identified services and  
16 supports. The cost of the independent facilitator, if any, shall be  
17 paid by the participant out of the participant’s individual budget.  
18 An independent facilitator shall receive training in the principles  
19 of self-determination, the person-centered planning process, and  
20 the other responsibilities described in this paragraph at the  
21 independent facilitator’s own cost. The independent facilitator  
22 shall meet standards and certification requirements established by  
23 the department.

24 ~~(3)~~

25 (4) “Individual budget” means the amount of regional center  
26 purchase of service funding available to the participant for the  
27 purchase of services and supports necessary to implement the IPP.  
28 The individual budget shall be determined using a fair, equitable,  
29 and transparent methodology.

30 ~~(4)~~

31 (5) “IPP” means individual program plan, as described in Section  
32 4646.

33 ~~(5)~~

34 (6) “Participant” means an individual, and when appropriate,  
35 the participant’s parents, legal guardian or conservator, or  
36 authorized representative, who has been deemed eligible for, and  
37 has voluntarily agreed to participate in, the Self-Determination  
38 Program.

39 ~~(6)~~

(7) “Self-determination” means a voluntary delivery system consisting of a defined and comprehensive mix of services and supports, selected and directed by a participant through person-centered planning, in order to meet the objectives in their IPP. Self-determination services and supports are designed to assist the participant to achieve personally defined outcomes in community settings that promote inclusion. The Self-Determination Program shall only fund services and supports provided pursuant to this division that the federal Centers for Medicare and Medicaid Services determines are eligible for federal financial participation.

(8) “Spending Plan” means the plan the participant develops to use their available individual budget funds to purchase goods, services, and supports necessary to implement their individual program plan (IPP). The spending plan shall identify the cost of each good, service, and support that will be purchased with regional center funds. The total amount of the spending plan cannot exceed the amount of the individual budget. A copy of the spending plan, and any revised spending plan, shall be attached to the participant’s IPP. *The regional center shall promptly send a copy of the spending plan and authorizations to the financial management services provider.*

(d) Participation in the Self-Determination Program is fully voluntary. A participant may choose to participate in, and may choose to leave, the Self-Determination Program at any time. A regional center shall not require or prohibit participation in the Self-Determination Program as a condition of eligibility for, or the delivery of, services and supports otherwise available under this division. Participation in the Self-Determination Program shall be available to any regional center consumer who meets the following eligibility requirements:

(1) The participant has a developmental disability, as defined in Section 4512, and is receiving services pursuant to this division.

(2) The consumer does not live in a licensed long-term health care facility, as defined in paragraph (44) of subdivision (a) of Section 54302 of Title 17 of the California Code of Regulations. An individual, and when appropriate the individual’s parent, legal guardian or conservator, or authorized representative, who is not eligible to participate in the Self-Determination Program pursuant to this paragraph may request that the regional center provide

1 person-centered planning services in order to make arrangements  
2 for transition to the Self-Determination Program, provided that  
3 the individual is reasonably expected to transition to the community  
4 within 90 days. In that case, the regional center shall initiate  
5 person-centered planning services within 60 days of that request.

6 (3) The participant agrees to all of the following terms and  
7 conditions:

8 (A) The participant shall receive an orientation that meets the  
9 standards set or developed by the department to the  
10 Self-Determination Program prior to enrollment, which includes  
11 the principles of self-determination, the role of the independent  
12 facilitator and the financial management services provider,  
13 person-centered planning, and development of a budget.

14 (B) The participant shall utilize the services and supports  
15 available within the Self-Determination Program only when generic  
16 services and supports are not available.

17 (C) The participant shall only purchase services and supports  
18 necessary to implement their IPP and shall comply with any and  
19 all other terms and conditions for participation in the  
20 Self-Determination Program described in this section.

21 (D) The participant shall manage Self-Determination Program  
22 services and supports within the participant's individual budget.

23 (E) The participant shall utilize the services of a financial  
24 management services provider of their own choosing and who is  
25 vendored by a regional center and who meets the qualifications in  
26 paragraph~~(4)~~ (2) of subdivision (c).

27 (F) The participant may utilize the services of an independent  
28 facilitator of their own choosing for the purpose of providing  
29 services and functions as described in paragraph~~(2)~~ (3) of  
30 subdivision (c). If the participant elects not to use an independent  
31 facilitator, the participant may use their regional center service  
32 coordinator to provide the services and functions described in  
33 paragraph~~(2)~~ (3) of subdivision (c).

34 (G) If eligible, with the assistance of the regional center, if  
35 needed, timely apply for Medi-Cal in order to maximize federal  
36 funding. The participant may consider institutional deeming in  
37 order to qualify for Medi-Cal services.

38 (e) A participant who is not Medi-Cal eligible may participate  
39 in the Self-Determination Program and receive self-determination  
40 services and supports if all other program eligibility requirements

1 are met and the services and supports are otherwise eligible for  
2 federal financial participation.

3 (f) The additional federal financial participation funds generated  
4 by the former participants of the self-determination pilot projects  
5 authorized pursuant to Section 13 of Chapter 1043 of the Statutes  
6 of 1998, as amended, or pursuant to Article 4 (commencing with  
7 Section 4669.2) of Chapter 5, shall be used to maximize the ability  
8 of Self-Determination Program participants to direct their own  
9 lives and to ensure the department and regional centers successfully  
10 implement the program as follows:

11 (1) First, to offset the cost to the department for the criminal  
12 background check conducted pursuant to subdivision (v) and other  
13 administrative costs incurred by the department in implementing  
14 the Self-Determination Program.

15 (2) With the remaining funds, the department, in consultation  
16 with stakeholders, including a statewide self-determination  
17 advisory workgroup, shall prioritize the use of the funds to meet  
18 the needs of participants, increase service access and equity, and  
19 reduce disparities, and to implement the program, including costs  
20 associated with all of the following:

21 (A) Independent facilitators to assist with a participant's initial  
22 person-centered planning meeting.

23 (B) Development of the participant's initial individual budget.

24 (C) Joint training of consumers, family members, regional center  
25 staff, and members of the local volunteer advisory committee  
26 established pursuant to paragraph (1) of subdivision (w).

27 (D) Regional center operations to increase support for transition  
28 to the Self-Determination Program or for caseload ratio  
29 enhancement.

30 (E) To offset the costs to the regional centers in implementing  
31 the Self-Determination Program.

32 (F) To support the Statewide Self-Determination Advisory  
33 Committee established pursuant to paragraph (2) of subdivision  
34 (w).

35 (g) If at any time during participation in the Self-Determination  
36 Program a regional center determines that a participant is no longer  
37 eligible to continue in, or a participant voluntarily chooses to exit,  
38 the Self-Determination Program, the regional center shall provide  
39 for the participant's transition from the Self-Determination Program  
40 to other services and supports. This transition shall include the

1 development of a new IPP that reflects the services and supports  
2 necessary to meet the individual's needs. The regional center shall  
3 ensure that there is no gap in services and supports during the  
4 transition period.

5 (h) An individual determined to be ineligible for or who  
6 voluntarily exits the Self-Determination Program shall be permitted  
7 to return to the Self-Determination Program upon meeting all  
8 applicable eligibility criteria and upon approval of the participant's  
9 planning team, as described in subdivision (j) of Section 4512. An  
10 individual who has voluntarily exited the Self-Determination  
11 Program shall not return to the program for at least 12 months.

12 (i) An individual who participates in the Self-Determination  
13 Program may elect to continue to receive self-determination  
14 services and supports if the individual transfers to another regional  
15 center catchment area, provided that the individual remains eligible  
16 for the Self-Determination Program pursuant to subdivision (d).  
17 The balance of the participant's individual budget shall be  
18 reallocated to the regional center to which the participant transfers.

19 (j) The IPP team shall utilize the person-centered planning  
20 process to develop the IPP for a participant. The IPP shall detail  
21 the goals and objectives of the participant that are to be met through  
22 the purchase of participant-selected services and supports. The  
23 IPP team shall determine the individual budget to ensure the budget  
24 assists the participant to achieve the outcomes set forth in the  
25 participant's IPP and ensures their health and safety. The completed  
26 individual budget shall be attached to the IPP.

27 (k) The participant shall implement their IPP, including choosing  
28 and purchasing the services and supports allowable under this  
29 section necessary to implement the plan. A participant is exempt  
30 from the cost control restrictions regarding the purchases of  
31 services and supports pursuant to Section 4648.5. A regional center  
32 shall not prohibit the purchase of any service or support that is  
33 otherwise allowable under this section.

34 (l) A participant shall have all the rights established in Sections  
35 4646 to 4646.6, inclusive, and Chapter 7 (commencing with Section  
36 4700).

37 (m) (1) Except as provided in paragraph (4), the IPP team shall  
38 determine the initial and any revised individual budget for the  
39 participant using the following methodology:

1 (A) (i) Except as specified in clause (ii), for a participant who  
2 is a current consumer of the regional center, their individual budget  
3 shall be the total amount of the most recently available 12 months  
4 of purchase of service expenditures for the participant.

5 (ii) An adjustment may be made to the amount specified in  
6 clause (i) if both of the following occur:

7 (I) The IPP team determines that an adjustment to this amount  
8 is necessary due to a change in the participant's circumstances,  
9 needs, or resources that would result in an increase or decrease in  
10 purchase of service expenditures, or the IPP team identifies prior  
11 needs or resources that were unaddressed in the IPP, which would  
12 have resulted in an increase or decrease in purchase of service  
13 expenditures. When adjusting the budget, the IPP team shall  
14 document the specific reason for the adjustment in the IPP.

15 (II) The regional center certifies on the individual budget  
16 document that regional center expenditures for the individual  
17 budget, including any adjustment, would have occurred regardless  
18 of the individual's participation in the Self-Determination Program.

19 (iii) For purposes of clauses (i) and (ii), the amount of the  
20 individual budget shall not be increased to cover the cost of the  
21 independent facilitator.

22 (B) For a participant who is either newly eligible for regional  
23 center services or who does not have 12 months of purchase service  
24 expenditures, the participant's individual budget shall be calculated  
25 as follows:

26 (i) The IPP team shall identify the services and supports needed  
27 by the participant and available resources, as required by Section  
28 4646.

29 (ii) The regional center shall calculate the cost of providing the  
30 services and supports to be purchased by the regional center by  
31 using the average cost paid by the regional center for each service  
32 or support unless the regional center determines that the consumer  
33 has a unique need that requires a higher or lower cost. The IPP  
34 team also shall document the specific reason for the adjustment in  
35 the IPP. The regional center shall certify on the individual budget  
36 document that this amount would have been expended using  
37 regional center purchase of service funds regardless of the  
38 individual's participation in the Self-Determination Program.

1 (iii) For purposes of clauses (i) and (ii), the amount of the  
2 individual budget shall not be increased to cover the cost of the  
3 independent facilitator.

4 (2) The amount of the individual budget shall be available to  
5 the participant each year for the purchase of program services and  
6 supports. An individual budget shall be calculated no more than  
7 once in a 12-month period, unless revised to reflect a change in  
8 circumstances, needs, or resources of the participant using the  
9 process specified in clause (ii) of subparagraph (A) of paragraph  
10 (1).

11 (3) The spending plan shall be assigned to uniform budget  
12 categories developed by the department in consultation with  
13 stakeholders and distributed according to the timing of the  
14 anticipated expenditures in the IPP and in a manner that ensures  
15 that the participant has the financial resources to implement the  
16 IPP throughout the year.

17 (4) The department, in consultation with stakeholders, may  
18 develop alternative methodologies for individual budgets that are  
19 computed in a fair, transparent, and equitable manner and are based  
20 on consumer characteristics and needs, and that include a method  
21 for adjusting individual budgets to address a participant's change  
22 in circumstances or needs.

23 (n) Annually, participants may transfer up to 10 percent of the  
24 funds originally distributed to any budget category set forth in  
25 paragraph (3) of subdivision (m) to another budget category or  
26 categories. Transfers in excess of 10 percent of the original amount  
27 allocated to any budget category may be made upon the approval  
28 of the regional center or the participant's IPP team.

29 (o) Consistent with the implementation date of the IPP, the IPP  
30 team shall annually ascertain from the participant whether there  
31 are any circumstances or needs that require a change to the annual  
32 individual budget. Based on that review, the IPP team shall  
33 calculate a new individual budget consistent with the methodology  
34 identified in subdivision (m).

35 (p) (1) The department, as it determines necessary, may adopt  
36 regulations to implement the procedures set forth in this section.  
37 Any regulations shall be adopted in accordance with the  
38 requirements of Chapter 3.5 (commencing with Section 11340) of  
39 Part 1 of Division 3 of Title 2 of the Government Code.

(2) Notwithstanding paragraph (1) and Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and only to the extent that all necessary federal approvals are obtained, the department, without taking any further regulatory action, shall implement, interpret, or make specific this section by means of program directives or similar instructions until the time regulations are adopted. It is the intent of the Legislature that the department be allowed this temporary authority as necessary to implement program changes only until completion of the regulatory process.

(q) The department, in consultation with stakeholders, shall develop informational materials about the Self-Determination Program. The department shall ensure that regional centers are trained in the principles of self-determination, the mechanics of the Self-Determination Program, and the rights of consumers and families as candidates for, and participants in, the Self-Determination Program.

(r) Each regional center shall be responsible for implementing the Self-Determination Program as a term of its contract under Section 4629. As part of implementing the program, the regional center shall do all of the following:

(1) Meet the Self-Determination targets approved by the department, meet benchmarks established by the department in areas including timely enrollment, diversity of consumers served, and reduction of disparities in the individual budget of participants from racial and ethnic communities, and be eligible for incentives for exceeding these targets and benchmarks once the department has established a performance incentives program.

(2) Develop and implement an outreach and training plan about the Self-Determination program for the diverse communities served by the regional center, including in congregate settings. Information shall be provided in plain language, in alternative formats and alternative modes of communication and provide language access as required by state and federal law. Obtain input from stakeholders, including consumers and families that reflect the ethnic and language diversity of the regional center's consumers, about the effectiveness of this outreach and training and other activities that may be effective in reducing disparities in these programs.

1 (3) Annually report the enrollment, individual budget data, and  
2 purchase of service expenditure data for the Self-Determination  
3 Program consistent with the criteria in subdivisions (a) to (c),  
4 inclusive, of Section 4519.5.

5 (4) Assist eligible participants and their families in applying for  
6 Medi-Cal, in order to maximize federal funding and assist  
7 interested participants who wish to pursue institutional deeming  
8 in order to qualify for Medi-Cal services.

9 (5) At least annually, in addition to annual certification, conduct  
10 an additional review of all final individual budgets for participants  
11 at the regional center which are at or above a spending threshold  
12 that is specified by the department through directive consistent  
13 with federal and state requirements. This information may be used  
14 in the aggregate to provide training, program guidance, and verify  
15 compliance with state and federal requirements.

16 (6) Review the spending plan *only* to verify that goods and  
17 services *are* eligible for federal financial ~~participation~~ *participation*,  
18 *and* are not used to fund goods or services available through  
19 generic agencies. *A regional center shall ensure that participant*  
20 *choice of providers is respected. After the spending plan is*  
21 *developed, the participant is responsible for assigning amounts*  
22 *only to the uniform budget categories developed by the department.*  
23 *The cost of services may be estimated. If needed, the spending plan*  
24 *may be adjusted by the participant when the actual cost is known.*  
25 *The spending plan shall identify the type of provider that will*  
26 *provide each service. A provider name shall not be required in the*  
27 *spending plan. Goods and services purchased in the spending plan*  
28 *are not required to include, and are not limited to, the services*  
29 *utilized to develop the individual budget. A regional center shall*  
30 *not apply the purchase of service standards to services utilized*  
31 *through the Self-Determination Program spending plan.*

32 (7) Contract with local consumer or family-run organizations  
33 and consult with the local volunteer advisory committee established  
34 pursuant to paragraph (1) of subdivision (w) to conduct outreach  
35 through local meetings or forums to consumers and their families  
36 to provide information about the Self-Determination Program and  
37 to help ensure that the program is available to a diverse group of  
38 participants, with special outreach to underserved communities.

39 (8) Collaborate with the local consumer or family-run  
40 organizations identified in paragraph (1) to jointly conduct training

1 about the Self-Determination Program. The regional center shall  
2 consult with the local volunteer advisory committee established  
3 pursuant to paragraph (1) of subdivision (w) in planning for the  
4 training, and the local volunteer advisory committee may designate  
5 members to represent the advisory committee at the training.

6 (9) Train all service coordinators and fair hearing specialists in  
7 the principles of self-determination, the mechanics of the  
8 Self-Determination Program, and the rights of consumers and  
9 families. The training shall be conducted in collaboration with the  
10 local volunteer advisory committee.

11 (10) Provide payment to the financial management services  
12 provider for spending plan expenses through a not less than  
13 semi-monthly pay schedule.

14 *(11) Ensure that participants have a choice of financial*  
15 *management services providers for all budget sizes.*

16 (s) The financial management services provider shall provide  
17 the participant and the regional center service coordinator with a  
18 monthly individual budget statement that describes the amount of  
19 funds allocated by budget category, the amount spent in the  
20 previous 30-day period, and the amount of funding that remains  
21 available under the participant's individual budget.

22 (t) Only the financial management services provider is required  
23 to apply for vendorization in accordance with Subchapter 2  
24 (commencing with Section 54300) of Chapter 3 of Division 2 of  
25 Title 17 of the California Code of Regulations for the  
26 Self-Determination Program. All other service and support  
27 providers shall not be on the federal debarment list and shall have  
28 applicable state licenses, certifications, or other state required  
29 documentation, including documentation of any other qualifications  
30 required by the department, but are exempt from the vendorization  
31 requirements set forth in Title 17 of the California Code of  
32 Regulations when serving participants in the Self-Determination  
33 Program. *Individuals transitioning into the Self-Determination*  
34 *Program shall have the option to receive transition services*  
35 *through participant-directed services.*

36 (u) The regional center shall pay the full costs of the  
37 participant's financial management services ~~provider.~~ *provider;*  
38 *except for those employer burden costs specified in paragraph (1)*  
39 *of subdivision (c), which shall be included in the participant's*  
40 *budget, and which shall be clearly and individually identified in*

1 *the monthly report sent to the participant. The financial*  
2 *management service provider shall purchase services and goods*  
3 *in the spending plan or revised spending plan without additional*  
4 *review from the regional center. A financial management services*  
5 *provider serving as a sole employer shall be individually*  
6 *responsible for any fees, penalties, or fines resulting from its failure*  
7 *to comply with state and federal labor requirements.*

8 (v) To protect the health and safety of participants in the  
9 Self-Determination Program, the department shall require a  
10 criminal background check in accordance with all of the following:

11 (1) The department shall issue a program directive that identifies  
12 nonvendored providers of services and supports who shall obtain  
13 a criminal background check pursuant to this subdivision. At a  
14 minimum, these staff shall include both of the following:

15 (A) Individuals who provide direct personal care services to a  
16 participant.

17 (B) Other nonvendored providers of services and supports for  
18 whom a criminal background check is requested by a participant  
19 or the participant's financial management service.

20 (2) Subject to the procedures and requirements of this  
21 subdivision, the department shall administer criminal background  
22 checks consistent with the department's authority and the process  
23 described in Sections 4689.2 to 4689.6, inclusive.

24 (3) The department shall electronically submit to the Department  
25 of Justice fingerprint images and related information required by  
26 the Department of Justice of nonvendored providers of services  
27 and supports, as specified in paragraph (1), for purposes of  
28 obtaining information as to the existence and content of a record  
29 of state or federal convictions and state or federal arrests and also  
30 information as to the existence and content of a record of state or  
31 federal arrests for which the Department of Justice establishes that  
32 the person is free on bail or on their own recognizance pending  
33 trial or appeal.

34 (4) When received, the Department of Justice shall forward to  
35 the Federal Bureau of Investigation requests for federal summary  
36 criminal history information received pursuant to this section. The  
37 Department of Justice shall review the information returned from  
38 the Federal Bureau of Investigation and compile and disseminate  
39 a response to the department.

1 (5) The Department of Justice shall provide a state or federal  
2 response to the department pursuant to paragraph (1) of subdivision  
3 (p) of Section 11105 of the Penal Code.

4 (6) The department shall request from the Department of Justice  
5 subsequent notification service, as provided pursuant to Section  
6 11105.2 of the Penal Code, for persons described in paragraph (1).

7 (7) The Department of Justice shall charge a fee sufficient to  
8 cover the cost of processing the request described in this  
9 subdivision.

10 (8) The fingerprints of any provider of services and supports  
11 who is required to obtain a criminal background check shall be  
12 submitted to the Department of Justice prior to employment. The  
13 costs of the fingerprints and the financial management service's  
14 administrative cost authorized by the department shall be paid by  
15 the services and supports provider or the provider's employing  
16 agency. Any administrative costs incurred by the department  
17 pursuant to this subdivision shall be offset by the funds specified  
18 in subdivision (g).

19 (9) If the criminal record information report shows a criminal  
20 history, the department shall take the steps specified in Section  
21 4689.2. The department may prohibit a provider of services and  
22 supports from becoming employed, or continuing to be employed,  
23 based on the criminal background check, as authorized in Section  
24 4689.6. The provider of services and supports who has been denied  
25 employment shall have the rights set forth in Section 4689.6.

26 (10) The department may utilize a current department-issued  
27 criminal record clearance to enable a provider to serve more than  
28 one participant, as long as the criminal record clearance has been  
29 processed through the department and no subsequent arrest  
30 notifications have been received relative to the cleared applicant.

31 (11) Consistent with subdivision (h) of Section 4689.2, the  
32 participant or financial management service that denies or  
33 terminates employment based on written notification from the  
34 department shall not incur civil liability or unemployment insurance  
35 liability.

36 (w) To ensure the effective implementation of the  
37 Self-Determination Program and facilitate the sharing of best  
38 practices and training materials commencing with the  
39 implementation of the Self-Determination Program, local and  
40 statewide advisory committees shall be established as follows:

(1) Each regional center shall establish a local volunteer advisory committee to provide oversight of the Self-Determination Program and identify a regional center liaison to the committee. The regional center and the State Council on Developmental Disabilities shall each appoint one-half of the membership of the committee. The committee shall consist of the regional center clients' rights advocate, consumers, family members, and other advocates, and community leaders, including a representative from a family resource center. A majority of the committee shall be consumers and their family members. The committee shall reflect the multicultural diversity and geographic profile of the catchment area. The committee shall review the development and ongoing progress of the Self-Determination Program, including whether the program advances the principles of self-determination and is operating consistent with the requirements of this section, and may make ongoing recommendations for improvement to the regional center and the department. Annually, the regional center shall confirm, in writing, that the committee meets the requirements specified in this paragraph and provide the department with the name of the staff liaison and the names of the committee members, the positions they fill on the committee, and which entity appointed them to the committee.

(2) The State Council on Developmental Disabilities shall form a volunteer committee, to be known as the Statewide Self-Determination Advisory Committee, comprised of the chairs of the 21 local advisory committees or their designees. The council shall convene the Statewide Self-Determination Advisory Committee twice annually, or more frequently in the sole discretion of the council. The Statewide Self-Determination Advisory Committee shall meet by teleconference or other means established by the council to identify self-determination best practices, effective consumer and family training materials, implementation concerns, systemic issues, ways to enhance the program, and recommendations regarding the most effective method for participants to learn of individuals who are available to provide services and supports. The council shall synthesize information received from the Statewide Self-Determination Advisory Committee, local advisory committees, and other sources, share the information with consumers, families, regional centers, and the department, and make recommendations, as appropriate, to

1 increase the program's effectiveness in furthering the principles  
2 of self-determination.

3 (x) The department shall annually provide the following  
4 information to the appropriate policy and fiscal committees of the  
5 Legislature:

6 (1) Number and characteristics of participants, by regional  
7 center, including the number of participants who entered the  
8 program upon movement from a developmental center.

9 (2) Types and amount of services and supports purchased under  
10 the Self-Determination Program, by regional center.

11 (3) Range and average of individual budgets, by regional center,  
12 including adjustments to the budget to address the adjustments  
13 permitted in clause (ii) of subparagraph (A) of paragraph (1) of  
14 subdivision (m).

15 (4) The number and outcome of appeals concerning individual  
16 budgets, by regional center.

17 (5) The number and outcome of fair hearing appeals, by regional  
18 center.

19 (6) The number of participants who voluntarily withdraw from  
20 the Self-Determination Program and a summary of the reasons  
21 why, by regional center.

22 (7) The number of participants who are subsequently determined  
23 to no longer be eligible for the Self-Determination Program and a  
24 summary of the reasons why, by regional center.

25 (8) *The department shall assess the availability, adequacy, and*  
26 *solvency of financial management services providers at each*  
27 *regional center, including the adequacy of fiscal management*  
28 *services for all sizes of spending plans. The results of the*  
29 *assessment shall be reported as part of the information being*  
30 *provided pursuant to this subdivision.*

31 (y) (1) The State Council on Developmental Disabilities shall  
32 issue an interim report to the Legislature, in compliance with  
33 Section 9795 of the Government Code, no later than June 30, 2021,  
34 on the status of the Self-Determination Program authorized by this  
35 section, barriers to its implementation, and recommendations to  
36 enhance the effectiveness of the program. The interim report shall  
37 provide an update to the program's status, each regional center's  
38 cap on participation and progress toward that cap, the most recent  
39 statewide and per-regional-center participant count, and the  
40 historical trend in the statewide participation count since the start

1 of the program. The department shall assist in providing available  
2 information to the council in order to facilitate the timely issuance  
3 of the report.

4 (2) The council, in collaboration with the protection and  
5 advocacy agency identified in Section 4900 and the federally  
6 funded University Centers for Excellence in Developmental  
7 Disabilities Education, Research, and Service, may work with  
8 regional centers to survey participants regarding participant  
9 satisfaction under the Self-Determination Program and, when data  
10 is available, the traditional service delivery system, including the  
11 proportion of participants who report that their choices and  
12 decisions are respected and supported and who report that they are  
13 able to recruit and hire qualified service providers, and to identify  
14 barriers to participation and recommendations for improvement.

15 (3) The council, in collaboration with the protection and  
16 advocacy agency identified in Section 4900 and the federally  
17 funded University Centers for Excellence in Developmental  
18 Disabilities Education, Research, and Service, shall issue a report  
19 to the Legislature, in compliance with Section 9795 of the  
20 Government Code, by June 30, 2023, on the status of the  
21 Self-Determination Program authorized by this section, and provide  
22 recommendations to enhance the effectiveness of the program.  
23 This review shall include the program's effectiveness in furthering  
24 the principles of self-determination, including all of the following:

25 (A) Freedom, which includes the ability of adults with  
26 developmental disabilities to exercise the same rights as all citizens  
27 to establish, with freely chosen supporters, family and friends,  
28 where they want to live, with whom they want to live, how their  
29 time will be occupied, and who supports them; and for families to  
30 have the freedom to receive unbiased assistance of their own  
31 choosing when developing a plan and to select all personnel and  
32 supports to further the life goals of a minor child.

33 (B) Authority, which includes the ability of a person with a  
34 disability, or family, to control a certain sum of dollars in order to  
35 purchase services and supports of their choosing.

36 (C) Support, which includes the ability to arrange resources and  
37 personnel, both formal and informal, that will assist a person with  
38 a disability to live a life in the community that is rich in community  
39 participation and contributions.

1 (D) Responsibility, which includes the ability of participants to  
2 take responsibility for decisions in their own lives and to be  
3 accountable for the use of public dollars, and to accept a valued  
4 role in their community through, for example, competitive  
5 employment, organizational affiliations, spiritual development,  
6 and general caring of others in their community.

7 (E) Confirmation, which includes confirmation of the critical  
8 role of participants and their families in making decisions in their  
9 own lives and designing and operating the system that they rely  
10 on.

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