

Summary of Accountability and Oversight Requirements for Regional Centers on Developmental Disabilities

1. Department of Developmental Services financial audits

The Department of Developmental Services (DDS) is required to perform fiscal audits of each regional center no less than every two years.

2. Independent financial audits

W&I Code § 4639 requires that each regional center board of directors annually contract with an independent accounting firm for an audited financial statement.

3. Onsite monitoring and reporting

DDS, in collaboration with the state Department of Health Care Services, conducts biennial onsite monitoring of all regional centers to ensure compliance with the requirements of federal and state laws and regulations.

4. Early Start (Part C) Monitoring and Reporting

DDS must prepare and submit to the Office of Special Education Programs (OSEP) an annual report on the performance of the Early Start program using the targets set in the state performance plan.

5. Availability of Financial Status Reports

W&I Code § 4631 (c) requires that the DDS publish a report of the financial status of all regional centers and their operations by February 28 of each year.

6. Compliance Enforcement by DDS

W&I Code § 4434 requires DDS to "...ensure that the regional centers operate in compliance with federal and state law and regulations and provide services and supports to consumers in compliance with the principles and specifics of this division." W&I Code § 4435(b) et seq., prescribes the process that DDS must employ to resolve problems related to a regional center's performance.

7. Review and approval of regional center policies

W&I Code § 4434 requires DDS to collect and review printed materials issued by the regional centers, including, but not limited to, all policies and guidelines, training materials, board-meeting agendas and minutes, and general policy notifications provided to all providers, consumers, and their families. DDS must approve every regional center purchase-of-service policy prior to implementation by the regional center.

8. Uniformity in data collection, reporting, and accounting

W&I Code § 4631 requires DDS to establish a uniform budgeting and encumbrance system, a systematic approach to administrative practices and procedures, and a uniform reporting system in order to provide to the greatest extent practicable a larger degree of uniformity and consistency in the services, funding, and administrative practices of regional centers throughout the state.

9. State Council on Developmental Disabilities/Area Board

One responsibility of the SCDD is to conduct, or to cause to be conducted, investigations or public hearings to resolve disagreements between state agencies, or between state and regional or local agencies, or between persons with developmental disabilities and agencies receiving state funds (e.g. regional centers).

10. Disability Rights California (DRC) Investigation

DRC (formerly Protection and Advocacy, Inc.) is a federally-funded, nonprofit corporation designated by the Governor with the authority and expertise to pursue administrative, legal, and other appropriate remedies or approaches to ensure the protection of the rights of people with disabilities, including investigation of alleged incidents of abuse and neglect that may involve regional center consumers.

11. Other state and federal agency oversight and reporting

Regional centers at various intervals file required reports with Franchise Tax Board, Employment Development Department, U.S. Department of Labor, Internal Revenue Service, Bureau of State Audits, Equal Employment Opportunity Commission, Board of Equalization, Centers for Medicare and Medicaid Services, Department of Health Care Services, Social Security Administration, and federal Office of Special Education Programs, among others.

12. Local Accountability and Control

As a private nonprofit corporation (501(c)(3)), each regional center has a governing board composed of members that must meet stringent requirements set forth in W&I Code § 4522.

13. Board of Directors meeting requirements

W&I Code § 4660 et seq requires that all meetings of a regional center board be scheduled, open, and public, and that all persons be permitted to attend all meetings in accordance with specified provisions.

14. Requirement for public input on regional center contracts.

W&I Code § 4629 requires regional centers to develop performance-contract objectives through a specified public process, which includes the provision of information about regional center services and supports, budget information and baseline data on services and regional center operations.

15. Required staffing and reporting

W&I Code § 4640 specifies maximum service coordinator caseload ratios and other specific staffing requirements with which regional centers must comply.

16. Protection and availability of consumer records

Regional centers are bound by W&I Code § 4514, et seq. which govern the disclosure of consumer information and records **obtained in the course of providing services to people with developmental disabilities.**

17. Availability of employee salary, classification and contracting information

W&I Code §4639.5 requires each regional center to annually provide DDS a complete current salary schedule for all personnel classification used by the regional center.

18. Availability of employment contracts

W&I Code §4640.6(j) requires that regional center employment contracts entered into with staff or contractors be available for public review upon request, and prohibits the term of such contracts from exceeding the term or DDS' contract with the regional center.

19. Conflict of interest for employees and board members

Under Title 17 Section 54521 regional center employees must disclose actual or potential conflicts of interest and those conflicts must be mitigated via a plan submitted to DDS for approval.

W&I Code §4626 (a) prohibits any regional center board member from being: (1) an employee of any state or local agency that has administrative or policymaking responsibility, or responsibility for the regulation of a regional center; (2) an employee or member of the state council or an area board; (3) an employee or member of the governing board or any entity from which the regional center purchases client services; or (4) any person who has a financial interest in regional center operation, except as a consumer of regional center services.

20. Early Start complain and due process

Government Code §95007(f) and the implementing regulations allow any person or organization to file a complaint regarding any alleged violation of a state or federal law by a regional center, local education agency, or any private service provider that receives Early Start funds.

21. General appeals and fair hearings

W&I Code §4700, et seq., provides every regional center applicant, recipient of regional center services, and authorized representative of a regional center applicant or service recipient, the right to file a fair hearing request about any decision or action of the regional center that he or she believes to be illegal, discriminatory, or not in the recipient's or applicants best interests.

22. Rights violations complaint

W&I Code §4731 allows any consumer, or any representative acting on behalf of any consumer, to pursue a complaint if he/she believes that any right to which he/she is entitled has been abused, punitively withheld, or improperly or unreasonably denied by a regional center. Such complaints must initially be referred to the regional center from which the consumer receives case management services.

23. Other appeal and complain processes

Regional centers are subject to other specific regulatory appeal and complaint processes established for service providers or applicants who may appeal a denial of vendorization application, termination of vendorization, or failure of a regional center to comply with regulations, among a host or other alleged grievances.

24. Right to record Individual Program Plan (IPP) meetings

W&I Code §4646.6 provides that a consumer, or his/her parent, guardian, conservator, or authorized representative, has the right to electronically record the proceedings to the individual program plan meetings on an audiotape recorder.

25. Nondiscrimination requirements

The DDS contract with regional centers: (1) requires the regional centers to develop, implement, and maintain a nondiscrimination program pursuant to applicable state laws and regulations, including Title 2, California Code of Regulations, Section 8101 et seq.; (2) prohibits regional centers and their subcontractors from denying benefits to any person on the basis of religion, color, ethnic group identification, sex, age, physical or mental disability, and from discriminating unlawfully against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, mental disability, medical condition, marital status, age (over 40), or sex; (3) requires regional centers to comply with the provisions of the Fair Employment and Housing Act; (4) requires regional centers to permit access to representatives of the Department of Fair Employment and Housing and DDS to such of its books, records, accounts, and other sources of information and its facilities to ascertain compliance with applicable nondiscrimination laws and regulations; and, (5) requires regional centers to include the nondiscrimination and compliance provisions in all subcontracts to perform work under its contract.

26. Whistleblower protections (current status)

Both federal and California law protect regional center employees and applicants from employer retaliation for reporting alleged violation of statute or regulation. Some examples:

National Labor Relations Act (roughly half of the regional centers are unionized)

Fair Labor Standards Act of 1938

Employee Retirement Income Security Act of 1974

Occupational Safety and Health Act of 1970

Cal/OSHA

Consumer Credit Protection Act of 1968

Protection of Jurors Employment Act

Title VII, Civil Rights Act of 1964

Fair Employment and Housing Act (Gov Code 12940(3))

Rights of employees to disclose information to government and law enforcement (Labor Code 1102.5)

In addition to specific protections, the California Legislature has declared that it is the public policy of the State of California to encourage employees to notify an appropriate government or law enforcement agency when they have reason to believe that their employer is violating laws enacted for the protection of corporate shareholders, investors, employees, and the general public. Therefore, even without further legislative action, termination of an employee who has made such a report would likely be a wrongful termination in violation of public policy (California Labor Code 1102.5-1102.9, 1106).