



# North Los Angeles County Regional Center

## Service Standards

Adopted by the Board of Trustees  
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*Approved by the  
Department of Developmental Services  
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# North Los Angeles County Regional Center Service Standards

## INTRODUCTION

North Los Angeles County Regional Center (NLACRC) is guided by the Lanterman Developmental Disabilities Services Act in the provision of services and supports for persons with developmental disabilities and their family members. The Act specifies activities and obligations the center must discharge to meet its responsibilities. NLACRC fully accepts these responsibilities and will endeavor to meet the needs of consumers<sup>1</sup> within the constraints of its budget.

As part of the activities conducted on behalf of a consumer by the NLACRC, services and supports may be purchased for a consumer as identified on his or her Individual Program Plan (IPP). However, consideration must first be given to viable generic and natural services and supports available to the consumer. Services and supports purchased on behalf of a consumer by the NLACRC must take into consideration the needs, preferences, and choices of the consumer. Services and supports should be flexible and individually tailored to the consumer and, where appropriate, his or her family. Finally, services and supports must be effective in meeting the goals and objectives on the consumer's IPP and reflect a cost-effective use of public resources.

Services and supports purchased on behalf of a consumer by NLACRC must assist the consumer to achieve the greatest self-sufficiency possible and to exercise personal choice. Furthermore, such services and supports, within the context of the IPP, must show a high preference to choices that result in allowing a minor to live with his or her family, an adult to live as independently as possible in the community, and a consumer of any age to interact with persons without disabilities in positive and meaningful ways. To ensure consumers have viable access to quality services and supports within their home communities, NLACRC will work in a collaborative effort with the Area Board and other private or public organizations to provide:

- **Information** - NLACRC will provide consumers with quality and timely information about options. Consumers cannot make informed choices without current and complete information about generic, community and vendored support services. Information may be disseminated in collaboration with the Area Board.
- **Advocacy** - NLACRC will advocate for publicly funded agencies to meet their legal responsibilities to serve consumers. NLACRC may conduct systems advocacy jointly with the Area Board and will work collaboratively with Disability Rights California to provide comprehensive advocacy training.

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<sup>1</sup> This includes an adult or child with a developmental disability and/or a family member(s) who has primary or legal responsibility for a minor child who has a developmental disability

- **Options** - NLACRC will encourage and facilitate the creation of quality service and support options for consumers. In collaboration with NLACRC's Vendor Advisory Committee, community best practices standards will be developed and implemented.
- **Consumer Choice and Responsibility** - NLACRC will respect the choices of consumers and acknowledges their ability to accept responsibilities that may be consistent with those for persons without disabilities of the same age.
- **Excellence** - NLACRC accepts its responsibility for adopting policies that ensure the center is effectively and efficiently managed. Accordingly, the Board of Trustees ensures that services are purchased within the framework of the law and service standards as set forth by the board.
- **Responsiveness** - NLACRC will respond to the urgent and critical needs of consumers and/or their family members in a timely and professional manner. The center's Board of Trustees envisions that an appropriate response will be consistent with the consumer's or their family member's situation and may entail exercising greater flexibility as well as creativity in applying the center's service standards. In addition, the center maintains an after-hours business line, (818) 778-1900, to provide consumers, their family members and service providers in immediate need with access to the center.

NLACRC's service standards and policies do not include all possible therapies. Potential therapies will be considered upon review by NLACRC clinicians within the context of the planning team<sup>2</sup> process. NLACRC clinicians are California-licensed and/or board-certified health care professionals who may include, but are not limited to, physicians, psychologists, board certified behavior analysts, registered nurses, dentists, pharmacists, and registered dental assistants who are NLACRC staff or contractors.

NLACRC is prohibited from purchasing experimental treatments, therapeutic services or devices that have not been clinically determined or scientifically proven to be effective or safe or for which risks, and complications are unknown. In view of the often-complex nature of consumers' needs, it is recognized that some individual circumstances have not been anticipated by these service standards or service needs that occur infrequently. This may include other services and supports not specified in these standards. In such cases, the executive director may review staff recommendations and authorize purchase of service requests.

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2 Planning team means the individual with the developmental disability, the parents or legally appointed guardian of a minor, or the legally appointed conservator of an adult consumer, one or more regional center representatives, including the designated service coordinator pursuant to subdivision (b) of section 4640.7 and any individual, including the service provider, invited by the parents or legally appointed guardian of a minor, or the legally appointed conservator of an adult consumer.

In adopting these standards, the Board of Trustees is acting in its role of establishing the service philosophy, standards, and general policy for NLACRC. The board delegates responsibility for the general management of NLACRC and the establishment of operational policies and procedures consistent with these standards to the executive director pursuant to this action.

## **I. CASE FINDING AND PUBLIC INFORMATION**

### **Service and Procedural Standards**

#### PHILOSOPHY

NLACRC is committed to regular and ongoing case finding activities in its service area to promote participation in the regional center system by eligible persons and their families. Case finding activities are closely interrelated with outreach, public information, and human resource development activities.

Outreach should address not only the general public but also special target groups such as non-English speaking populations and/or high risk/high incidence populations or geographical areas. Public information should be designed to improve public awareness of the special needs of persons with developmental disabilities and to promote positive public images and full community participation. Human resource development should encourage new professionals and paraprofessionals to enter the field of developmental services and enhance the skills of those already working in it.

Case finding efforts may be both direct and indirect. Outreach efforts must be multilingual and culturally appropriate. Case finding and outreach beyond the NLACRC service area will be coordinated with Area Board 10 and the Southern California regional centers.

#### DEFINITION

Case finding and public information encompass a broad variety of activities by NLACRC staff which result in dissemination of information concerning regional center services and enhanced community awareness. Case finding results in new applications for NLACRC services. Public information results in increased knowledge and positive attitudes on the part of the public. Human resource development results in improved consumer services as a result of more and better-qualified persons working in the field. Case finding is also closely associated with prevention activities. (See Section II, Prenatal/Genetics/At Risk.)

#### POLICY

It is NLACRC's policy to conduct a well-rounded schedule of case finding, outreach, public information and human resource development activities utilizing the center's staff as appropriate. Activities shall take a variety of forms including community presentations; development and distribution of multi-language materials; media outreach; maintenance of lending materials for staff, parents, and professionals; and sponsorship or promotion of related educational events such as classes, workshops, and conferences. Bilingual needs and cultural values are given important consideration in the implementation of all related case finding, public information and human resource development activities.



## **INTAKE AND ASSESSMENT**

### PHILOSOPHY

NLACRC will conduct intake activities and provide assessment services in accordance with the Lanterman Developmental Disabilities Services Act.

Individuals are to be accepted for intake and assessment without regard to religion, ethnic origin, sex, or degree of disability. Financial resources of the applicant and/or his/her family are not a factor in eligibility for NLACRC services. No individual referred may be denied intake and assessment services unless there is adequate documentation that he/she does not have a developmental disability.

### DEFINITIONS

**Intake** is the 15-day period following a request for assistance. Intake includes, but is not limited to, information and advice about the nature and availability of services provided by regional centers and other agencies in the community. Intake also includes a decision to conduct an assessment for eligibility; provision of an appropriate referral, if applicable; and a review of the Megan's Law website to determine if an applicant over the age of 16 is required to register as a sex offender pursuant to Penal Code 290. Effective July 1, 2011, at the time of the intake and assessment for Early Start or Lanterman Act services, the consumer, or where appropriate, parents, legal guardian or conservator shall provide documentation and information of any health benefits (including insurance cards, etc.) under which the consumer is eligible to receive health benefits. If the consumer has no such benefits, NLACRC will not use that fact to negatively impact the services that the consumer may or may not receive from the regional center.

**Assessment** refers to those services that determine whether a person has a developmental disability as defined in the Lanterman Developmental Disabilities Services Act.

### POLICY

Any individual believed to have a developmental disability, or any individual at risk of parenting an infant with a developmental disability will be given the opportunity to receive initial intake and assessment services. Initial intake, the determination to assess an individual suspected of having a developmental disability, shall be made within 15 working days following the initial request for assistance.

#### Lanterman Eligibility

The assessment to determine eligibility shall be completed within 120 days following the initial intake. Assessment shall be performed as soon as possible and in no event more than 60 days

following initial intake where any delay would expose the client to unnecessary risk to his or her health and safety or to significant further delay in mental or physical development, or the client would be at imminent risk of placement in a more restrictive environment, including applicants ordered by the courts to be assessed.<sup>3</sup>

NLACRC will assess within a 45-day timeframe any individual who was previously evaluated by NLACRC and found not eligible for regional center services, who returns to NLACRC within a 24-month timeframe, with a qualifying regional center diagnosis based on evaluation from a third party.

Assessment may include collection and review of historical diagnostic data, provision or procurement of necessary tests and evaluations and summarization of developmental levels and service needs. In determining if an individual meets the definition of developmental disability NLACRC may consider evaluations and tests, including, but not limited to, intelligence tests, adaptive functioning tests, neurological and neuropsychological tests, diagnostic tests performed by a physician, psychiatric tests, and other tests or evaluations that have been performed by, and are available from other sources. Assessment may also include an observation in a secondary setting (e.g., site evaluation or at a designated location in the community). Eligibility assessments may be funded by existing generic resources. In the event that funding from generic resources is not available, NLACRC will fund the eligibility evaluation.

In consultation with the family and with their written consent, an observation in a secondary setting (e.g., a site evaluation or designated location in the community) may be conducted by a licensed clinical psychologist when clinically indicated for diagnostic clarification.

### Early Start Eligibility

Any child under age 3 that has a disability or is at risk of having a disability may be eligible. Children may be eligible if they meet one of the criteria listed below:

- Have a developmental delay of at least 25% in one or more of the following six areas: cognitive development, physical and motor development, including vision and hearing; expressive communication development; receptive communication development; social or emotional development, or adaptive development.
- Have an established risk condition of known etiology, with a high probability of resulting in delayed development, including fetal alcohol syndrome, or
- Be considered at high risk of having a substantial developmental disability due to a combination of biomedical risk factors of which are diagnosed by qualified personnel.

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3 Per Welfare and Institutions Code, Section 709.

This may include children who:

- Were born prematurely or had low birth weight
- Have extensive medical issues or have been hospitalized for a long period of time
- Have chromosomal conditions such as Down Syndrome, Rett Syndrome, and others
- Had prenatal exposure to drugs or alcohol
- Are showing signs of developmental delays
- Experienced significant birth trauma
- Experienced neglect or abuse
- Have limited hearing, vision, or use of limbs

Each infant or toddler birth through 2 years of age referred for evaluation for early intervention services shall have a timely, comprehensive, multi-disciplinary evaluation of his or her needs and level of functioning in order to determine eligibility within 45 days as per Early Start regulations.

There are several ways to determine an infant's and toddler's eligibility including informed clinical opinion from a qualified professional, conducting an evaluation, a review the child's history and development, gathering information from other sources including family members, other caregivers, medical providers, social workers and educators and a review of pertinent records. Also, the evaluation must be conducted in the native language of the child.

### Provisional Eligibility

Provisional Eligibility allows for regional center services on a provisional basis for children ages 3-4 without a formal diagnosis of an intellectual or developmental disability. An infant or toddler eligible for early intervention services shall be assessed by the regional center at least 90 days prior to the date that they turn three years of age for purposes of determining their ongoing eligibility for regional center services. If a child does not have a developmental disability, provisional eligibility shall end when the child is five years of age unless an appeal is filed.

NLACRC will utilize available and appropriate assessments and data, which may include secondary observations if clinically indicated and relevant for diagnostic clarification of a regional center eligible diagnosis. With parent agreement, NLACRC will assess children for ongoing regional center eligibility prior to exiting Early Start at age 3 and prior to exiting the Provisional Eligibility program at age 5.

If the applicant is denied eligibility for regional center services, the applicant will be informed, in writing, of their right to the fair hearing process and any recommendations for services from other agencies made by the staffing team.

## **II. PRENATAL/GENETICS/AT RISK Service and Procedural Standards**

### PHILOSOPHY

NLACRC is committed to the prevention of developmental disabilities and the amelioration of disability through preventive services for at risk persons.

### DEFINITION

These services may include but are not limited to genetic, prenatal diagnostic and treatment services for any potential parent requesting these services and who is determined to be at risk of parenting an infant with a developmental disability, childbirth education and preparation training for individuals with developmental disabilities, public information, and education activities.

### POLICY

It is the policy of NLACRC to assist and direct consumers and any potential parent requesting these services, who is determined to be at risk of parenting an infant with a developmental disability, toward obtaining appropriate genetic/prenatal services.

These services may include obtaining diagnostic studies and other appropriate services for individuals at high-risk of parenting a child with a developmental disability. NLACRC will follow best clinical practice standards and State developed guidelines when referring for genetic/prenatal services.

These services shall be provided by appropriate generic agencies, including, but not limited to county departments of health, perinatal centers, and genetic centers. These services are funded by NLACRC only when funding for these services is unavailable from local generic agencies.

### EXCEPTION PROCEDURE

NLACRC cannot anticipate all requests for genetic/prenatal services. It is recognized that some individual needs are so unique that they are not addressed in this service standard. Therefore, NLACRC's executive director or his/her designee may grant exceptions. The planning team must make a request for an exception to the center's staffing committee. The committee must review the request and make a recommendation to the executive director or his/her designee.

### **III. EARLY START PROGRAM**

#### **Service and Procedural Standards**

#### PHILOSOPHY

NLACRC is committed to providing comprehensive and needed Early Start services to eligible infants and toddlers, birth to 3 years of age, and their families.

#### DEFINITION

Early Start services are designed to meet the developmental needs of an eligible infant or toddler in one or more of the following areas: physical, cognitive, communication, social/emotional, and adaptive development. Additionally, early intervention services provide education and training to parents/caregivers of an eligible infant or toddler in multiple areas of development under the supervision and guidance of qualified professionals. The Early Start program also provides parent/caregivers with counseling and support. Required early intervention services are indicated on each infant's or toddler's Individualized Family Service Plan (IFSP) and is periodically reassessed.

Except for services related to evaluation and assessment of the infant or toddler, a family's private insurance shall be used to pay for early intervention services specified on the infant or toddler's IFSP that are determined to be medical services.

The inability of the parent of an eligible infant or toddler to obtain a decision from the private insurance plan regarding approval or denial of a claim for service payment will not result in denial of the service to the infant or toddler by the regional center nor will the process delay the timeliness of the delivery of the service in accordance with federal and State requirements.

Effective July 1, 2011, during intake and assessment (but no later than the IFSP meeting), the parent or legal guardian shall provide documentation and information (including insurance cards, etc.) under which the consumer is eligible to receive health benefits. If the consumer has no such benefits, NLACRC will not use that fact to negatively impact the services that the consumer may or may not receive from the regional center.

Early intervention programs are intended to maximize an infant's development within the existing family structure by:

- Responding to the personal and family needs expressed by parents/caregivers.
- Fostering effective parent-infant interaction.
- Developing and implementing appropriate and specific growth-fostering activities for the infant or toddler.

## POLICY

NLACRC will implement California's Early Start program within its service area consistent with federal and California state laws and regulations as well as its contract with the Department of Developmental Services (DDS).

Effective July 1, 2011, California State Law added Welfare and Institutions Code, Section 4785 to require regional centers to assess an annual family program fee.

NLACRC shall implement this required program and assess this annual fee from parents whose adjusted gross family income is at or above 400% of the federal poverty level based upon family size and who have a child to whom all of the following apply:

- The child has a developmental disability or is eligible for Early Start services.
- The child is less than 18 years of age.
- The child or family receives services beyond eligibility determination, needs assessment, and service coordination.
- The child lives with his or her parents.
- The child does not receive services through the Medi-Cal program.

This annual fee shall not be assessed or collected if the child only receives respite under the Lanterman Act, day care, or camping services from the regional center, and a cost for participation is assessed to the parents under the Family Cost Participation Program (FCPP). Services shall not be delayed or denied for the consumer or child based upon lack of payment of the annual program fee. The annual family program fee shall be initially assessed by the regional center at the time of development, scheduled review, or modification of the IFSP, but no later than June 30, 2012, and annually thereafter.

The annual family program fee shall be two hundred dollars (\$200) per family regardless of the number of children in the family with developmental disabilities or who are eligible for Early Start services. If the family can demonstrate to the regional center that their adjusted gross family income is less than 800% of the federal poverty level the program fee shall be one hundred fifty dollars (\$150) per family, regardless of the number of children with developmental disabilities or who are eligible for Early Start services.

The regional center may grant an exemption to the assessment of an annual program fee if the parents demonstrate any of the following:

- The exemption is necessary to maintain the child in the family home.
- The existence of an extraordinary event that impacts the parents' ability to pay the fee or the parents' ability to meet the care and supervision needs of the child.

- The existence of a catastrophic loss that temporarily limits the ability of the parent to pay and creates a direct, economic impact on the family. Catastrophic loss may include but is not limited to, natural disasters, accidents, or major injuries to an immediate family member and extraordinary medical expenses.

Major considerations in the choice of a program for children under the age of 3 years will be the individualized needs of the infant and his or her family and the ability of the parent or primary care giver to participate in the program. Parents or primary caregivers may choose from among a variety of program options deemed appropriate by the interdisciplinary team.

The following early intervention program options may be considered:

- Center-based parent education and support: A group of parents (primary caregivers) and infants meet together at a designated site under the guidance and supervision of qualified personnel.
- Individual in-home parent education/support: An individualized program is provided by a qualified professional for the infant and parent (a primary caregiver) at the infant's home.
- Combination: A program that includes a center-based and a home intervention component.

Provision of services without participation of the parent or primary care giver will be on an exception basis only.

## **INDIVIDUALIZED FAMILY SERVICE PLAN (IFSP)**

NLACRC shall ensure that a written IFSP is developed for providing early intervention services. The IFSP shall address the infant or toddler's developmental needs and the needs of the family related to meeting the developmental needs of the infant or toddler. An IFSP shall be developed and implemented for each infant or toddler who has been evaluated, assessed, and determined to be eligible for early intervention services.

## **PROCEDURES FOR IFSP DEVELOPMENT, REVIEW, AND EVALUATION**

- An initial IFSP shall be developed by NLACRC for each eligible infant or toddler who has been evaluated and assessed, within 45 days of receipt of the oral or written referral receipt by either the center or Local Education Agency (LEA).
- A periodic review of the IFSP for an infant or toddler and the infant or toddler's family shall be conducted every 6 months, or more frequently if service needs change, or if the parent requests such a review.

- Documentation of each periodic review of the IFSP by the service coordinator shall include the degree to which progress toward achieving the outcomes is being made and all modifications or revisions of the outcomes or services, as necessary.
- The periodic review of the IFSP may be carried out by a meeting or by another means that is acceptable to the parent and other participants.
- An annual meeting to review the IFSP shall be conducted to document the infant or toddler's progress and revise its provisions and shall include team members as specified in Early Start regulations. Effective July 1, 2011, at the time of the annual review, the parents or legal guardian shall provide documentation and information (including insurance cards, etc.) under which the consumer is eligible to receive health benefits. If the consumer has no such benefits, the regional center shall not use that fact to negatively impact the services that the consumer may or may not receive from the regional center.
- Information obtained from ongoing assessment shall be used in reviewing and revising outcomes and determining the appropriate services that will be provided or continued.
- All IFSP meetings shall be conducted in settings at times or by means that are reasonably convenient to the parent and in the language of the parent's choice unless it is clearly not feasible to do so.
- Meeting arrangements shall be made with, and written notice provided to, the parent and other members of the multi-disciplinary team in a timely manner to ensure attendance at the IFSP.
- The contents of the IFSP and changes to the IFSP resulting from the periodic review shall be fully explained and a legible copy of the document given to the parent. Written consent from the parent shall be obtained prior to the provision of early intervention services described in the IFSP.
- If the parent does not provide consent with respect to a particular early intervention service listed in the IFSP or withdraws consent after first providing it, that service shall not be provided. The early intervention services to which parental consent is obtained shall be provided.

**PARTICIPANTS IN INITIAL AND ANNUAL IFSP MEETINGS AND PERIODIC REVIEWS**



- Each initial IFSP meeting and each annual IFSP meeting shall include the following participants:
  - a. The parent of the infant or toddler.
  - b. The service coordinator who has been working with the family since the initial referral of the infant or toddler for evaluation and assessment or who has been designated by the regional center or LEA to be responsible for implementation of the IFSP; and
  - c. The person(s) who conducted the evaluations or assessments.
- If requested by the parent, each initial IFSP meeting and each annual IFSP meeting shall include other family members and/or an advocate or person outside the family.
- Each IFSP meeting shall include persons who will be providing services to the infant or toddler and family, as appropriate.
- Each periodic review of the IFSP shall include:
  - a. The parent.
  - b. The service coordinator.
  - c. Service providers as appropriate.
  - d. Other family members, an advocate or person outside of the family upon parental request.
- If either the evaluators or assessors are unable to attend an initial or annual IFSP meeting, arrangements shall be made for the person's involvement through other means, including:
  - a. Participating in a telephone conference call.
  - b. Having a knowledgeable representative attend an IFSP meeting.
  - c. Making pertinent records available at the IFSP meeting.

## CONTENT OF THE IFSP<sup>4</sup>

- For purposes of this section:
  - a. **Duration** means projecting when a given service will no longer be provided (such as when the child is expected to achieve the results or outcomes in his/her IFSP).

- b. **Length** means the length of time the service is provided during each session of that service (such as an hour or other specified time period).
- c. **Frequency and Intensity** mean the number of days or sessions that a service will be provided, and whether the service is provided on an individual or group basis.
- d. **Location** means the environment where early intervention services are provided.
- e. **Method** means how a service is provided, such as through consultation, group, or individual sessions by qualified persons to accomplish a specified outcome.

- The IFSP shall include the following:

- a. With the agreement of the parent, a statement of the family's resources, priorities and concerns related to enhancing the development of the infant or toddler.
- b. A statement, based on evaluation and assessment information, of the infant or toddler's present levels of:
  - 1. Physical development including fine and gross motor development, vision, hearing, and health status.
  - 2. Cognitive development.
  - 3. Communication development.
  - 4. Social or emotional development.
  - 5. Adaptive development.
- c. The statement of present levels of development shall be based on evidence that can be measured or observed by a qualified professional.
- d. A statement of the developmental outcomes expected for the infant or toddler and the criteria, procedures and timelines used to determine the degree to which progress toward achieving outcomes is being made. Such outcomes shall be based on the identified needs of the infant or toddler and family pursuant to assessment.
- e. A statement about the outcomes for the family when services for the family are related to meeting the special developmental needs of the infant or toddler.

- f. “Early intervention services (1) The IFSP must include a statement of the specific early intervention services, based on peer-reviewed research (to the extent practicable), that are necessary to meet the unique needs of the child and the family to achieve the results or outcomes identified... including:”
1. The length, duration, frequency, intensity, and method of delivering the early intervention services.
  2. The location where the services will be delivered.
  3. The statements of location shall specify the natural environments such as home, childcare, school program or private program where early intervention services shall be provided.
  4. The statement shall include a justification of the extent, if any, to which the services will not be provided in a natural environment.
  5. The projected date for initiation of each service. Each early intervention service must be provided as soon as possible after the parent provides consent for that service.
  6. The anticipated duration of the services.
  7. The scheduled days when services/programs will not be available when the service provider operates a program which has a fixed schedule which includes breaks in service for periods such as holidays or vacations.
  8. The name of the regional center, LEA or service provider providing each early intervention service.
- g. The funding source for other services provided by any entity other than regional centers or LEAs including the procedures that will be followed to obtain such funding.
- h. The name of the service coordinator.
- i. A statement of the transition steps and services to be taken to support the smooth transition of the child from Part C services to:
1. Preschool services under Part B of the Act, to the extent that those services are appropriate.
  2. Other appropriate services.
- Regional centers and LEAs shall not place an infant or toddler on a waiting list for early intervention services required by the IFSP.
  - Regional centers and LEAs shall arrange, provide, or purchase early intervention services required by the IFSP as soon as possible, but no later than 45 days following the date of the IFSP that first authorized the service.

## **INTERIM IFSP**

- An interim IFSP may be developed for an infant or toddler who has been determined eligible for early intervention services. The early intervention services may begin before the completion of the assessment if there is an immediate need to provide services and the infant or toddler's parent has given written consent.
- The interim IFSP shall include:
  - a. Timelines for completing assessments.
  - b. The name of the service coordinator responsible for completion of the evaluation and assessment within the 45-day timeline and implementation of the interim IFSP.
  - c. The services agreed upon at the interim IFSP meeting as necessary for the infant or toddler.
- An interim IFSP meeting shall provide for the participation of the parent and service coordinator and the persons responsible for the assessment at a minimum pursuant to Early Start regulations.
- The immediate need, the early intervention services needed, and the name of the service coordinator must be documented in the infant or toddler's IFSP.
- The existence of an interim IFSP does not absolve the regional center or LEA from complying with the 45-day time period to complete the initial assessment in all five areas of development.
- An interim IFSP developed to meet an immediate need shall be followed by an IFSP meeting within the 45-day period that commenced with the referral except as provided for in Early Start regulations.
- An interim IFSP may be developed for an infant or toddler who has been determined eligible when exceptional circumstances prevent the completion of assessment within 45 days.

## **DESIGNATION OF SERVICES ON THE IFSP**

- Each service on the IFSP shall be designated as one of the following:
  - a. A required early intervention service, including required respite, a childcare- type service provided to enable parent(s) to participate or receive other early

intervention services in order to meet the outcomes on a child's IFSP.<sup>5</sup> These services shall be provided, purchased, or arranged by a regional center or LEA; or

- b. Other public programs providing services that may benefit the infant, toddler, and/or family which the eligible infant or toddler or his or her family may be eligible to receive, subject to the statutory, regulatory, and other program criteria of those programs or agencies. These services may include but not be limited to residential care, family reunification services; Head Start; Supplemental Security Income; Supplemental Security programs; temporary assistance to needy families and food stamps or Medi-Cal.
- The receipt of required early intervention services listed on the IFSP, pursuant to Early Start regulations, or from other state or federal agencies such as California Children Services, is dependent on the infant or toddler and the infant or toddler's parent meeting the statutory, regulatory, and other program criteria of the agency and/or program that provides those services. These criteria may include financial eligibility and medical condition eligibility as diagnosed by program certified personnel, and on the availability of funding for the program:
    - a. In the event that the infant or toddler or infant or toddler's parent is not eligible to receive those agency services, or funding for the program is unavailable, the required early intervention services shall be provided by the center or the LEA.
    - b. The parent shall be informed, in writing, of this provision during the initial 45-day evaluation and assessment period and/or during the IFSP meeting.

## **BASIS FOR THE PROVISION OF SERVICES THROUGH REGIONAL CENTER**

- Regional centers shall provide, arrange, or purchase early intervention services, as required by the infant or toddler's IFSP, and be payer of last resort for infants and toddlers determined eligible for early intervention services as per Section 95014 of Title 14, California Early Intervention Services Act, effective January 1, 2015:
  - a. Developmental Delay: Defined as 33% delay in one or more of the following 5 areas: cognitive development; physical and motor development; communication development; social or emotional development; or adaptive development.
  - b. Established Risk: A condition of known etiology which has a high probability of leading to developmental delay if the delay is not evident at the time of diagnosis.

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5 United States Department of Education Office of Special Education and Rehabilitative Services letter dated March 13, 2003. Stephanie S Lee, Director OSEP

c. High Risk: An infant or toddler who has a high risk of having a substantial developmental disability due to a combination of bio-medical risk factors.

- Regional centers shall be the payer of last resort after all other public and private sources for payment have been reviewed to determine if a referral shall be made by the service coordinator and/or the parent. Referrals may include, but not be limited to, California Children Services, Medi-Cal, or private insurance providers that may have responsibility for payment. This review shall not delay the provision of early intervention services specified on the IFSP. Early intervention services specified on the IFSP shall begin as soon as possible.
- Respite and daycare services included in a child's IFSP shall be subject to the Family Cost Participation Program, for those eligible consumers.<sup>6</sup>

## **INTERNAL REVIEW PROCESS PRIOR TO PROVISION OF SERVICES THROUGH THE REGIONAL CENTER**

All purchase of service requests will be subject to the center's internal process, which ensures adherence with federal and state laws and regulations, and ensures all of the following:

- Conformance with the center's service and procedural standards.
- Utilization of generic services and supports, when appropriate.
- Utilization of other services or sources of funding, such as private health insurance, grants, and charitable organizations.<sup>7</sup>
- Consideration of the family's responsibility for providing similar services and supports for a minor child without disabilities in identifying service needs in the least restrictive and most appropriate setting. In this determination, the planning team shall take into consideration a consumer's need for extraordinary care, services, supports, and supervision and timely access to this care.

All final decisions regarding the IFSP will be made in accordance with the statutory provisions for IFSP development and implementation.<sup>8</sup>

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6 The Family Cost Participation Program was created by the Department of Developmental Services for the purpose of assessing a cost participation to parents who have a child that is eligible for services under the California Early Intervention Services Act, birth through two years of age, lives in the parents' home, receives services purchased by the regional center, and is not eligible for Medi-Cal.

7 Use of private health insurance or other private sources of funding shall be mandatory.

8 See Section 95020 of the Government Code.

## TRANSFER

- NLACRC shall use existing information whenever possible to determine continued eligibility and to minimize delay in the provision of appropriate early intervention services when an eligible infant or toddler’s residence changes to another regional center.
- The procedures contained in Welfare and Institutions Code, pertaining to transfers between regional centers, shall apply for an infant or toddler with an existing IFSP who moves from an area where he or she received early intervention services from a regional center into another regional center area.

## TRANSITION FROM EARLY INTERVENTION SERVICES

- LEAs shall provide special education and related services to eligible children at age 3 years. Each LEA shall participate in the transition planning for toddlers served under the California Early Intervention Services Act who may be eligible for preschool programs under Part B of the Individuals with Disabilities Education Improvement Act before the toddler is 2 years and 9 months, or at the discretion of all parties up to 6 months before the child turns 3 years to ensure that an IEP has been developed and is implemented by the toddler’s third birthday.
- “The State lead agency must ensure that...not fewer than 90 days before the third birthday of the toddler with a disability if that toddler may be eligible for preschool services under Part B of the Act, the lead agency notifies the SEA and the LEA for the area in which the toddler resides that the toddler on his or her third birthday will reach the age of eligibility for services under Part B of the Act, as determined in accordance with State law.”<sup>9</sup>
- “The State lead agency must ensure that...(1) If a toddler with a disability may be eligible for preschool services under Part B of the Act, the lead agency, with the approval of the family of the toddler, convenes a conference, among the lead agency, the family, and the LEA not fewer than 90 days-and at the discretion of all parties, not more than 9 months-before the toddler’s third birthday to discuss any services the toddler may receive under Part B of the Act.”<sup>10</sup>
- For all toddlers with an IFSP, the transition steps contained in the IFSP at 2 years and 9 months or earlier shall include all of the following:
  - a. Discussions with and providing information to parents regarding:
    - 1. The toddler’s transition to special education for a toddler with a disability

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9 California Federal Regulations 34, Section SS303.209(b)(1)(i)

10 California Federal Regulations 34, Section SS303.209(c)(1)

who may be eligible for special education and related services under Part B of the Individuals with Disabilities Education Act.

2. Steps to prepare the toddler for changes in service delivery, including steps to help the toddler adjust to and function in a new setting.
- b. Provide information about community resources, such as Head Start, child development preschool, or private or public preschool, for a toddler who will not be eligible for special education services after three years of age.
  - c. A projected date for conducting a final review of the IFSP to review the early intervention services and the transition outcomes by age 3.
- For toddlers who may be eligible for preschool services from the LEA, under Part B of the Individuals with Disabilities Education Act, the transition steps necessary for movement into services under Part B or other appropriate program, written at the IFSP meeting before the toddler is 2 years and 9 months, or, at the discretion of all parties, up to 6 months before the toddler's third birthday, shall include all of the following:
    - a. With parental consent, the transmission of information about the toddler to the LEA including evaluation and assessment information and copies of IFSPs that have been developed and implemented;
    - b. Identifying needed assessments to determine regional center and special education eligibility and determining the regional center or LEA responsible and timelines for completing the needed assessments;
    - c. Statements of the steps necessary to ensure that the referral to an LEA is received by the LEA in a timely manner to ensure that assessments required under the provisions of Part B of the Individuals with Disabilities Education Act are completed and an IEP is implemented by the toddler's third birthday;
    - d. A referral for evaluation and assessment for services, under Part B of the Individuals with Disabilities Education Act, no later than the time that the toddler is 2 years and 9 months of age or before the LEA's break in school services if the toddler will become 3 years of age during a break in school services. The transition IFSP shall contain steps necessary to satisfy the referral and IEP development requirements contained in Education Code.<sup>11</sup> Identification of the people responsible for convening an IEP and final IFSP meeting and the person responsible for convening an IPP meeting, if necessary, for a toddler by age 3 years to:

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11 It is important to note that Section 56505(d) of the California Education Code has **eliminated** a student's right to stay put protection of the services provided in the child's IFSP pending the resolution of a legal dispute over the student's initial Individualized Education Program Plan for those children transitioning from Part C (Early Start) services to Part B (Special Education Preschool) services under the Individuals with Disabilities Education Improvement Act.



1. Review the progress toward meeting the early intervention services outcomes identified in the IFSP.
  2. Determine the eligibility for special education and develop the Individualized Education Plan (IEP).
  3. Develop an Individualized Program Plan (IPP) if the toddler is also eligible for services under the Lanterman Developmental Disabilities Services Act.
- If a toddler is older than 2 years and 6 months on the date of the initial IFSP, the IFSP shall include steps to ensure transition to special education services under Part B of the Individuals with Disabilities Education Act or other services that may be appropriate.
  - Regional centers may continue providing or purchasing services for a preschooler who has been determined eligible for regional center services:
    - a. Until the beginning of the next school term after the toddler's third birthday during a period when the LEA special education preschool program is not in session; and
    - b. When the multidisciplinary team determines that services are necessary until the LEA special education program resumes.
  - Effective July 1, 2009, due to changes in the Lanterman Act 4648.5(a)(3), regional centers may not purchase suspended services, one of which includes educational services for children 3 to 17 years, inclusive, unless an exemption is granted.

## **EARLY START APPEALS AND COMPLAINTS**

There are three separate processes in place for addressing disagreements which arise under the Early Start program.

**The Early Start Mediation Conference Request** is a voluntary process used to informally resolve disagreements between a parent, as defined in law, and a regional center related to any alleged violation of federal or state statutes/regulation governing California's Early Start program, including eligibility and services, or related to a proposal or refusal for identification, evaluation, assessment, placement, or services. Mediation can be requested as the first option for resolution or can also be requested when during a complaint or due process hearing process, a parent decides that mediation might be more appropriate. The duration for either a mediation conference or a due process hearing shall not exceed a total 30 days for each process from the receipt of the mediation or due process request to the mailing of the mediation agreement or hearing decision. If a mediation conference is requested at or during the time of a due process hearing the mediation conference resolution shall occur prior to the due process

hearing.<sup>12</sup>

**The Early Start Due Process Hearing** is used to resolve disagreements between parents and a regional center related to a proposal or refusal for identification, evaluation, assessment, placement, or services.

**The Early Start State Complaint Process** is used to investigate and resolve any alleged violation of federal or state statutes or regulations governing California's Early Start program.

### EXCEPTION PROCEDURE

NLACRC cannot anticipate all requests for required early intervention services. It is recognized that some individual needs are so unique that they are not addressed in this service standard. Therefore, NLACRC's executive director or his/her designee may grant exceptions. The IFSP team must make a request for an exception to the center's staffing committee. The committee must review the request and make a recommendation to the executive director.

### EXEMPTION PROCEDURE

NLACRC cannot anticipate all requests for Early Start services. It is recognized that some individual needs are so unique that they are not addressed in this service standard and may meet the criteria for an exemption. NLACRC's executive director or his/her designee may grant an exemption based on extraordinary circumstances where a service is critical to ameliorating the physical, cognitive, or psychosocial effects of a consumer's developmental disability or is necessary to enable the consumer to remain in the family home and no alternative service is available. The planning team must make a request for an exemption to the center's staffing committee. The committee must review the request and make a recommendation to the executive director or his/her designee.

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12 California Code of Regulations, Title 17, Section 52172 (e).

## IV. INDIVIDUAL PROGRAM PLAN (IPP) DEVELOPMENT

### Service and Procedural Standards

#### PHILOSOPHY

People with developmental disabilities have a right to make choices in their own lives including, but not limited to where and with whom they live; their relationships with people in their community; the way they spend their time, including education, employment, and leisure; the pursuit of their personal future; and program planning and implementation.

#### DEFINITIONS

**Individual Program Plan (IPP):** The IPP is a written, person-centered plan. It is a statement of goals based on the needs, preferences, and life choices of the consumer. The IPP includes a statement of specific time limited objectives for implementing the person's goals and addressing his/her needs.

The objectives should allow for measurement of progress or service delivery. The plans to implement the objectives specified in the IPP should indicate the frequency and amount of service(s) and identify the funding or support source and person(s) responsible for implementation. The goals and objectives should maximize opportunities for the consumer to develop relationships, be a part of the community life in areas of community participation, housing, work, school, leisure, increase control over his/her life, acquire increasingly positive roles in community life and develop competencies to help accomplish these goals.

When a child with a developmental disability lives with his/her family, the IPP shall include a family plan component. The family plan component describes those services and supports necessary to successfully maintain the child at home.

When developing an IPP for a transition age youth or working age adult, the planning team shall consider California's Employment First policy.<sup>13</sup>

**Individual Family Service Plan (IFSP):** Children, birth through 2 years of age, who are eligible for Early Start services will have an IFSP developed in accordance with Part C of Individuals with Disabilities Education Improvement Act (IDEIA) federal regulations and California Early Start regulations.

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13 Per Welfare and Institutions Code, Section 4646.5(a)(4).

## POLICY

NLACRC shall complete the IPP process with each person determined eligible for service in accordance with the Lanterman Developmental Disabilities Services Act and other applicable statutes and regulations. A consumer's initial IPP will be completed within 60 days of the completion of the intake assessment and periodically thereafter, or as requested by the consumer, his/her parent, legal guardian, conservator, or other person knowledgeable about the consumer. If a review is requested, the IPP shall be reviewed within 30 days after the request is submitted.

Consumers and, where applicable, parents shall have the right to electronically record IPP meetings on an audiotape recorder. Consumers or, where applicable, parents shall notify their service coordinator of their intent to record a meeting at least 24 hours prior to the meeting. The regional center shall have the right to record an IPP meeting that is recorded by a parent. The center will record all IPP meetings that are recorded under the statutory provision and will maintain a copy of the recording in the consumer's chart. If a regional center initiates a notice of intent to record an IPP meeting and the consumer, or where applicable parent, refuses to attend the meeting because it will be recorded, the regional center shall not record the meeting.

The IPP is developed through a process of individualized needs determination based on assessment information. The assessment should document the consumer's life goals, preferences, capabilities, strengths, barriers, and concerns or problems. For children with developmental disabilities, assessments should also include a review of the strengths, preferences, and needs of the child and the family unit as a whole.

Assessments shall be conducted by qualified individuals and performed in natural environments whenever possible. Assessment information shall be taken from the consumer, his/her parents and their family members, his/her friends, advocates, providers of service and supports and other agencies. The assessment process shall reflect awareness of, and sensitivity to, the lifestyles and cultural background of the consumer and his/her family. Assessment information may also be taken from Client Development Evaluation Report (CDER) information, medical and psychological evaluations, social assessment, individual service plans, individual habilitation components, and other relevant documents.

The IPP is prepared jointly by one or more representatives of the regional center, including the service coordinator, the person with the developmental disability, and the person's legal representative. When invited by the person with developmental disability or his/her legal representative, other individuals knowledgeable about the person should participate.

All reasonable efforts should be made to actively involve the consumer in the IPP process, therefore, the IPP meeting must be conducted at the location most conducive to the consumer's participation. The preferred sites are the consumer's residence or primary program. The regional center shall comply with the request of a consumer, or when appropriate, the request of his/her parents, legal representative, or conservator, that a designated representative receive written notice of all meetings to develop or revise his/her IPP and of all notices sent to the consumer.

The determination of which services and supports are necessary shall be made through the IPP process on the basis of the needs and preferences of the consumer or, when appropriate, the consumer's family. In selection of services and supports, consideration shall be given to a range of service options proposed by IPP participants, the effectiveness of each option in meeting the goals stated in the IPP and the cost-effectiveness of each option. In selecting a service provider, the IPP planning team shall consider a provider's ability to deliver quality services that can achieve all or part of the consumer's IPP, a provider's success in achieving the objectives set forth in the IPP, the existence of licensing, accreditation or professional certification, where appropriate, and the cost of providing service of comparable quality by different providers. The least costly provider<sup>14</sup> who is able to accomplish all or part of the IPP, based upon the consumer's needs as identified in the IPP, shall be selected. In determining the least costly provider, the regional center shall consider the availability of federal financial participation. Consumers are not required to use the least costly provider if doing so will result in moving to more restrictive or less integrated services or supports.

Effective July 1, 2011, where applicable, at the time of development, review, or modification of the IPP a Transportation Access Plan for a consumer will be developed when all of the following conditions are met:

- NLACRC is purchasing private, specialized transportation services or services from a residential, day, or other provider, excluding vouchered service providers, to transport the consumer to and from day or work services.
- The planning team has determined that a consumer's community integration and participation could be safe and enhanced through the use of public transportation service.
- The planning team has determined that generic transportation services are available and accessible.

The transportation access plan must identify the services and supports necessary to assist the consumer in accessing public transportation. These services and supports may include, but not limited to, mobility training services and the use of transportation aides.

NLACRC will to the fullest extent possible implement an appropriate, equitable, and effective use of funds for the purchase of services for all consumers and will, to the maximum extent possible, ensure the provision of quality services. For this reason, it is NLACRC's practice to utilize resources within NLACRC's catchment area.

All purchase of service (POS) requests will be subject to the center's internal process, which ensures adherence with federal and state laws and regulations, and ensures all of the following:

- Conformance with the center's service and procedural standards.
- Utilization of generic services and supports prior to expending regional center funds, as appropriate.

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14 Including the cost of transportation

- Utilization of other services or sources of funding such as private health insurance, grants, and charitable organizations.
- Consideration of the family's responsibility for providing similar services and supports for a minor child without disabilities in identifying service needs in the least restrictive and most appropriate setting. In this determination, the planning team shall take into consideration a consumer's need for extraordinary care, services, supports, supervision, and timely access to this care.

All final decisions regarding the IPP will be made in accordance with the statutory provisions for IPP development and implementation.<sup>15</sup>

All NLACRC POS authorizations must be supported and documented in the IPP. NLACRC shall not supplant the budget of any generic agency. As part of the IPP process, written appeal procedures must be provided to the consumer or, when appropriate, the consumer's parent(s), legal guardian, or conservator when the IPP planning team is unable to reach agreement regarding the types and/or amounts of service to be funded by NLACRC and included in the IPP.

A consumer's IPP will be reviewed and reevaluated as requested by the consumer or other persons participating in the implementation of the consumer's IPP to ascertain that planned services have been provided, that objectives have been fulfilled within the time limits specified, and that consumers and families are satisfied with the IPP and its implementation.

## **PARTICIPANT-DIRECTED SERVICES**

Effective October 1, 2011, for consumers eligible for the Home and Community Based Services (HCBS)/Medicaid Waiver program who are receiving or wish to receive family-member vouchered day care, respite, nursing, transportation services, and/or are an adult with the desire to pursue a vouchered community-based training service, NLACRC may offer participant-directed services to allow the adult consumer and/or family member to procure their own services. In such a case, NLACRC shall:

- Provide information regarding the consumer/family member's responsibilities and functions either as the employer or co-employer;
- Provide information about the requirements regarding the use of a Financial Management Service (FMS) co-employer or an FMS employer agent;
- Assist the adult consumer or family member to identify and choose an FMS co-employer or FMS employer agent;
- Vendor the adult consumer or family member acting as employer or co-employer for the identified service(s).

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15 Per Welfare and Institutions Code, Section 4646.

Neither the adult consumer nor the family member shall be the FMS co-employer or the FMS employer agent. The duties of the adult consumer or family member, as employer or co-employer, include, but are not limited to the following:

- Recruit workers.
- Verify worker qualifications.
- Specify additional worker qualifications based upon consumer needs and preferences.
- Determine worker duties.
- Schedule workers.
- Orient and instruct workers in duties.
- Supervise workers.
- Evaluate worker performance.
- Verify time worked by employees and approve time sheets.

The adult consumer or family member in the capacity as an employer has the independent authority to hire workers and terminate workers.

The adult consumer or family member in the capacity as co-employer has the authority to make recommendations to the FMS co-employer for hiring and terminating workers but does not have the independent authority to do so.

The FMS co-employer or FMS employer agent supports the adult consumer or family member with the employment of workers to carry out authorized participant-directed services. FMS duties are as follows:

- Collect and process timesheets of workers providing participant-directed services.
- Assist the family member or adult consumer in verifying the worker's eligibility for employment.
- Process payroll, withholding, filing, and payment of applicable employment related taxes and insurance for authorized participant-directed services.
- Track, prepare, and distribute monthly expenditure reports to the employer or co-employer and NLACRC.
- Maintain all source documentation related to the authorized service(s) and expenditures.

## **SOURCE OF FUNDING IDENTIFICATION & ACQUISITION**

## PHILOSOPHY

NLACRC is committed to pursuing all viable public and private sources of funding on behalf of consumers prior to the utilization of the center's funds.

## DEFINITION

Public sources of funding include, but are not limited to, generic agencies. A generic agency is any agency which has a legal responsibility to serve all members of the general public and is receiving public funds for providing such service. Private sources of funding include health insurance. Private entities are identified and pursued to the maximum extent they are liable for the cost of services, aid, insurance, or medical assistance to the consumer.

In practice, this requires NLACRC to first investigate and, if appropriate, pursue funding for services and supports from but not limited to the following sources on behalf of consumers:

- Medi-Cal
- California Children's Services
- School districts (Department of Education)
- Department of Rehabilitation
- County mental health services
- Components of the criminal justice system, including probation
- Department of Public Social Services
- Department of Children and Family Services
- Public transportation and Paratransit
- Social Security
- Medicare
- Private health insurance
- Trust funds
- Insurance settlement
- Other funds specified for the consumers care and treatment

Effective July 1, 2011, at the time of the IPP, scheduled reviews or modification of a consumer's IPP, the consumer, or where appropriate, parents, legal guardian, or conservator, shall provide documentation and information of any health benefits (including insurance cards, etc.) under which the consumer is eligible to receive health benefits. If the consumer has no such benefits, NLACRC will not use that fact to negatively impact the services that the consumer may or may not receive from the regional center.



## POLICY

It is the policy of NLACRC to utilize all other resources before expending the center's funds. Since NLACRC is precluded by law from supplanting the budget of any generic agency, the possibility of funding required consumer services through generic agencies or private entities must be explored first and determined not to be available prior to expending NLACRC funds. NLACRC assumes the responsibility to pursue other sources of funding for consumers with their consent and cooperation. The consumer's file must reflect the attempt to obtain generic and, where appropriate, private sources of funding for the purchase of service request. For other than reasons of health and safety, there must be written documentation of a denial. If a written denial cannot be obtained from the generic agency, a letter of confirmation must be written by NLACRC to the agency confirming the denial and the basis for the decision. All avenues of appeal must be followed with generic agencies and documented in the consumer file. As part of its efforts to assure that generic agencies are fulfilling their mandates, NLACRC will consider providing and/or obtaining independent assessments in order to advocate for needed services from such agencies.

NLACRC will not purchase any service that would otherwise be available from Medi-Cal, Medicare, In-Home Supportive Services, California Children's Services, private insurance, or a health care service plan when a consumer or family is eligible for coverage however chooses not to pursue the generic resource or private entity. If NLACRC's staffing committee<sup>16</sup> determines that a consumer is eligible for a service funded by a generic agency or private entity, the committee will authorize regional center funding for the service when the health and safety of the consumer are at risk, the service is not available to the consumer in a timely manner and the consumer/family agrees to pursue the generic resource or private entity.

Sometimes, certain voluntary nonprofit organizations, family service agencies, and religious organizations may be explored. When such resources have been identified as available on a timely basis by NLACRC, they will be contacted by NLACRC and, if possible, utilized prior to NLACRC expenditure of funds.

Effective July 1, 2011, California state law added Welfare and Institutions Code, Section 4785 to require regional centers to assess an annual family program fee. NLACRC shall implement this required program and assess this annual fee from parents whose adjusted gross family income is at or above 400% of the federal poverty level based upon family size and who have a child to whom all of the following apply:

- The child has a developmental disability or is eligible for Early Start services.
- The child is less than 18 years of age.

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16 The staffing committee is comprised of regional center staff, who are knowledgeable or who possess expertise in the matter being considered. Where appropriate, the consumer, their legal representative, or other individuals invited by the consumer, may participate in the meeting.

- The child or family receives services beyond eligibility determination, needs assessment, and service coordination.
- The child lives with his or her parents.
- The child does not receive services through the Medi-Cal program.

This annual fee shall not be assessed or collected if the child only receives respite, day care, or camping services from the regional center, and a cost for participation is assessed to the parents under the Family Cost Participation Program. Services shall not be delayed or denied for the consumer or child based upon lack of payment of the annual program fee. The annual family program fee shall be initially assessed by the regional center at the time of development, scheduled review, or modification of the IPP, but no later than June 30, 2012, and annually thereafter.

The annual family program fee shall be two hundred dollars (\$200) per family regardless of the number of children in the family with developmental disabilities or who are eligible for Early Start services. If the family can demonstrate to the regional center that their adjusted gross family income is less than 800% of the federal poverty level the program fee shall be one hundred fifty dollars (\$150) per family, regardless of the number of children with developmental disabilities or who are eligible for Early Start services.

The regional center may grant an exemption to the assessment of an annual program fee if the parents demonstrate any of the following:

- The exemption is necessary to maintain the child in the family home.
- The existence of an extraordinary event that impacts the parents' ability to pay the fee or the parents' ability to meet the care and supervision needs of the child.
- The existence of a catastrophic loss that temporarily limits the ability of the parent to pay and creates a direct, economic impact on the family. Catastrophic loss may include but is not limited to, natural disasters, accidents or major injuries to an immediate family member and extraordinary medical expenses.

Effective July 1, 2013, California state law added Welfare and Institutions Code, Section 4659.1 which defines instances where a Regional Center may pay any applicable copayment or coinsurance associated with a service provided pursuant to the IPP or IFSP when the service is covered by the health care service plan or health insurance policy of the consumer's parent, guardian or caregiver, and when necessary to ensure that the consumer receives the service or support if all of the following conditions are met:

- (1) The consumer is covered by his or her parent's, guardian's or caregiver's health care service plan or health insurance policy.
- (2) The family has an annual gross income that does not exceed 400 percent of the federal poverty level.
- (3) There is no other third-party having liability for the cost of the service or support.

Additionally, if a service or support provided to a consumer 18 years of age or older, pursuant to his or her IPP, is paid for in whole or in part by the consumer's health care service plan or health insurance policy, the regional center may, when necessary to ensure that the consumer receives the service or support, pay any applicable copayment or coinsurance associated with the service or support for which the consumer is responsible if both of the following conditions are met:

- (1) The consumer has an annual gross income that does not exceed 400 percent of the federal poverty level.
- (2) There is no other third-party having liability for the cost of the service or support

Regional center may pay a copayment or coinsurance associated with the health care service plan or health insurance policy for a service or support provided pursuant to a consumer's IPP or IFSP if the family's or consumer's income exceeds 400 percent of the federal poverty level, the service is necessary to successfully maintain the child at home or the adult consumer in the least-restrictive setting, and the parents or consumer demonstrate one or more of the following:

- (1) The existence of an extraordinary event that impacts the ability of the parent, guardian, or caregiver, or adult consumer with a health care service plan or health insurance policy, to pay the copayment or coinsurance.
- (2) The existence of a catastrophic loss that temporarily limits the ability to pay of the parent, guardian, or caregiver or adult consumer with a health care service plan or health insurance policy and creates a direct economic impact on the family or adult consumer. For purposes of this paragraph, catastrophic loss may include, but is not limited to, natural disasters and accidents involving major injuries to an immediate family member.
- (3) Significant unreimbursed medical costs associated with the care of the consumer or another child who is also a regional center consumer.

The parent, guardian, or caregiver of a consumer or an adult consumer with a health care service plan or health insurance policy shall self-certify the family's gross annual income to the regional center by providing copies of W-2 Wage Earners Statements, payroll stubs, a copy of the prior year's state income tax return or other documents and proof of other income. The parent, guardian or caregiver of a consumer is responsible for notifying the regional center when a change in income occurs that would result in a change in eligibility for coverage of the health care service plan or health insurance policy copayments or coinsurance. Documents submitted shall be confidential pursuant to Section 4514 of the Welfare and Institutions Code.

Regional centers shall not pay health care service plan or health insurance policy deductibles.

## **INTERAGENCY DISPUTE RESOLUTION**

## PHILOSOPHY

NLACRC will participate in interagency dispute resolution in those circumstances where the regional center believes that a generic agency is legally obligated to fund a service contained in the individual program plan for a child less than six years of age.

## DEFINITION

This process will apply to those generic agencies that are publicly funded with a legal obligation to serve consumers eligible to receive their respective benefits. This process does not apply to services offered from the following: Medi-Cal specialty mental health plans, benefits provided under Medi-Cal managed care plan contracted with the Department of Health Care Services, the Genetically Handicapped Persons Program, or the California Children's Services Program.

## POLICY

It is the policy of NLACRC to engage in the interagency agency dispute resolution process when the center believes that an applicable generic agency is responsible for providing or paying for a service required by and specified in a consumer's individual program plan and the agency is not providing for the service.

The center will submit a written notification and request to the appropriate agency and the consumer's parent, legal guardian, or authorized representative. The generic agency and the regional center will have 15 calendar days to meet to resolve the dispute unless the generic agency notifies the regional center, in writing, that it needs additional time, up to 15 days, to make an initial assessment of whether the child meets the basic eligibility requirements for the program or type of service in question. In the event that the generic agency and the center reach a resolution, a written copy of the resolution identifying the responsible agency for service delivery will be provided to the parent, guardian, or other authorized representative within 10 calendar days of the meeting. In the event that the dispute cannot be resolved, the center will submit the dispute to the Office of Administrative Hearings within 30 calendar days of the meeting. The decision of the Office of Administrative Hearings will be the final administrative decision for all agencies that are party to the dispute.

The interagency dispute resolution process will not interfere with a consumer's right to receive the services specified in his or her individual program plan on a timely basis. Further, this process does not preclude a parent, guardian, or authorized representative from pursuing administrative remedies such as the fair hearing process.

## **SERVICE COORDINATION**

## PHILOSOPHY

The NLACRC is committed to assisting 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. As such, service coordination must be conducted in partnership with consumers and their families. In addition, service coordination activities should fulfill the intent of the Lanterman Developmental Disabilities Services Act by "...providing consumers with opportunities to exercise decision-making skills in any aspect of day-to-day living" and "...providing consumers with relevant information in an understandable form to enable the consumer to make his or her choice."

## DEFINITION

The regional center designated service coordinator is responsible for: providing or ensuring that needed services and supports are available to the consumer; developing, implementing, overseeing, and monitoring the consumer's IPP; offering individual advocacy; and conducting quality assurance activities.

## POLICY

NLACRC's service coordination model is designed to assist consumers and their families in securing those services and supports which maximize opportunities and choices in living, working, learning, and pursuing recreation in the community. The model ensures that each consumer has a designated service coordinator and reflects the maximum cost-effectiveness by providing differing levels of service coordination. NLACRC's service coordination model places a high priority on individual and systems advocacy as well as quality assurance.

Service coordination consists of those activities necessary to implement the consumer's IPP, including, but not limited to, participation in the IPP process, securing services and supports specified in the IPP by obtaining them from generic agencies, purchasing from vendored agencies, or identifying other public or private resources. Additional service coordination activities entail collection and dissemination of information, monitoring implementation of the IPP to ascertain that objectives have been fulfilled and assisting to revise the IPP as required.

The service coordinator is typically an employee of the regional center or, when appropriate, a consumer or his/her family member, legal guardian or conservator may perform all or part of the duties of the service coordinator if NLACRC's executive director agrees and it is feasible.

No person shall continue to serve as a service coordinator for any IPP unless there is agreement by all parties that the person should continue to serve as service coordinator. Any person designated by the executive director as the service coordinator shall not deviate from the

agreed-upon program plan and shall provide any reasonable information and reports required by the regional center executive director.

NLACRC will maintain a program for parents and consumers to become service coordinators. Service coordinators will participate in a course of orientation and training and will receive ongoing consultation, support, and supervision from the regional center, as necessary.

## **ANNUAL STATEMENTS**

NLACRC will provide consumers, or where appropriate, parents, legal guardians, conservators, or authorized representatives, with a statement of services purchased on behalf of the consumer by NLACRC on an annual basis. The purpose of providing annual statements is to ensure services have been delivered.

## **EXCEPTION PROCEDURE**

NLACRC cannot anticipate all requests for the IPP planning process. It is recognized that some individual needs are so unique that they are not addressed in this service standard. Therefore, NLACRC's executive director or his/her designee may grant exceptions. The planning team must make a request for an exception to the center's staffing committee. The committee must review the request and make a recommendation to the executive director or his/her designee.

## **EXEMPTION PROCEDURE**

Parents may request an exemption from the Annual Family Program Fee. Exemptions will be granted when a parent demonstrates any of the following:

- An exemption is necessary to maintain the child in the family home.
- The existence of an extraordinary event that impacts the parent's ability to pay the fee or impacts the parent's ability to meet the care and supervision needs of the child.
- The existence of a catastrophic loss that temporarily limits the ability of the parents to pay and creates a direct economic impact on the family. Catastrophic loss may include, but is not limited to, natural disasters, accidents involving, or major injuries to, an immediate family member, and extraordinary medical expenses.

In order to obtain an exemption, a written request must be made to NLACRC's Executive Director. The written request must include the following information:

- Parent(s) name, address, and phone number.
- Name of the consumer(s).
- Specific reasons and justification to support the request.
- Records or documentation to support the request.

The written request must be sent to the attention of the Appeals Officer/Executive Director at the following address:

North Los Angeles County Regional Center  
9200 Oakdale Avenue, Suite 100  
Chatsworth, CA 91311

## V. FAMILY SUPPORTS AND LIVING ARRANGEMENTS

### Service and Procedural Standards

#### PHILOSOPHY

It is the philosophy of NLACRC that consumers and/or their family members should decide where they live. This means NLACRC will work with families to maintain their minor children at home when it is the families' preference and, for adult consumers, help them to access living options of their choice. To this end, NLACRC will work to empower consumers and their family members as well as advocate on their behalf. The regional center is dedicated to providing family support and will plan with each family to identify services that meet each unique need. As such, the planning team should consider each family's responsibility to provide typical supports.

#### **FAMILY SUPPORT SERVICES & RESPITE**

##### DEFINITIONS:

**Family support services** mean services and supports provided to a minor with a developmental disability or his or her family and that contributes to the ability of the family to reside together. These services may include respite, daycare cost assistance, personal assistance, adaptive equipment, advocacy, necessary appliances, counseling, and mental health services.

Effective October 1, 2011, for consumers eligible for the Home and Community Based Services (HCBS)/Medicaid Waiver, daycare and respite services purchased using vouchers are required by law to be used in conjunction with a Financial Management Service (FMS) provider. An FMS provider assists a family member with verifying worker eligibility status, collecting and processing timesheets of worker(s), processing payroll, withholdings, filing and payment of applicable taxes and insurance, performing billing payments and reimbursements, and maintaining all source documentation related to the authorized service(s). This service arrangement is known as participant-directed services.

#### **RESPITE SERVICES**

- In-home respite services mean intermittent or regularly scheduled temporary non-medical care and supervision provided in the consumer's own home when the consumer resides with a family member.
- Cost-effective out-of-home respite service options may include temporary residential services, vendored weekend program (Saturday program), and other services designed to provide planned relief from the ongoing care and supervision of the consumer.



## POLICIES

### CHILDREN

It is the policy of NLACRC to empower and advocate for consumers and families to access existing personal and community resources, such as Early and Periodic Screening, Diagnosis, and Treatment (EPSDT), whenever possible to meet their family support needs. Thus, to the extent that the law requires, NLACRC will encourage families to use these resources before expending the center's funds. NLACRC will consider the provision of generic resources in the family support planning process when the authorization of the service, or some portion thereof, is for the expressed purpose of providing for the care and/or supervision of the child or for the purpose of providing respite to the child's caregiver. Additionally, the planning team must give consideration to the ordinary care, support, and supervision that a family must provide to a child of the same age without a disability and to cost-effectiveness.

The regional center may only purchase respite services when the care and supervision needs of a consumer exceed that of an individual of the same age without a developmental disability. As such, regional center-funded services will focus on services required by and resulting from the consumer's developmental disability. NLACRC will seek to provide effective family support services. This may include using creative and innovative approaches to meet objectives contained in the consumer's Individual Program Plan (IPP)/Individual Family Service Plan (IFSP) and represent a cost-effective use of public funds.

NLACRC will use the most commonly encountered situations to help in determining the typical level of support services for a minor consumer. The situations relate to the increasing care and supervision the minor may need based on his or her age and degree of disability. Finally, NLACRC cannot anticipate all situations, and therefore, individualized planning is essential. NLACRC recognizes that there may be circumstances in which a family needs an exceptional amount of respite services. Exceptional circumstances may include medical or behavioral conditions, either acute or chronic, which require an intense amount of care, supervision, and/or treatment or an acute medical or physical condition that impacts the caregiver's ability to provide appropriate care and supervision to the minor consumer. Therefore, NLACRC's executive director or his or her designee may approve respite services at an exceptional level. The service coordinator must make a request for an exception, which must be reviewed by the Center's staffing committee; the committee will make a recommendation regarding the proposed family support plan. The service coordinator will reconvene with the family/caregiver to discuss the committee's recommendation and complete the individualized program planning process. In the event there is disagreement regarding the amount of respite services to be included in an individual's IPP, NLACRC will provide a written notice and appeal rights; please see the Fair Hearing Service Standard.

All respite purchase of service (POS) authorizations will be reviewed for Family Cost Participation Program eligibility and all eligible consumers will be subject to requirements of the program.

## ADULTS

It is the policy of NLACRC to support adult consumers who choose to live in the home of a family member. To this end, NLACRC will provide support services that allow the caregivers periodic relief from the ongoing responsibilities of care and supervision. The regional center will typically purchase respite services when the care and supervision needs of a consumer exceed that of an individual of the same age without a developmental disability. Furthermore, it is the policy of NLACRC to empower and advocate for consumers and families to access existing personal and community resources, such as generic resources, whenever it is appropriate to meet family support needs. Thus, to the extent that the law requires, NLACRC will consider the provision of generic resources in the family support planning process when the authorization of the services, or some portion thereof, is for the expressed purpose of meeting the care and/or supervision needs of the individual or for the purpose of providing respite to the individual's caregiver. The need for respite often correlates to the consumer's increasing need for care and supervision due to the degree of his or her disability. Finally, NLACRC cannot anticipate all situations, and therefore, individualized planning is essential.

NLACRC recognizes that there may be circumstances in which a family needs an exceptional amount of respite services. Exceptional circumstances may include medical or behavioral conditions, either acute or chronic, which require an intense amount of care, supervision, and/or treatment or an acute medical or physical condition that impacts the caregiver's ability to provide appropriate care and supervision to the minor consumer. Therefore, NLACRC's executive director or his or her designee may approve respite at an exceptional level. The service coordinator must make a request for an exception, which must be reviewed by the Center's staffing committee; the committee will make a recommendation regarding the proposed family support plan. The service coordinator will reconvene with the family/caregiver to discuss the committee's recommendation and complete the individualized program planning process. In the event there is disagreement regarding the amount of respite service to be included in an individual's IPP, NLACRC will provide a written notice and appeal rights; please see the Fair Hearing Service Standard.

## **DAY CARE SERVICES**

### DEFINITION:

**Day care services** mean services that provide appropriate non-medical care and supervision, while a parent is engaged in employment in or out of the home and/or engaged in educational activities leading to employment, to ensure the consumer's safety in the absence of family members. Day care services will attend to the consumer's basic self-help needs and other activities of daily living including interaction, socialization, and continuation of usual daily

routines which would ordinarily be performed by the family member. Day care services can be provided by a licensed family day care agency, a licensed childcare center, a licensed day-camp, preschool, a family member voucher arrangement, or through participant-directed services, if eligible.

## POLICIES

### CHILDREN

It is the policy of NLACRC to empower and advocate for consumers and families to access existing personal and community resources whenever possible to meet their day care needs. Thus, to the extent that the law requires, NLACRC will encourage families to use these resources before expending the center's funds. Additionally, that the planning team must give consideration to the ordinary care. This also means that consideration must be given to the ordinary care, support, and supervision that a family must provide to a child of the same age without a disability and to cost-effectiveness.

NLACRC may pay the cost of the day care services that exceed the cost of providing day care to a child without a disability when the child resides in the family home. NLACRC may pay in excess of this amount when a family can demonstrate a financial need and when doing so will enable the child to remain in the family home. All day care POS authorizations will be reviewed for Family Cost Participation Program eligibility and all eligible consumers will be subject to requirements of the program.

### ADULTS

It is the policy of NLACRC to support adult consumers who choose to live in the home of a family member. The NLACRC acknowledges that adult consumers may require care and supervision in the absence of a caregiver and that parents/guardians/caregivers may not be able to provide constant ongoing care and supervision while engaged in employment or educational activities leading to employment. As such, NLACRC will provide day care services to adult consumers in need of care and supervision during the absence of their usual caregiver.

NLACRC will use the following factors in determining the need for day care services:

- Length of time the consumer is able to be left unsupervised.
- Availability of natural supports (family members, friends, neighbors, etc.).
- Parent's employment status and/or educational activities leading to employment.
- Consumer's involvement in a day program.
- Eligibility and/or use of generic services such as In-Home Support Services.

## **PERSONAL ASSISTANTS**

### DEFINITION

#### CHILDREN

Personal assistant services are to assist with bathing, grooming, dressing, toileting, meal preparation, feeding, and protective supervision is a typical parental responsibility for minor children. Personal assistant services for minor children will be considered on an exception basis when the needs of the consumer are of such a nature that it requires more than one person to provide the needed care. There may be exceptional circumstances as a result of the severity and/or intensity of the developmental disability that may impact the family's ability to provide specialized care and supervision while maintaining the child in the family home. Eligibility and/or use of generic services such as In-Home Support Services will be explored and accessed where possible prior to NLACRC funding as an exception.

#### ADULTS

Personal assistant services are to assist consumers who require support in the following areas of activities of daily living, including bathing, grooming, dressing, toileting, meal preparation, feeding, and protective supervision. Personal assistant services are intended to provide adult consumers with appropriate care and supervision and assist consumers in maintaining community living arrangements, including a living arrangement in the family home, if that is the consumer's preference.

#### POLICY

It is the policy of NLACRC to support adult consumers who choose to live in the home of a family member. The NLACRC acknowledges that adult consumers may require care and supervision in the absence of a caregiver and that parents/guardians/caregivers may not be able to provide constant ongoing care and supervision due to aging, declining health, or other mitigating factors. As such, NLACRC will provide personal assistant services to adult consumers in need of care and supervision and/or enhanced care and supervision.

NLACRC will use the following factors in determining the need for personal assistant:

- Length of time the consumer is able to be left unsupervised.
- Availability of natural supports (family members, friends, neighbors. etc.).
- Consumer's involvement in a day program.
- Eligibility and/or use of generic services such as In-Home Support Services, college/university special student services, or Department of Rehabilitation.
- Support based on an assessed need when a consumer's behavioral or medical issues are of such severity that a parent requires assistance in the home in order to adequately care for the consumer.

## **CAMPING, SOCIAL RECREATION AND NONMEDICAL THERAPIES**

It is the policy of NLACRC to provide family support in a manner that allows parents and families to obtain planned relief from caregiving responsibilities for child and adults while meeting the care and supervision needs of the individual we serve. Camping, social recreation and nonmedical therapies that provide parent and families the opportunity to schedule time for relief may be considered to meet the individualized need of the parent/caregiver and family, as identified in the IPP. Please see the Camp, Social Recreation and Nonmedical Therapies Service Standard for definition and policies.

### **OTHER FAMILY SUPPORT SERVICES**

#### DEFINITION

Other family support services may include, but are not limited to adaptive equipment, advocacy, necessary appliances and supplies, homemaker services, diapers, education and training services, and counseling and mental health services.

#### POLICY

NLACRC will provide other family support services as determined through the individual program planning process. This process must include consideration of typical parental responsibility to provide a similar service to a child without a disability, the availability of generic sources that have a legal responsibility to provide services (such as private health insurance, local education agencies, California Children's Services, and Medi-Cal), and the cost-effectiveness of services and service providers of comparable quality.

NLACRC may purchase diapers for children 3 years of age or older. NLACRC may purchase diapers for children less than three 3 years of age when a family can demonstrate a financial need and when doing so will enable the child to remain in the family home.

NLACRC may purchase van modifications for consumers to enable them to access the community when generic or natural supports are not available. Modifications must be consistent with the most cost-effective adaptation that meets the individualized need of the consumer and must represent the lowest of three bids from vendored service providers.

### **LICENSED RESIDENTIAL SERVICES**

#### DEFINITION

Licensed residential services are designed to provide training and supervised living arrangements for children and adults with developmental disabilities in other than the individual's home or that of a family member. Residential services include community care facilities, foster homes for children and adults, health care facilities, and state developmental centers.

## POLICY

It is the policy of NLACRC to help consumers obtain residential services based upon goals and objectives contained in their IPPs. NLACRC will also adhere to the following:

- Ensure that every viable alternative has been given to help families in maintaining their children at home, before considering out-of-home placement.
- Use only licensed facilities for residential services suitable to meet a consumer's needs. Within available licensed residential service alternatives, preference in placement will be as follows:
  - a. Family-like settings.
  - b. Small (6 beds or less) settings.
  - c. Placements integrated into community settings.
- Effective July 1, 2012, a regional center shall not purchase residential services from a State Department of Social Services licensed 24-hour residential care facility with a licensed capacity of 16 or more beds, with two exceptions:
  - a. The residential facility has been approved to participate in the Home and Community-Based Services Waiver or another existing waiver program or is certified to participate in the Medi-Cal program; or
  - b. The service provider has a written agreement and specific plan prior to July 1, 2012, with the vendoring regional center to downsize the existing facility by transitioning its residential services to living arrangements of 15 beds or less or restructure the large facility to meet federal Medicaid eligibility requirements on or before June 30, 2013.
- In order to maintain a consumer's preferred living arrangement and adjust their residential services and supports in accordance with changing service needs identified in the IPP, NLACRC may enter into a signed written agreement with a residential service provider for a consumer's supervision, training, and support needs to be provided at a lower Alternative Residential Model (ARM) rate level as indicated on the consumer's IPP rather than at the current ARM service level for which the residential provider is vendored to care for the other residents of the home. In such a case, NLACRC will ensure the following:
  - a. Services provided to other facility residents comply with the applicable service requirements for the facility's approved service level.
  - b. Protection of the health and safety of each facility resident.
  - c. Identification of the revised services and supports to be provided to the consumer whose needs have changed.
  - d. If the service needs of the identified consumer change such that the consumer requires a higher level of supervision, training, and support, NLACRC shall

provide supplemental support, alternatives or will consider pursuing an adjustment of the consumer's service level to meet the consumer's changing needs.

e. There is agreement between NLACRC, the consumer, and the service provider that the service provider can safely provide the services and supports needed by the consumer, as indicated in the IPP.

- Investigate appropriate and economically feasible alternatives for residential services within the center's catchment area before placing a consumer outside the area. If suitable services cannot be found within the area, NLACRC may seek service outside its area. NLACRC will set a priority on placing a consumer as close to his or her home community as possible, however, placements may be made anywhere in the state of California.
- Pursuant to statutory requirements, a consumer who has been convicted of a sex offense against a minor shall not be placed in a community care facility within one mile of an elementary school or community location where children are known to gather.<sup>17</sup>
- Pursuant to statutory requirements, a consumer for whom registration is required pursuant to the Sex Offender Registration Act<sup>18</sup> shall not be placed in any residence within 2,000 feet of any public or private school or park or community location where children regularly gather.<sup>19</sup>
- Per statutory requirements, no consumer released on parole for imprisonment of an offense requiring registration pursuant to the Sex Offender Registration Act shall reside in a single-family dwelling with any other person required to register pursuant to the Sex Offender Registration Act unless those persons are legally related by blood, marriage, or adoption.<sup>20</sup>
- NLACRC can only authorize the purchase of an out-of-state residential service identified in a consumer's IPP when the director determines the proposed service or an appropriate alternative, as determined by the director, is not available from resources and facilities within the state. Prior to the expenditure of funds, NLACRC must seek the Department of Developmental Services' (DDS's) approval for funding an out-of-state residential service. The request must be submitted to the director of the DDS, in writing, signed by the executive director and include the following information:
  - a. Name and location of the out-of-state service provider and a description of the services to be provided to the regional center consumer;

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17 Health and Safety Code Section 1564 (a).

18 Penal Code Section 290, et seq.

19 Penal Code Section 3003.5(b).

20 Penal Code Section 3003.5(a) This restriction is applicable during the period of parole.

- b. Verification that NLACRC has contacted the other state’s agency responsible for providing services to individuals with developmental disabilities to confirm that the identified service provider is in good standing and is utilized by its home state in the provision of services;
- c. Verification that NLACRC has also contacted the other state’s licensing or certification agency (as applicable to that state) and confirmed that the residential program is in good standing and authorized to provide services;
- d. Name of the educational agency that will be responsible for facilitating and funding educational services for the consumer, as applicable;
- e. NLACRC’s plan for quarterly face-to-face monitoring of the consumer and his/her IPP objectives;
- f. NLACRC’s plan for ensuring the out-of-state provider reports special incidents to the regional center in conformity with Title 17 regulations;
- g. Description of the consumer, his/her residential service needs, and current IPP;
- h. Proposed effective date for authorization to begin, period of time for which NLACRC is seeking authorization to expend state funds for the purchase of out-of-state residential services (up to six months per request), and the rate of payment; and
- i. The NLACRC’s efforts to locate, develop or adapt an appropriate program for the consumer within the state, and an explanation of how the regional center determined that the out-of-state residential provider is appropriate and can meet the needs of the consumer (include whether referral was result of a fair hearing, court order, etc.).

The DDS may approve a request to purchase an out-of-state residential service for no more than six months per request, for the duration of any out-of-state placement. Should the regional center determine that funding of the service is needed for an additional six- month period or less, the regional center shall submit a new request for approval with all relevant information pursuant to the list above. In addition, the new request must include an updated report for inclusion in the consumer’s IPP, summarizing the regional center’s efforts to locate, develop, or adapt an appropriate program for the consumer within the state.

## **INDEPENDENT LIVING SERVICES**

### DEFINITION

Independent living services (ILS) are designed to give consumers the supports they may need to live in or transition to their own homes (whether leased, rented, or owned). NLACRC may provide this service on a permanent or periodic basis as defined on each consumer’s IPP.



IILS offer individual or group training and support in some or all of the following areas: cooking; cleaning; shopping; menu planning; meal preparation; money management, including check cashing and purchasing activities; use of public transportation; personal health and hygiene; self-advocacy; social skill development; use of medical and dental services, as well as other community resources; community resource awareness such as police, fire, or emergency help; and home and community safety. The service may also help consumers to recruit, train, and hire individuals to provide personal care and other assistance including in-home supportive services workers. IILS are conducted in natural environments and activities are not simulated but are conducted as part of everyday life while participating and living in one's own community.

IILS include varying levels of instruction and support based on the consumer's needs. IILS may also be used with other services to promote the competence of parents who have a developmental disability.

## POLICY

It is the policy of NLACRC to support consumers in selecting their living options. As such, NLACRC will work with adult consumers, and where appropriate their family members, to determine the type and amount of IILS required by consumers to live in homes they lease, rent, or own, homes of family members, or transition to homes they lease, rent, or own. In determining the provision of IILS, natural supports (such as family members) and generic resources (such as In-Home Support Services) must be explored as possible alternatives or adjuncts to IILS based on the consumer's identified need(s).

To make the determination of the amount of service needed, an assessment of the consumer's strengths and needs must be completed. The focus of the assessment should be based on specific needs for support and/or critical skills deficits identified in the IPP process. The assessment should use baseline information, specific measurable outcomes, and what methods and strategies will be employed to achieve them, as well as a recommendation for service frequency and intensity necessary to achieve progress towards identified outcomes.

The provision of IILS may entail the consumer moving from his or her family's home or licensed residential facility to a single or shared living arrangement. For others, the service may be provided to the consumer in the family's home or licensed residential facility, in preparation for moving to his or her own home or in supporting the consumer in the family's home.

For IILS related to transitioning to a more independent setting, IILS typically would be provided during the last six months prior to the planned move and there must be some indication that the consumer has, or will have, the necessary funds to make the move.

IILS may include varying levels of instruction and support based the individual's needs to maintain the ability to live and participate in the community. Continuation of training in specific areas is dependent on documented measurement of progress.

In the event that a consumer is a registered sex offender with applicable residency restrictions pursuant to Penal Code 3003.5, the consumer's residence must comply with the proximity requirements identified in the aforementioned code. ILS services may assist a consumer in locating a residence that meets the proximity requirements. In the event that a consumer chooses to reside in a location that violates the proximity requirements, the center will be unable to provide ILS services and supports. A decision to deny or terminate ILS services may be appealed through the fair hearing process; please see the Fair Hearing Service Standard.<sup>21</sup>

## **SUPPORTED LIVING SERVICES**

### DEFINITION

Supported living services (SLS) afford consumers the opportunity to live in homes they rent, lease, or own with support services available to the consumer in his or her residence as often and as long as needed. This service model allows the consumer to remain in his or her own home even if the support needs of the consumer change, provided that this is the consumer's preferred living option as documented on the IPP.

The range of SLS and supports available include, but are not limited to: assessment of consumer needs; assistance in finding, modifying and maintaining a home; facilitating circles of support to encourage the development of unpaid and natural supports in the community; advocacy and self-advocacy facilitation; development of employment goals; social behavioral, and daily living skills training and support; development and provision of 24-hour emergency response system; securing and maintaining adaptive equipment and supplies; recruiting, training, and hiring individuals to provide personal care and other assistance, (including in-home supportive services workers, paid neighbors, and paid roommates); providing respite and emergency relief for personal care attendants; and facilitating community participation.

A consumer is eligible for SLS upon a determination made through the IPP process that the consumer:

- Is at least 18 years of age.
- Has expressed directly or through the consumer's personal advocate, as appropriate, a preference for:
  - a. SLS among the options proposed during the IPP process, and
  - b. Living in a home that the consumer chooses and is not the place of residence of a parent, conservator, or caregiver of the consumer. Consumers will not be denied eligibility for SLS solely because of the nature and severity of their disabilities.

### POLICY

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21 Penal Code Section 3003.5 states that it is unlawful for any person for whom registration is required, pursuant to Section 290, to reside within 2000 feet of any public or private school or park where children regularly gather. Penal Code 290 is also known as the "Sex Offender Registration Act."

It is the policy of NLACRC to support consumers in their choice of living options. SLS are such an option and NLACRC will work with adult consumers and/or their family members to develop individualized supported living service plans that reflect the consumer's choices about where and with whom he or she lives as well as the selection of service providers. Plans must include an assessment of the consumer's preferences and needs (inclusive of comprehensive strategies to ensure the availability of paid and unpaid members to comprise the consumer's circle of support group), strategies that detail how the consumer's emotional, social, and recreational needs will be met, and schedules of amounts and types of training and support activities to be provided. Finally, the provision of SLS must be effective in meeting the goals and objectives contained in the consumer's IPP and be a cost-effective use of public funds.

NLACRC will confirm that all appropriate and available sources of natural and generic supports have been utilized to the fullest extent possible for a consumer living in a supported living arrangement.

Effective July 1, 2011, for consumers receiving SLS who share a household with one or more adults receiving SLS, NLACRC will consider whether efficiencies in the provision of service may be achieved if some tasks are shared, meaning the tasks can be provided at the same time while still ensuring that each person's individual needs are met. These tasks shall only be shared to the extent they are permitted under the Labor Code and related regulations. At the time of development, review, or modification of a consumer's IPP, for housemates currently in a supported living arrangement or planning to move together into a supported living arrangement, or for consumers who live with a housemate not receiving supported living services who is responsible for the task, NLACRC will consider, with input from the service provider, whether any tasks, such as meal preparation and cleanup, menu planning, laundry, shopping, general household tasks, or errands can appropriately be shared. If tasks can be appropriately shared, NLACRC will purchase the pro-rated share of the activity. Upon a determination of a reduction in services, NLACRC will inform the consumer of the reason for the determination and shall provide a written notice of fair hearing rights pursuant to Welfare and Institutions Code, Section 4701.

## **STANDARDIZED ASSESSMENT QUESTIONNAIRE**

To ensure that consumers in or entering supported living arrangements receive the appropriate amount and type of supports to meet the person's choice and needs as determined by the IPP team and that generic resources are utilized to the fullest extent possible, the IPP team shall complete a standardized assessment questionnaire at the time of development, review, or modification of a consumer's IPP.

The questionnaire shall be used during the team meetings, in addition to the provider's assessment, to assist in determining whether the services provided or recommended are necessary and sufficient and that the most cost-effective methods of supported living are utilized.

The IPP team shall utilize the standardized assessment questionnaire developed and provided to the regional centers by the Department of Developmental Services.

## **RENT, MORTGAGE, AND LEASE PAYMENTS**

Rent, mortgage, and lease payments of a supported living home and household expenses are the responsibility of the consumer and any roommate who resides with the consumer.

NLACRC shall not make rent, mortgage, or lease payments on a supported living home, or pay for household expenses of consumers receiving SLS, except under the following circumstances:

- The executive director of the regional center verifies in writing that making the rent mortgage, or lease payments or paying for household expenses is required to meet the specific care needs unique to the individual consumer as set forth in an addendum to the consumer's IPP, and is required when a consumer's demonstrated medical, behavioral, or psychiatric condition presents a health and safety risk to himself or herself, or another.
- During the time period that regional center is making rent, mortgage, or lease payments, or paying for household expenses, the SLS vendor shall assist the consumer in accessing all sources of generic and natural supports consistent with the needs of the consumer.

NLACRC shall not make rent, mortgage, or lease payments on a supported living home or pay for household expenses for more than six months, unless NLACRC finds that it is necessary to meet the consumer's particular needs pursuant to the IPP. The regional center shall review a finding of necessity on a quarterly basis and the executive director shall annually verify that the requirements set forth in paragraph (1) above continue to be met.

If NLACRC has been contributing to rent, mortgage, or lease payments or paying for household expenses prior to July 1, 2009, the service coordinator shall, at the time of IPP review, determine if these contributions are still needed. If these contributions are no longer appropriate, a transition plan to end regional center's contributions (not to exceed 6 months) is permitted.

## **IN-HOME SUPPORT SERVICES**

NLACRC shall not purchase SLS for a consumer to supplant In-Home Support Services.

NLACRC shall not purchase supportive services for a consumer who meets the criteria to receive, but declines to apply for, in-home supportive services<sup>22</sup> benefits. The regional center's executive director may waive this if there is a finding that extraordinary circumstances exist.

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22 Supportive Services include domestic services, related services, heavy cleaning, personal care services, accompaniment to health-related appointments or alternative resource sites, yard hazard abatement, protective supervision, teaching, and demonstration directed at reducing the need for other supportive services, and paramedical services.

## **SEX OFFENDERS**

In the event that a consumer is a registered sex offender with applicable residency restrictions pursuant to Penal Code 3003.5, the consumer's residence must comply with the proximity requirements identified in the aforementioned code. SLS services may assist a consumer in locating a residence that meets the proximity requirements. In the event that a consumer chooses to reside in a location that violates the proximity requirements, the center will be unable to provide SLS services and supports.<sup>23</sup> A decision to deny or terminate SLS services may be appealed through the fair hearing process; please see the Fair Hearing Process Service Standard.

### EXCEPTION PROCEDURE

NLACRC cannot anticipate all requests for family support services and living arrangements. It is recognized that some individual needs are so unique that they are not addressed in this service standard. Therefore, NLACRC's executive director or his or her designee may grant exceptions. The planning team must make a request for an exception to the center's staffing committee. The committee must review the request and make a recommendation to the executive director.

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23 Panel Code Section 3003.5 states that it is unlawful for any person for whom registration is required, pursuant to Section 290, to reside within 2000 feet of any public or private school or park where children regularly gather. Penal Code 290 is also known as the "sex Offender Registration Act."

## VI. SOCIAL RECREATION, CAMP, AND NON-MEDICAL THERAPIES

### Service and Procedural Standards

#### PHILOSOPHY

It is the philosophy of NLACRC that people with developmental disabilities have access to age appropriate social/recreational activities that promote social skill development and community integration. NLACRC believes that such activities are an important and necessary part of all people's lives. These activities help to ensure a person's emotional well-being, promote, and develop friendships, and enhance social opportunities. As such, NLACRC will promote the participation of people with developmental disabilities in meaningful social/recreational activities. Activities such as camp, social recreation and nonmedical therapies are often considered social/recreational in nature, however, may meet other needs in the IPP such as those related to family support or social skills development, and/or community inclusion.

NLACRC seeks to support and empower families to maintain their children at home when it is the families' preference. The Center is dedicated to providing services that meet unique and individualized needs. NLACRC also supports the empowerment of consumers to have increased opportunities to enhance their social skills and friendships. NLACRC believes social skills development is essential to establishing and maintaining friendships, fostering emotional development, academic success, and teaching skills that will be important for employment later in life. NLACRC recognizes that socialization, leisure, and recreation activities are valuable and may remove barriers to facilitate consumers' full participation in a broad range of community opportunities. Inclusion in one's community is an important consideration in the program planning process, and toward that end, the planning team must consider those social recreational opportunities available that will support an individual's inclusion in an integrated setting when that setting meets the individualized needs of the consumer.

Furthermore, NLACRC shall not require a consumer or family member to:

- (1) Exhaust services under the In-Home Supportive Services program in order for their regional center to consider funding or to authorize purchasing social recreation services, camping services, and nonmedical therapies, including, but not limited to, specialized recreation, art, dance, and music.
- (2) Exchange respite hours or any other service or support authorized by the regional center for service hours of social recreation services, camping services, or nonmedical therapies, including, but not limited to, specialized recreation, art, dance, and music, as a condition of service authorization by the regional center of social recreation services, camping services, and nonmedical therapies.
- (3) Pay a copayment, or a similar shared pay arrangement aimed at offsetting costs in order to receive social recreation services, camping services, or nonmedical therapies, including, but not limited to, specialized recreation, art, dance, and music.

NLACRC seeks for individuals with intellectual and developmental disabilities to have access to age-appropriate, nonmedical therapies as services to support opportunity for social skills development, or choice and preference for accessing integration and socialization in the community. The provision of services to consumers and their families is intended to meet the goals stated in the individual program plan, reflect the preferences and choices of the consumer, and reflect the cost-effective use of public resources.

Lastly, when funding social recreation services, camp, and nonmedical therapies, families may have the option to have the service funded directly through Participant Directed Services, to facilitate accessing the services.

## **SOCIALIZATION, LEISURE, AND RECREATION SKILLS**

### DEFINITIONS:

**Socialization, leisure, and recreation services** are those services and supports designed to enhance the development of appropriate socialization skills for children who may have social skill challenges which limit age-appropriate socialization opportunities or adults who may have difficulty in developing friendships.

**Social skills** are those abilities and behaviors needed to initiate, plan, explore and participate in meaningful, age-appropriate social relationships and activities.

**Social skills challenges** may include but are not limited to: excessive shyness or passivity; limited responses to social approaches by others; inappropriate social interactions (e.g., teasing/bullying); excessive friendly advances toward others; socially unacceptable mannerisms, difficulty in developing friendships, and other behaviors (easily frustrated, resistive) that might interfere with appropriate social interaction with peers and others.

**Social/recreational activities** help individuals to learn and develop age-appropriate social skills. Also, these activities provide opportunities in both integrated and specialized settings to engage in hobbies, participate in recreational events, and pursue leisure interests. Typically, consumers access and participate in social/recreational activities via their families, residential services, or day programs.

In communities where such opportunities are not available to persons with developmental disabilities, NLACRC will encourage publicly and privately funded socialization, leisure, and recreational programs to adapt their services in order to accommodate our consumers. NLACRC also recognizes that some individuals with intellectual and developmental disabilities are precluded from participation in typical social activities by virtue of their behavior, physical condition, or level of skill.

## POLICY

It is the policy of NLACRC to advocate and supply information to consumers, their family members, and service providers on social/recreational activities. This will enable consumers, their family members, and/or service providers to arrange for individual or group social/recreational activities.

When an individual's behavior, physical condition, or level of functioning precludes participation in most social activities, and their day services do not provide social/recreational opportunities, a specialized program may be indicated to develop the specific social skills needed for that individual. In those instances, the goal of the program would be for the consumer to acquire the social and behavioral skill(s) identified in the consumer's Individual Program Plan (IPP) to enable the consumer to participate in more integrated social/recreational opportunities.

For consumers whose individual social/recreational needs are met through the natural involvement in one's family activities or residential service program, services may be funded to enhance access and community inclusion. The provision of services to consumers is intended to meet the goals stated in the individual program plan, reflect the preferences and choices of the consumer, and reflect the cost-effective use of public resources.

Such children and adults often require supports that are absent from many typical social/recreation programs. Accordingly, NLACRC will purchase socialization, leisure and recreation services or supports under the following circumstances:

- When the consumer is eligible for regional center services;
- The NLACRC program planning has determined that the consumer has social skill challenge(s), as defined above, and such challenge(s) has been documented in the consumer's IPP; and
- An opportunity has been identified to achieve an improvement in the consumer's social, recreational and leisure life in the community or to develop friendships and there is an agreement that a habilitative service designed to teach social skills is needed; and
- NLACRC will **not** typically purchase a segregated (or not mainstream) socialization program when there is a generic service which is willing (either with or without supports) to include the consumer in its activities unless a unique situation warrants consideration of the segregated program in this circumstance; and
- The consumer's Individual Program Plan will include specific desired outcomes and plans to develop social skills or friendships with the overall goal of including the consumer into social/recreation activities with nondisabled peers; and



- The use of segregated (or not mainstream) socialization programming will be reviewed at regular intervals not to exceed six months. Program planning and progress toward participation in integrated or typical social recreation programs will be reviewed annually.
- In determining the frequency/duration of socialization, leisure, or recreation skill development for a child with a developmental disability, care is taken not to unduly interfere with the time that families spend together in social activities during weekends and vacations; and
- Consumers who live in community care and health care residential homes are entitled to receive social, leisure and recreation services as part of such residential programming as a rule these services may not be purchased for consumers who reside in such licensed homes. Please note, exceptions will be considered when the request for social, leisure, or recreation does not duplicate or enhances current programming that achieves these goals.
- NLACRC will support funding a support staff to assist the consumer in their social, leisure and recreational programming to increase positive behavioral, social, and/or emotional skills for consumers who are currently unable to access other resources or in mainstream settings.

## **NON-MEDICAL THERAPIES AS HABILITATION, THERAPY, OR TREATMENT**

Therapies must be evidenced-based in order to be considered habilitative and in order for NLACRC to have the statutory authority to purchase. It is the policy of NLACRC to refrain from purchasing non-medical therapies as a therapeutic/medical treatment as non-medical therapies have yet to demonstrate clinical efficacy and evidence of effectiveness as a clinical therapy. Please know, regional centers do not have the statutory authority to purchase experimental treatments, therapeutic services, or devices that have not been clinically determined or scientifically proven to be effective or safe or for which risks, and complications are unknown. Experimental treatments or therapeutic services include experimental medical or nutritional therapy when the use of the product for that purpose is not a general physician practice.

### **EXCEPTION PROCEDURE**

NLACRC cannot anticipate all requests for services and living arrangements. It is recognized that some individual needs are so unique that they are not addressed in this service standard. Therefore, NLACRC's executive director or his or her designee may grant exceptions. The planning team must make a request for an exception to the center's staffing committee. The committee must review the request and make a recommendation to the executive director.

## **VII. EDUCATIONAL AND VOCATIONAL SERVICES**

### **(SCHOOL AGE, ADULTS & SENIORS)**

#### **Service and Procedural Standards**

#### PHILOSOPHY

It is the philosophy of NLACRC that individuals with developmental disabilities have the right to access the same educational, vocational, and employment opportunities available to non-disabled people of the same age in their communities. Regardless of the severity of the developmental disability, NLACRC will advocate for and support integrated competitive employment for adult consumers. Similarly, for minors, NLACRC will provide advocacy and support for families, and service providers in promoting independence for their consumers through skill development and natural experiences, which lead to maximizing their opportunities for employment and active community membership when they enter adulthood. It is the responsibility of NLACRC and its partners to responsibly create, advocate and deliver supports and services that provide consumers opportunities to be as independent and self-sustaining as possible throughout their lifetime. NLACRC will provide quality information and advocate for consumers to ensure that they receive full benefit from generic services. In addition, NLACRC will assure the availability of alternate or supplemental community services and supports as well as site-based day program service options that are not available from generic services. These service options will ensure that consumers have a variety of viable and age-appropriate choices. Moreover, the consumer's personal preferences and cultural heritage will be considered in the provision of day program services.

#### **SCHOOL AGE**

#### DEFINITION

#### **SPECIAL EDUCATION**

Under the Individuals with Disabilities Education Improvement Act (IDEIA) and the California Education Code, individuals with developmental disabilities ages 0 and up to 22 years old are entitled to a free and appropriate public education., which includes designated instruction and related services reasonably calculated to assist the individual in achieving his or her educational goals as agreed upon through the individualized educational program planning process.

- Ages 0 through 2 years
  - a. “Free appropriate public education is offered to individuals 3 and up 22 years old of age in California”

For infants and toddlers less than 3.0 years of age and their families who are eligible to receive services from both the regional center and a local education agency, the regional center shall be the agency responsible for providing or purchasing appropriate early intervention services that are beyond the mandated responsibilities of local education agencies. The local education agency shall provide special education services up to its funded program capacity.

- Ages 3 to 22 years old
  - a. For children ages 3 through 4.9 years, special education preschool programs provided by school districts should be designed specifically to meet the unique intensive needs of these students if their needs cannot be met in a regular instructional program with modifications (e.g., regular preschool in the community).
  - b. For children ages 4.9 up to 22 years old, public school programs are intended to include, but not be limited to: academic training; prevocational and vocational training; speech therapy; occupational and physical therapies; transportation; mobility training; adaptive physical education; counseling services; social skills training; and other designated instructional services as identified in the student's Individualized Education Program (IEP).
  - c. For children ages 14 and older, the IEP must include transition services to prepare the child for life after school. An Individual Transition Plan must be included in the IEP and updated every year to include:
    - Appropriate, measurable post-secondary goals based on age-appropriate assessments related to training, education, employment, and where appropriate, independent living skills.
    - The transition services, including the course of study, related services, community experiences, employment, and adult living skills, needed to help the student in reaching those goals.
    - Beginning one year before the student reaches the age of 18, a statement that the student has been informed that the rights afforded to parents under IDEIA will transfer to the student at age 18, unless the student has been determined to be incompetent under state law. Transition services, IEP/ITP for a student with a disability in a secondary education setting (high school), are a coordinated set of activities that are:
      - Focused on improving the academic and functional achievement of the student with a disability to facilitate the student's movement from school to post-school activities, including post-secondary education, vocational education, integrated employment (including supported employment), continuing an adult education, adult services, independent living, or community participation.

- Based on the individual student's needs, taking into account the student's strengths, preferences, and interests.
  - Inclusive of instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and, if appropriate, acquisition of daily living skills and a functional vocational evaluation.
- d. Adults with developmental disabilities 18 and up to 22 years old are also entitled to continue in public education if they have not yet completed their prescribed course of study and/or have not met proficiency standards.

## POLICY

NLACRC will advocate and work with students and/or their representatives to secure all mandated services through the IEP or Individualized Transition Plan (ITP) process, including service coordinator or other regional center representative participation and/or development of an advocacy plan for the IEP. NLACRC will also encourage and counsel students and their families on the use of services offered by public schools under IDEIA.

NLACRC recognizes school age consumers (students, ages 3 to 22 years old) have the right to a free and appropriate public education. The needs of the student should determine the educational setting and related services. Academic, vocational, and related services should be provided in settings that offer opportunities to relate and develop friendships with peers of similar ages. NLACRC will support and advocate for students and families who choose full inclusion as their preferred educational setting.

NLACRC will advocate and work with families in the transition to the public schools when the consumer turns 3 years of age.

For students ages 14 and up to 22 years old, who are preparing to leave public education, NLACRC will collaborate with the student, family, school, and other community agencies to develop a transition plan that will optimize the student's success in employment and other adult roles in the community. For those students over the age of 18 years who have completed their prescribed course of study and have received either a diploma or certificate of completion, NLACRC will coordinate services per Adult Educational and Vocational Program Services Standards.

It is the policy of the State that opportunities for integrated, competitive employment shall be given the highest priority for working age individuals with developmental disabilities, regardless of their disabilities.

Effective July 1, 2011, NLACRC 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 and up to 22 years of age, 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) team determines that the consumer's needs cannot be met in the educational system or grants an exemption.

## **ADULTS**

### DEFINITION

NLACRC funds adult day services and supports that are structured community or site-based programs, or supports that lead to integrated, competitive employment. NLACRC offers these services to consumers who are no longer eligible for public schools (usually age 22 years and older).

The following range of options (usually funded by the NLACRC) may be available as site-based or supported/community-based training and programming. Training and other activities should be based on a person-centered plan and take place in natural environments. Instruction should be based on a critical skills model.

- Integrated, competitive employment shall be the first option considered by the planning team, at or above minimum wage, including the prevailing wage, for working age individuals, but individuals may choose goals other than integrated, competitive employment and have a right to receive career counseling, information, and referrals.
- Post-secondary education, technical, or vocational training and internship programs may be considered as a means to achieve integrated, competitive employment, or career advancement.
- Skills training programs are designed to develop, maintain, increase, or maximize an individual's independent functioning in areas that may include self-care, physical development, emotional growth, socialization, self-advocacy, communication, functional academics, and cultural development. They are designed to enable adults to engage in productive work or other meaningful activities. The use of generic resources must be considered first.
- Socialization and community-based training programs are designed for those consumers who may prefer to have increased skill acquisition prior to selecting a vocational or educational type of program. The programs provide planned activities that may be community-based and promote social interaction and participation in the community. They focus on the consumer's use of skills necessary for activities of daily living, socialization, recreation, and community integration.
- Behavior management day programs serve consumers who exhibit behaviors that require more intensive supervision than is available in day activity centers, adult development centers, and some vocational day services. A behavior management day program may serve consumers who are dually diagnosed with both developmental and mental illness. These programs may provide services through a combination of therapeutic interventions.
- Basic self-care programs focus on developing, maintaining, or improving functional skills

such as toileting, eating, basic cleanliness and communication. In addition, the programs provide opportunities for practical skill development, socialization, vocational activities, and community integration.

- The California Department of Rehabilitation offers a variety of vocational and employment services for eligible persons that include occupational training and individual supported employment. Paid work is offered in a variety of settings with supervision and/or support. The Department of Rehabilitation funds these services.
- The community offers a variety of adult education and training opportunities through such generic resources as community colleges and the state university system.

NLACRC places a high priority on opportunities for adults with developmental disabilities to choose and customize day services to meet their individualized needs, have opportunities to further the development or maintenance of employment and volunteer activities, direct their services, pursue postsecondary education, and increase their ability to lead integrated and inclusive lives. To further these goals, a consumer may choose a tailored day service or vouchered community-based training service, in lieu of any other regional center vendored day program, look-alike day program, supported employment program, or work activity program.

## **COMPETATIVE INTEGRATED EMPLOYMENT**

Assisting individuals with a developmental disability to be competitively employed in integrated work settings is a high priority. Competitive employment means the individual is eligible for the same level of benefits provided to other employees and there are opportunities for advancement that are similar to those for other employees who are not individuals with disabilities and who have similar positions.<sup>24</sup> Integrated employment means the engagement of an employee with a disability in work in a setting typically found in the community in which individuals interact with individuals without disabilities other than those who are providing services to those individuals, to the same extent that individuals without disabilities in comparable positions interact with other persons<sup>25</sup>

Effective July 22, 2016, and pursuant to the Workforce Innovation and Opportunity Act, individuals age 24 or younger must receive special education transition services<sup>26</sup> and must be referred to the Department of Rehabilitation for assessment for competitive employment prior to engaging in subminimum wage employment. Further, an individual must either be found ineligible or unable to succeed at competitive employment and must receive career counseling before working a subminimum wage job. An individual of any age who is already working in a subminimum wage job before July 22, 2016, must be provided with a career counseling, including information and referrals to programs in the employer's geographic area, annually.

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24 Federal definition of "Competitive Integrated Employment" (Workforce and Innovation Opportunity Act, Section 7, 29 U.S.C. Section 705(5).)

25 Section 4851 (o) of the Welfare and Institutions Code

26 Please see transition planning requirements on page 38 & 39.

Pursuant to section 4870 of the Lanterman Act, an individual may be placed in competitive employment by a vendored regional center service provider.

Further, the Center will work in partnership with local school districts and the Department of Rehabilitation to ensure individuals with developmental disabilities are referred for assessment for competitive employment and receive the supportive services necessary to achieve his or her employment goals.

Effective July 1, 2021, until June 30, 2025, the competitive integrated employment incentive payments for each milestone shall be as follows:

- 1) A payment of \$2,000 to the provider if the individual is still engaged in competitive employment after 30 consecutive days;
- 2) An additional payment of \$2,500 will be made to the provider if an individual remains in competitive employment for a consecutive six (6) months; and
- 3) An additional payment of \$3,000 if an individual remains in the same competitive integrated employment for 12 consecutive months.

The Center will report annually to the department regarding the payments for placements and payments made on July 1, 2021, and thereafter will not be in addition to fees paid to supported employment programs for the placement of individuals in competitive employment pursuant to section 4860 of the Welfare and Institutions Code.

Lastly, service providers who place individuals in a paid internship program are not eligible to receive competitive, integrated employment incentive payments until the individual is transitioned into a competitive integrated employment placement that is not funded as an internship.

## **PAID INTERNSHIP PROGRAM**

To encourage competitive integrated employment opportunities, individuals may participate in paid internships. The internships will be in competitive, integrated work environments and will assist in the development of skills that will facilitate paid employment opportunities in the future.

Internships cannot exceed 1,040 hours per year per individual and payments include all employer related costs. Interns must be paid at or above minimum wage and equal to customary wage paid by employer for same or similar work performed by an individual without a disability.

On or after July 1, 2021, a \$750 payment will be made to the provider if an individual placed in a paid internship program remains for 30 consecutive days. An additional \$1,000 payment will be made if an individual remains in their paid internship for 60 consecutive days. Of note, placements must be in competitive, integrated work environments and must be directed toward the development of vocational skills that will facilitate paid work opportunities for the

individual in the future. The Center will increase awareness of internships to consumers outside of current employment programs as part of the individual program planning process as well as through outreach; the Center will also report program participation annually to the department.

## **TAILORED DAY SERVICE**

A tailored day service shall do both of the following:

- Include an individualized service design, as determined through the IPP, and approved by NLACRC that maximizes the consumer's individualized choices and needs. This service design may include, but may not be limited to, the following:
  - a. Fewer days or hours than in the program's approved day program, look-alike day program, supported employment program, or work activity program design.
  - b. Flexibility in the duration and intensity of services to meet the consumer's individualized needs.
- Encourage opportunities to further the development or maintenance of employment, volunteer activities, or pursuit of postsecondary education, maximize consumer direction of the service, and increase the consumer's ability to lead an integrated and inclusive life.

The type and amount of tailored day service shall be determined through the IPP process. The IPP shall contain, but not be limited to, the following:

- A detailed description of the consumer's individualized choices and needs and how these choices and needs will be met.
- The type and amount of services and staffing needed to meet the consumer's individualized choices and needs, and unique health and safety and other needs.

Effective July 1, 2011, and prior to the time of development, review, or modification of a consumer's IPP, NLACRC will provide information about tailored day service to eligible adult consumers. A consumer may request information about tailored day services from NLACRC at any time and may request an IPP meeting to secure those services.

## **VOUCHERED COMMUNITY-BASED TRAINING SERVICE**

A voucher community-based training service is defined as a participant-directed service that assists the consumer in the development of skills required for community integrated employment or participation in volunteer activities, or both, and the assistance necessary for the consumer to secure employment or volunteer positions or pursue secondary education. Voucher community-based training services shall be provided in natural environments in the community, separate from the consumer's residence.

A consumer, parent, or conservator vendored as a voucher community-based training service



must utilize the services of a financial management services (FMS) provider. NLACRC will provide information about available FMS and will assist the consumer in selecting an FMS vendor to act as co-employer. A parent or conservator cannot be the direct support worker employed by the vouchered community-based training service vendor.

If the direct support worker is required to transport the consumer, the vouchered community-based training service vendor will verify that the direct support worker can transport the consumer safely and has a valid California driver's license and proof of insurance. A consumer vouchered as a vouchered community-based training service may also be eligible for a regional center-funded bus pass, if appropriate and needed.

Vouchered community-based training services are limited to a maximum of 150 hours per quarter. The services to be provided and the service hours will be documented in the consumer's IPP.

A direct support worker of vouchered community-based training service must be an adult who possesses the skill, training, and experience necessary to provide services in accordance with the IPP.

Effective July 1, 2011, and prior to the time of development, review, or modification of a consumer's IPP, NLACRC will provide information about vouchered community-based training service to eligible adult consumers. A consumer may request information about vouchered community-based training service from NLACRC at any time and may request an IPP meeting to secure those services.

The type and amount of vouchered community-based training service is determined through the IPP process. The IPP will contain, but not be limited to, the following:

- A detailed description of the consumer's individualized choices and needs and how these choices and needs will be met.
- The type and amount of services and staffing needed to meet the consumer's individualized choices and unique health and safety and other needs.

## POLICY

It is the policy of NLACRC to advise, advocate and help adult consumers (usually age 22 years and older) to access adult education, employment opportunities, vocational services, or adult day services to meet their individual needs and preferences. It is the intent of the Lanterman Developmental Disabilities Services Act that appropriate generic resources need to be explored and utilized. Effective October 9, 2013, each regional center IPP planning team, when developing an IPP for a working age adult, must consider a specified Employment First policy. Integrated competitive employment will be the first option considered for every adult NLACRC supports at or above minimum wage, and all goals developed, and service provided

shall be done with that outcome in mind. Post-secondary education, technical or vocational training, and internship programs may be considered as a means to achieve integrated, competitive employment or career advancement. The use of generic resources must be considered first.

It is the responsibility of the planning team, through the IPP process, to identify the appropriate day service for a consumer. The team must consider the consumer's preferences and the ability of the service provider to meet the consumer's IPP goals and objectives. With the exception of tailored day program services, the regional center shall set forth in the IPP the length of the consumer's program day. The regional center may change the length of the declared and approved program day in order to meet the needs of the consumer upon the recommendation of the IPP planning team. The regional center shall set forth in the IPP the reasons for the change in the length of the declared and approved program day. The team must also assess the effectiveness and cost-effectiveness of the service when NLACRC funds are to be used.

Adult day services and supports may be provided in many settings and service formats to attain desired goals and objectives. Therefore, periodic IPP meetings must be scheduled to determine if the desired outcomes are being accomplished.

Finally, adult day services and supports should provide maximum opportunity for valued activities, meaningful work and learning in integrated settings within a framework for a pattern of life similar to non-disabled persons of the same age. There should be close communication between the adult day service and primary care giver and/or others designated by the consumer to assure continuity.

## **SENIORS**

### DEFINITION

Generic programs for seniors are offered by agencies funded by Area Agencies on Aging under Title III of the Older Americans Act and are available to anyone 60 years of age and older.

In addition to day program services, senior programs may offer congregate, and home delivered meals, case management, in-home and residential services, escort transportation, legal services, information and referral, physical and mental health services, and other social activities.

Services to a senior with developmental disabilities are directed toward assisting the individual to participate in social and recreational activities while retaining his or her ability to function as independently as possible. NLACRC will refer eligible consumers to generic services for seniors. NLACRC may purchase or develop specialized services or supports needed to integrate consumers successfully into generic senior programs.

NLACRC acknowledges that consumers who are engaged in work or adult services should be involved in retirement decisions as part of an individual planning process. It is recognized that not all seniors with developmental disabilities may be best served in programs for senior

citizens. Adult day services and “alternative senior program” components will be available as a service option to older persons with developmental disabilities.

## POLICY

It is the policy of NLACRC to assure that older persons with developmental disabilities are aware of and have access to the services afforded to all individuals more than 60 years old under the Older Americans Act.

Services to a senior with developmental disabilities should help that individual to participate in social and recreational activities while retaining his or her ability to function as independently as possible. NLACRC will refer eligible consumers to generic services for seniors. NLACRC may purchase or develop specialized services or supports needed to integrate consumers successfully into generic senior programs.

NLACRC acknowledges that consumers who are engaged in work or adult services should be involved in retirement decisions as part of an individual planning process. It is recognized that not all seniors with developmental disabilities may be best served in programs for senior citizens. Adult day services will continue to be available as a service option to older persons with developmental disabilities.

## EXCEPTION PROCEDURE

NLACRC cannot anticipate all requests for educational and vocational services and supports. It is recognized that some individual needs are so unique that they are not addressed in this service standard. Therefore, NLACRC’s executive director or his/her designee may grant exceptions. The planning team must make a request for an exception to the center’s staffing committee. The committee must review the request and make a recommendation to the executive director or his/her designee.

## **VIII. CLINICAL SERVICES**

### **Services and Procedural Standards**

#### PHILOSOPHY

It is the philosophy of NLACRC to assist, advocate for, and support consumers in maintaining optimal health and obtaining appropriate health care and other clinical services in the community. NLACRC believes such services can maximize a consumer's potential and/or maintain an optimum level of functioning. NLACRC may fund clinical services related to the consumer's developmental disability. Examples of clinical services include health care, physical, occupational, and speech therapies, behavioral and counseling services.

#### **HEALTH CARE SERVICES**

##### DEFINITION

Health care services include medical or surgical treatment, medications, nursing, hospital service, dental service, optometric service, audiology and durable medical equipment that are prescribed and/or provided by qualified professionals.

##### POLICY

NLACRC recognizes that routine health care requirements for individuals with developmental disabilities are often similar to those of non-disabled individuals. Thus, NLACRC will not fund routine health care for consumers.

NLACRC will encourage through the Individual Program Planning (IPP) process access to routine health care through generic resources. Planning should address a consumer having a primary care physician and/ or regular location where they can receive routine health care and have health problems addressed. Consumers should receive regular routine health maintenance examinations, including regular dental examination. Consumers should receive preventive health screening as indicated per the professional standard of care. Such preventative health measures, many include, but are not limited to screening for hearing and vision problems, gynecological examination (PAP), mammogram, colorectal cancer screening, prostate screening, and access to routine vaccination (influenza, pneumococcal, etc.)

NLACRC will encourage through the IPP process consumer wellness by identifying tobacco use and, when appropriate, facilitating referral to generic resources for cessation and encouraging physical activity and healthy lifestyle choices.

NLACRC may purchase medical and dental services, medications, and durable medical equipment when it is medically necessary, the service is not available through generic resources, private insurance, or private sources of funding, and is agreed upon through the Individual Program Planning (IPP) process. Consumers, or where appropriate parents, must pursue an administrative appeal of medical or dental services denied by a generic resource or private insurance, unless the denial does not merit an appeal.

Consumers without medical insurance, who are not eligible for Medi-Cal and have been denied services from California Children's Services (CCS), and who require hospitalization, complex medical treatments, surgery, or other health care services, should be referred to existing county medical facilities.

In support of an IPP goal to maintain optimal dental/physical/mental health, IPP planning should be directed toward assisting consumers in accessing routine dental/medical/psychiatric/ancillary medical services through generic resources to the maximum extent possible.

In circumstances where a generic resource (such as Medi-Cal or Denti-Cal) no longer provides or has denied coverage for a routine dental/medical/psychiatric/ancillary medical service, IPP planning should include assisting consumers with budgeting personal income from generic sources (i.e. Social Security Income or Personal & Incidental funding) or private sources (earnings or trust funds) for the purpose of obtaining routine dental/medical/ancillary medical services as well as exploration of the most cost-effective options available to access generic health care resources.

For consumers who do not have personal income from generic and/or private sources, then regional center funding should be considered when it has been determined that routine dental/medical/psychiatric/ancillary medical services are required to prevent a deterioration in either dental/physical/mental health and no generic health care resource is available. Consultation with the appropriate clinical team member should be sought to determine if one would reasonably expect a deterioration in health, and hence functioning, based on the consumer's individual circumstances.

Funding of a prescription medication, over the counter remedy, or other typical dental/medical/psychiatric/ancillary medical service can be approved only after a request for funding has been reviewed and pre-authorized by NLACRC and there is documentation of a denial from generic resources which has been appealed or determined that the denial does not merit an appeal. Payment is at the maximum allowance set forth by Medi-Cal, regardless of whether an individual is a Medi-Cal beneficiary. For all services, regional center payment should be considered payment in full for services rendered.

## **PHYSICAL AND OCCUPATIONAL THERAPY**

### DEFINITION

Physical and occupational therapy services are prescribed assessments or treatments provided directly by, or under the supervision of, physical or occupational therapists. These services are provided to individuals who have problems in areas of fine and gross motor skills or activities of daily living that can be improved using physical or occupational therapy. These treatment modalities encompass multiple activities including, but not limited to range of motion; home evaluations to assess equipment needs; activities to improve overall coordination and develop self-help skills; and daily living and motor skills. The services are often provided as part of an overall program with multiple components.

### POLICY

NLACRC may fund physical or occupational therapy services when prescribed by a physician and when significant deficits exist in gross or fine motor skills or in self-help skills and when the therapy is both necessary and is likely to produce measurable improvement in the consumer's capabilities, or to prevent deterioration of function or health. For consumers receiving early intervention services, consumers of school age, and consumers who reside in health care facilities, physical and occupational therapy services are expected to be provided as part of the individual's program, rather than as a separately funded service. NLACRC service coordinators will advocate for consumers to secure required and mandated physical and occupational therapy services from CCS, early intervention providers, local education agencies, and health care providers. For consumers receiving early intervention services, "The Individualized Family Service Plan (IFSP) must include dates and duration of services:

1. The projected date for the initiation of each early intervention service...which date must be as soon as possible after the parent consents to the service.
2. The anticipated duration of each service."<sup>27</sup>

NLACRC is prohibited from purchasing physical or occupational therapy services for consumers 3 through 17 years of age when the expressed purpose of the service is to achieve an Individualized Education Program (IEP) plan goal unless an exemption is granted.

## **BEHAVIORAL SERVICES**

### DEFINITION

Behavioral services are a prescribed intervention that must be implemented and be under the direction of a qualified, certified, and/or licensed professional trained in Applied Behavior

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27 Code of Federal Regulations 34, Section 303.344(f)(1)(2)

Analysis. This service is intended to assist consumers and parents/care givers when the consumer exhibits maladaptive, harmful, socially unacceptable, or developmentally unacceptable behaviors. NLACRC provides three types of behavioral services: parent education groups; in-home parent education services; and intensive early intervention for autism.

Applied Behavior Analysis means the design, implementation, and evaluation of systematic instructional and environmental modifications to promote positive social behaviors and reduce or ameliorate behaviors which interfere with learning and social interaction.

Parent education groups are designed to familiarize parents, families, and caregivers with the principles of learning and behavior derived from the natural science of behavior analysis. The groups are provided by behavioral vendor agencies in various instructional formats. All parent education groups provide sixteen hours of instruction, present the same information, and must be completed before any in-home interventions are started.

In-home parent education is built upon the principles of learning and behavior presented in the parent education group, but now the behavioral vendor will go to the consumer's home and show the parents how to apply the principles. The behavior analyst or behavior management consultant will act as a teacher and consultant to the parents. In this model, the parents are taught how to look at their child's behavior analytically, change the contingencies controlling the undesirable behavior, teach new desirable behavior, and methodically reinforce it. The services are authorized in blocks of hours to be implemented as needed, typically over a six-month time interval.

Intensive behavior intervention means any form of Applied Behavior Analysis that is comprehensive, designed to address all domains of functioning, and provided in multiple settings for no more than 40 hours per week, across all settings, depending on the individual's needs and progress. The limitation of no more than 40 hours per week includes school and any other generic services. Interventions can be delivered in a 1-to-1 or small group format, as appropriate. The regional center strives to collaborate with schools and other generic services and to promote the generalization and consistency of services.

Discrete Trial Training (DTT) is an intensive Applied Behavior Analytic treatment strategy used with children typically under the age of seven diagnosed with autism. DTT is provided in the home by behavior management assistants and/or behavioral technicians (paraprofessionals) with parental participation for no more than 40 hours per week [including school and any other therapies]. Discrete trials are prescribed direct services authorized in weekly allocations and supervised by a Board-Certified Behavior Analyst or a licensed Behavior Management Consultant. Supervision of DTT is authorized in monthly allocations and both DTT direct service hours and supervision hours are recorded on the Department of Developmental Services (DDS) service verification form that is signed by parents. Behavior management assistants and/or behavioral technicians implement the DTT teaching plans without deviation

in person, protocol or setting. Thus, behavior management assistants or behavioral technicians do not provide parent education or training, design or revise behavioral teaching plans, or provide services outside of the home.

Evidence-based practice means a decision-making process which integrates the best available scientifically rigorous research, clinical expertise, and individual's characteristics. Evidence-based practice is an approach to treatment rather than a specific treatment. Evidence-based practice promotes the collection, interpretation, integration, and continuous evaluation of valid, important, and applicable individual/family-reported, clinically observed and research supported evidence. The best available evidence, matched to consumer circumstances and preferences, is applied to ensure the quality of clinical judgments, and facilitates the most cost-effective care.

Parent participation shall include, but not be limited to, the following meanings: completion of group instruction on the basics of behavior intervention; implementation of intervention strategies in accordance with the intervention plan; data collection on behavioral strategies and submission of data to the provider for incorporation in the progress reports; participation in any needed clinical meetings; and purchase of suggested behavior modification materials or community activities if a reward system is used.

Behavioral services use specialized methods of teaching family members or primary care givers how to use positive behavior supports to replace maladaptive behaviors and to teach positive adaptive skills.

Health and Safety Code addresses behavioral services for individuals with autism and refers to behavioral services as behavioral health treatment. "Behavioral health treatment" means professional services and treatment programs, including applied behavior analysis and evidence-based behavior intervention programs that develop or restore, to the maximum extent practicable, the functioning of an individual with pervasive developmental disorder or autism.<sup>28</sup>

## POLICY

It is the policy of the NLACRC to prescribe behavioral services or a primary behavioral program to meet a consumer's needs when behavioral excesses and/or deficits meet at least one of the following:

- Pose a threat to the health or safety of the consumer (e.g., self-injury, life threatening behavior such as running into traffic, eating poisonous or inedible substances) or to others (e.g., physical aggression that could result in injury requiring medical treatment).
- Pose a threat to maintaining the consumer in the least restrictive setting (e.g., behaviors exceeding the capacity of a typical program to manage, behaviors exceeding the capacity

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28 Health and Safety Code 1374.73 (c) (1).



of the family to keep the consumer in the family home or serious and expensive property destruction precluding continuation in a program).

- Prohibit the consumer from benefiting from services critical to achieving objectives contained in the IPP/Individualized Family Service Plan (IFSP) (e.g., a combination of fewer serious problems such as noncompliance, self-stimulation, and temper tantrums that significantly interfere with the consumer achieving goals contained on his or her IPP/IFSP).

In behavior management day programs, eligibility depends on the consumer not being eligible for or acceptable in another type of community-based day program due to behavior problems. Typically, the behaviors would meet at least one of the above criteria.

The planning team and the center's behavioral staffing committee determine the period, frequency, amount, and method of delivering behavior intervention service. The determination is based on the needs of the consumer or family as determined by a behavioral assessment or plan. Behavioral services rely on a "teach the teachers" model where parents are trained to ameliorate behaviors that interfere with social interaction, learning, and community participation. Parent participation in the implementation of the behavior intervention plan is critical to the success of the plan, and thus, is required.

Typically, intervention is short-term and time-limited to achieve both behavioral goals for the consumer and training goals for the parents/care givers. In addition, the team may determine that periodic support is needed on a consultation basis to ensure the continued success of past intervention. The intent is to offer guidance and preventive intervention.

Health and Safety Code requires for individuals with autism that every health care service plan contract that provides hospital, medical, or surgical coverage shall also provide coverage for behavioral health treatment for autism no later than July 1, 2012.<sup>29</sup>

Behavioral services will not be purchased for the purpose of providing respite, day care, or school services.

## **SPEECH AND COMMUNICATION THERAPY**

### **DEFINITION**

Speech, language, and communication therapies are services that assess and teach communication skills in all its modalities including receptive and expressive language. These modalities include oral language (speech), sign language, gesture, written communication, and/or the use of appropriate "assistive communication systems."<sup>30</sup>

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29 Health and Safety Code 1374.73 (a) (1).

30 Communication devices that supplement the use of expressive language.

## POLICY

It is the policy of NLACRC, based upon independent assessment, to assure that necessary speech, language, and other communication services are provided when:

- There is reasonable expectation based on medical, psychological, audio logical, and speech and language assessments that intervention is clinically indicated and will result in improved communication for the consumer; and
- The consumer and primary care giver are motivated to participate in the implementation of an ongoing communication plan.

“The determination of which services and supports are necessary for each consumer shall be made through the IPP process.”<sup>31</sup>

NLACRC’s authority to purchase speech therapy services for consumers 3 through 17 years of age when the expressed purpose of the service is to achieve an IEP plan goal is suspended unless an exemption is granted.

## **COUNSELING SERVICES**

### DEFINITION

Counseling is psychotherapeutic treatment provided by a licensed psychologist, psychiatrist, social worker, or Marriage Family Child Counselor. On occasion, counseling may form a necessary part of a more comprehensive intervention that may include medication, behavioral management, and other treatments. NLACRC may provide counseling services when a consumer or his or her family member requires a deeper understanding of social or psychological problems associated with the consumer’s developmental disability that adversely affects his or her living arrangement or other service/program.

## POLICY

NLACRC may fund short-term and crisis counseling services. The provision of counseling services requires a clinical assessment that identifies the “presenting problem,”<sup>32</sup> expectations, and timelines for a therapeutic outcome with an identified method for deciding whether or not that outcome is being achieved. The planning team that includes an NLACRC psychologist and physician determines referral and provision of funded counseling services. Services are contingent upon the willingness of the consumer or family member to participate in counseling.

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31 Welfare and Institutions Code, Section 4512(b)

32 The problem to be addressed in counseling

## **EXPERIMENTAL TREATMENTS/DEVICES**

NLACRC shall not purchase experimental treatments, therapeutic services, non-medical therapies, or devices that have not been clinically determined or scientifically proven to be effective or safe or for which risks, and complications are unknown. Experimental treatments or therapeutic services include experimental medical or nutritional therapy when the use of the product for that purpose is not a general physician practice. Furthermore, NLACRC shall not purchase an experimental treatment or therapeutic service when the use of the product or therapeutic service for that purpose is not the standard of practice.

## **EXCEPTION PROCEDURE**

NLACRC cannot anticipate all requests for clinical services. It is recognized that some individual needs are so unique that they are not addressed in this service standard. Therefore, NLACRC's executive director or his or her designee may grant exceptions. The planning team must make a request for an exception to the center's staffing committee. The committee must review the request and make a recommendation to the executive director or designee.

## **IX. LEGAL STATUS AND PROTECTIONS**

### **Service and Procedural Standards**

#### PHILOSOPHY

NLACRC believes that persons with developmental disabilities should have the same protections under the law as non-disabled persons.

#### **CONSERVATORSHIP**

#### DEFINITION

The establishment of a conservatorship is a legal proceeding where the court appoints an individual or agency to be responsible for ensuring that a person is properly cared for and, when appropriate, receives assistance in conservation of assets.

#### POLICY

It is the policy of NLACRC to assure the protection of all consumers' rights in relation to the establishment of a conservatorship. The existence of a developmental disability should not be in and of itself sufficient reason for the establishment of a conservatorship. Parents, relatives, or other concerned persons may initiate a referral for establishment of a conservatorship. NLACRC will, within the California Department of Developmental Services (DDS) guidelines, initiate referral for conservatorship in accordance with the Lanterman Developmental Disabilities Services Act. NLACRC will provide consultation and/or referral to low-cost legal assistance to persons interested in seeking conservatorship. NLACRC will provide technical assistance in conservatorship matters when it is in the best interest of the consumer and where the individual seeking conservatorship has no other resources available. NLACRC will not purchase legal services to establish conservatorship or pay court fees related to the institution of conservatorship except in those instances where the establishment of a conservatorship is essential to the implementation of the consumer's Individual Program Plan (IPP). NLACRC will provide legal services in matters relating to proceedings in the Mental Health Department of the Superior Court.

It is the policy of NLACRC, and at the direction of the Probate Court, that the regional center shall provide a conservatorship report filed no later than 5 business days before the hearing date. The conservatorship petition should be received by the regional center 30 days before the hearing date. The regional center report will include:

- A description of who the consumer is.
- Identification of the proposed conservator.

- Whether or not the regional center supports the conservatorship to be granted.
- Whether or not the regional center supports the proposed conservator as the best advocate for the consumer.
- Whether or not the regional center supports the granting of each of the 7 powers and justify this based on the consumer support needs.

## **DIVERSION**

### DEFINITION

The court may grant diversions for certain misdemeanor offenses. A diversion program allows for the court to dismiss criminal charges when a defendant has satisfactorily completed the program. A defendant can request to be diverted out of the penal system and receive treatment and habilitation services that address the criminal charges at any stage in the criminal proceedings. There are three basic requirements for application of the diversion statute:

- The offense is a misdemeanor, or it can be reduced to one.
- The defendant is found to be mentally retarded which is defined as “significantly sub-average general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period.”
- The defendant has not had a prior diversion within the two years prior to the present criminal proceedings.

### POLICY

It is the policy of the NLACRC to advise consumers involved in the penal system of the potential opportunity to participate in a diversion program. The NLACRC service coordinator assigned to the consumer will convene a planning team meeting to determine whether a viable treatment/service plan can be developed and implemented that will address the criminal charges for a consumer who requests diversion. The team, at a minimum, must include the consumer and/or his or her representatives; NLACRC’s physician, psychologist, and service coordinator; and the clients’ rights advocate. The team must reach a consensus on the viability of the diversion plan and any recommendations to the court.

## **PEER REVIEW OF BEHAVIOR MODIFICATION INTERVENTIONS THAT MAY CAUSE PAIN OR TRAUMA**

### DEFINITIONS

**Behavior intervention** is a prescribed therapeutic intervention and must be prescribed by and under the direction of a Board-Certified Behavior Analyst (BCBA) or a qualified licensed professional trained in Applied Behavior Analysis. This service is intended to assist consumers

and parents/care givers when the consumer exhibits maladaptive, harmful, socially unacceptable, or developmentally unacceptable behaviors. Behavior intervention uses specialized methods of teaching family members or primary care givers how to effectively use the principles of learning and behavior to teach positive socially desirable behavior and to reduce maladaptive behaviors and increase adaptive skills.

**Emergency procedure** is the use of an appropriate technique as a reasonable response, including an aversive or restrictive procedure, to contain behaviors that pose a clear and present danger of serious physical injury to self or others that, in turn, cannot be prevented by less restrictive measures. If the need for emergency procedures occurs on a regular basis, the procedure must be considered part of the behavioral treatment plan for that individual.

**Pain** means a subjectively experienced, substantially unpleasant bodily sensation; it ordinarily results from, or is induced by physiological stimuli that may include, but not be limited to, injury, bodily contact, situational stress, heat, cold, noise, physical exertion, or immobilization. Typical observable responses may include, but not be limited to, evasive action, verbal exclamation or protest, escape, resistance, stiffening, grimacing, and reflexive avoidance, or fainting. Some individuals may not exhibit any perceivable response.

**Trauma** means an occurrence under which the consumer experiences either tissue damage or severe and long-lasting emotional distress.

A **“Qualified Professional” (QP)** is a California-licensed physician, psychologist, BCBA, or other professional whose California licensure permits the practice of behavior modification, and has 12 semester units of Applied Behavior Analysis courses from an accredited college or university plus one year of experience designing behavior modification programs for persons with developmental disabilities or two years of experience teaching applied behavior analysis or behavior modification at the college level or above. The QP can be a member of an IDT that develops a proposed treatment plan.

**The “Behavior Modification Review Committee” (BMRC)** consists of at least one California-licensed psychologist, BCBA, or other professional whose California license permits the practice of behavior modification programs, one California-licensed physician, and one clients’ rights advocate affiliated with the regional center. Further, either the physician, psychologist, or BCBA will have at least three years’ experience in: 1) the supervision of the implementation of behavior modification programs; 2) teaching behavior modification at the college level or above; or 3) a combination of 1 and 2.

## POLICY

It is the policy of NLACRC to use a peer review of behavior modification plans that may involve pain or trauma. The review is a two-step procedure:

- The BCBA reviews the proposed treatment plan to determine if it has the potential to abridge the consumer’s constitutional rights, cause or involves pain or trauma. The BCBA may disapprove such a plan or refer the plan to the BMRC if the plan has the potential to abridge the consumer’s constitutional rights, cause or involves pain or trauma. The BMRC has the sole responsibility to approve or disapprove the plan.
- The BMRC will review the proposed treatment plan and either disapprove the plan or approve the plan for no more than one year's time.
- The person responsible for the development or implementation of the treatment plan will not vote on the committee for any portion of the review and approval of the plan.

The use of a treatment plan that includes a behavior modification intervention that may cause pain or trauma can only receive approval if all of the following conditions are met:

- Informed written consent is obtained from the consumer or his/her legal representative. Consent means that the consumer or his/her legal representative has had the procedure explained in terms understandable to the consenter, including prior unsuccessful interventions, the expected side effects, and/or risks of the proposed procedure. The consumer or his/her legal representative must agree in writing to the procedure. Consent may be withdrawn anytime.
- A BCBA who meets the criteria,<sup>33</sup> designs, and supervises the implementation of the treatment plan.
- Each element of the behavior modification program described in the plan is technically adequate and appropriate in light of prevailing applied behavior analytic research and practice standards within the behavior analysis and psychological treatment profession.
- The treatment plan prescribes procedures for the monitoring and implementation of the behavior modification program by the Inter-disciplinary Team (IDT). Written progress reports must be submitted to the regional center and members of the IDT no less than quarterly.

The BMRC, or a designated member, will review the progress reports at least quarterly to ascertain the benefits of the treatment. By consensus of the BMRC, reports can be required more frequently and any member of the BMRC can convene the BMRC anytime. The treatment plan expires after one year; if continuation of the treatment is indicated, the consumer’s informed consent or the consent of the consumer’s legal representative must be obtained, and the review procedures reinstated.

## **PRIVACY AND CONFIDENTIALITY AND RELEASE OF CONSUMER PROTECTED HEALTH INFORMATION**

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33 Per California Code of Regulations, Title 17, Section 50810.

## DEFINITION

NLACRC is mandated by law to maintain the privacy of consumer Protected Health Information (PHI) by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Health Information Technology for Economic and Clinical Health Act (HITECH), the Lanterman Act, and Early Start regulations.

PHI is information that identifies consumers in any form (electronic, written, oral, etc.) collected, created, maintained, or received by NLACRC relating to a consumer's past, present or future physical/ mental health or condition.

## POLICY

The following privacy policy is adopted to ensure that NLACRC complies fully with all federal and state privacy protection laws and regulations. Protection of consumer privacy is of paramount importance to this organization. Violations of any of these provisions will result in severe disciplinary action including termination of employment and possible referral for criminal prosecution. This is an informational summary only. The complete NLACRC privacy policy is available upon request.

It is the policy of NLACRC that we will adopt, maintain, and comply with our Notice of Privacy Practices, which shall be consistent with HIPAA and California law including the Lanterman Act and Early Start regulations.

## **NOTICE OF PRIVACY PRACTICES**

It is the policy of NLACRC that a notice of privacy practices must be published, that this notice be provided to all subject individuals during the intake process if possible, and that all uses, and disclosures of protected health information are done in accord with this organization's notice of privacy practices. It is the policy of NLACRC to post the most current notice of privacy practices in our reception area at each of our offices, and to have copies available for distribution upon request at any time. Furthermore, an electronic copy of the notice is posted on the NLACRC website, which can be downloaded.

## **MINIMUM NECESSARY USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION**

It is the policy of NLACRC that for all routine and recurring uses and disclosures of PHI (except for uses or disclosures made for treatment purposes, as authorized by the consumer or their legal representative, or as required by law for HIPAA compliance) such uses, and disclosures of PHI must be limited to the minimum amount of information needed to accomplish the purpose of the use or disclosure. It is also the policy of NLACRC that non-routine uses, and disclosures will be handled pursuant to established criteria. It is also the policy of this organization that all requests for PHI (except as specified above) must be limited



to the minimum amount of information needed to accomplish the purpose of the request, and where practicable, to the limited data set.

## **COMPLAINTS**

It is the policy of NLACRC that all complaints relating to the protection of health information be investigated and resolved in a timely fashion. Furthermore, it is the policy of NLACRC that all complaints will be addressed to the executive director or his/her designee who is duly authorized to investigate complaints and implement resolutions if the complaint stems from a valid area of non-compliance with the HIPAA privacy or security rules. It is the policy of NLACRC that any violations be reported to DDS within 72 hours of learning of the breach as per our contractual obligations.

## **PROHIBITED ACTIVITIES-NO RETALIATION OR INTIMIDATION**

It is the policy of NLACRC that no employee or contractor may engage in any intimidating or retaliatory acts against persons who file complaints or otherwise exercise their rights under HIPAA regulations. It is also the policy of this organization that no employee or contractor may condition treatment, payment, enrollment, or eligibility for benefits on the provision of an authorization to disclose protected health information except as expressly authorized under the regulations.

## **SAFEGUARDS**

It is the policy of NLACRC that appropriate safeguards will be in place to reasonably safeguard protected health information from any intentional or unintentional use or disclosure that is in violation of the HIPAA privacy and security rules. These safeguards will include physical protection of premises and PHI, technical protection of PHI maintained electronically and administrative protection of PHI. These safeguards will extend to the oral communication of PHI. These safeguards will extend to PHI that is removed from this organization.

## **BUSINESS ASSOCIATES**

It is the policy of NLACRC that business associates must comply with the HIPAA privacy and security rules to the same extent as NLACRC, and that they are contractually bound to protect health information to the same degree as set forth in this policy pursuant to a written business associate agreement. It is also the policy of this organization to report any violations to DDS as per our contractual obligations. Furthermore, business associates who violate their agreement will be dealt with first by an attempt to correct the problem, and if that fails by termination of the agreement and discontinuation of services by the business associate, or if that is not feasible, by notification of the Department of Health and Human Services Secretary. Finally, it is the policy of this organization that organizations that transmit PHI to NLACRC or any of its business associates and require access on a routine basis to such PHI, be business associates of NLACRC.

## **TRAINING AND AWARENESS**

It is the policy of NLACRC that all members of our workforce are trained annually on the policies and procedures governing protected health information and how NLACRC complies with the HIPAA privacy and security rules. It is also the policy of NLACRC that new members of our workforce receive training on these matters within a reasonable time (within their first week of employment, when possible, not to exceed 3 months from their date of hire) after they have joined the workforce. It is the policy of NLACRC to provide training should any policy or procedure related to the HIPAA privacy and security rules materially change. This training will be provided within a reasonable time (within 6 months) after the policy or procedure materially changes. Furthermore, it is the policy of NLACRC that each employee who receives training will sign a certification indicating the employee's name and the date on which the training was completed. NLACRC will retain each employee's written certification for the duration of their employment at the Center.

## **SANCTIONS**

It is the policy of NLACRC that sanctions will be in effect for any member of the workforce who intentionally or unintentionally violates any of these policies or any procedures related to the fulfillment of these policies. Such sanctions will be recorded in the individual's personnel file. Sanctions may include disciplinary action including termination of employment and possible referral for criminal prosecution.

## **COOPERATION WITH PRIVACY OVERSIGHT AUTHORITIES**

It is the policy of NLACRC that oversight agencies such as DDS and the Office for Civil Rights of the Department of Health and Human Services be given full support and cooperation in their efforts to ensure the protection of health information within this organization. It is also the policy of this organization that all personnel must cooperate fully with all privacy and security compliance reviews and investigations.

## **INVESTIGATION AND ENFORCEMENT**

It is the policy of NLACRC that in addition to cooperation with privacy oversight authorities, NLACRC will follow procedures to ensure that investigations are supported internally and that members of our workforce will not be retaliated against for cooperation with any authority. It is our policy to attempt to resolve all investigations and avoid any penalty phase if at all possible.

## **HUMAN IMMUNODEFICIENCY VIRUS (HIV)/ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS)**

### DEFINITIONS

- **HIV** is a virus spread through body fluids that affects specific cells of the immune system, called CD4 cells, or T cells. Over time, HIV can destroy so many of these cells

that the body can't fight off infections and disease. When this happens, HIV infection leads to AIDS. With proper medical care, HIV can be controlled. Treatment for HIV is often called antiretroviral therapy or ART. It can dramatically prolong the lives of many people infected with HIV and lower their chance of infecting others. Before the introduction of ART in the mid-1990s, people with HIV could progress to AIDS in just a few years. Today, someone diagnosed with HIV and treated before the disease is far advanced can have a nearly normal life expectancy. ([www.cdc.gov/hiv/basics](http://www.cdc.gov/hiv/basics))

- **AIDS** is the final stage of HIV infection. People at this stage of HIV disease have severely damaged immune systems, which put them at risk for opportunistic infections, such as certain types of pneumonia and cancer. ([www.aids.org/hiv-aids-basics](http://www.aids.org/hiv-aids-basics))

## POLICY

- NLACRC will not:
  - a. Deny services or discriminate in the provision of services to eligible persons who are known to be HIV positive or suspected of having had an HIV test or of being affected by AIDS.
  - b. Require testing for exposure to the virus as a condition of eligibility or service provision.
- NLACRC will seek to assure that:
  - c. Its vendors do not deny services nor discriminate in the provision of services to eligible persons who are known to or suspected of having had an HIV test or of being HIV positive or affected by AIDS.
  - d. Its vendors do not require HIV testing as a condition of eligibility or service provision.

## **HIV/AIDS EDUCATION**

### DEFINITION

Educational program means:

- Information provided to minimize the risk of acquiring HIV.
- Information on the legal rights and obligations about HIV testing, HIV status, HIV treatment, and AIDS.

## POLICY

NLACRC will carry out educational program for employees regarding universal health precautions.

NLACRC will undertake to assist in the implementation of an educational program for its vendors and their staffs and consumers' regarding universal health precautions.

All service providers are expected to adopt universal health precautions.

All service providers and their staffs are expected to be trained in and to implement such practices.

## **HIV TESTING**

### DEFINITIONS

- **HIV Test** is any clinical laboratory test used to identify HIV, a component of HIV, antibodies to HIV or antigens of HIV.
- **Informed Consent** - For purposes of this policy, this will refer to the consent given by one who has been advised of all the risks and consequences of a medical procedure and who, understanding those risks and consequences, gives knowing, intelligent and voluntary assent. Persons who may, in appropriate circumstances, give written consent for HIV testing for an individual are as follows:
  - a. An unconserved adult consumer.
  - b. A legal conservator empowered with the specific authority to make medical decisions for an adult consumer.
  - c. The parent/legal guardian of a minor under the age of 12, or parent/legal guardian of any minor who is not competent to give such consent.
  - d. If the child is a dependent of a court, such court.
  - e. A child 12 or more years of age.
- **Special Health Needs Committee** – This committee will be created on an ad hoc basis for the purpose of making recommendation on the provision of services for a particular consumer. The committee will include, at a minimum, the director of consumer services or his/her designee, the clients' rights advocate, a regional center physician and the consumer's counselor; other individuals may be added, as appropriate.

## POLICY

The consumer's primary care physician determines if the consumer will be referred for HIV testing based on standard medical indications.

If a physician decides to ascertain a consumer's HIV status, written consent for testing will be obtained from the individual authorized to consent to the provision of medical care for the consumer. If the person authorized to sign for medical care refuses, no test may be given.

If doubt exists whether a consumer is competent to give consent to HIV testing and treatment, the executive director may investigate the viability of the consumer's parents, guardian, or conservator as substitute decision-maker pursuant to Health and Safety Code 121020 (a)(1).

If the consumer does not have capacity to give consent to HIV testing and treatment and has no parent, guardian, or conservator legally authorized to consent, or if this person does not respond within a reasonable time to the request of the director or designee for the granting or denying of consent for such treatment, the executive director or designee may consent on behalf of the developmentally disabled person to HIV testing and treatment pursuant to Welfare and Institutions Code, Section 4655.

If the consumer has no parent, guardian, or conservator legally authorized to consent to HIV testing and treatment on behalf of the consumer, the executive director or the designee may initiate, or cause to be initiated, proceedings for the appointment of a guardian or conservator legally authorized to consent.

## **CONFIDENTIALITY AND RELEASE OF HIV/AIDS RELATED CONSUMER INFORMATION**

### DEFINITION

NLACRC is mandated by law to maintain the privacy of consumer Protected Health Information (PHI) by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Health Information Technology for Economic and Clinical Health Act (HITECH), the Lanterman Act, and Early Start regulations.

PHI is information that identifies consumers in any form (electronic, written, oral, etc.) collected, created, maintained, or received by NLACRC relating to a consumer's past, present or future physical/ mental health or condition.

A consumer's "record" means any item of information directly relating to a person with developmental disabilities or to one who is believed to have a developmental disability which is maintained by NLACRC, whether recorded in handwriting, print tapes, film, microfilm, or other means as pursuant to Welfare and Institutions Code, Section 4725 (b).

Persons authorized to give written consent for release of HIV test information are as follows:

- The parent/legal guardian of a minor under the age of 12 or parent/legal guardian of any minor who is not competent to give such consent.
- If the child is a dependent of a court, such court.
- A child 12 or more years of age.
- An unconserved adult consumer.
- A legal conservator empowered with the specific authority to decide for an adult consumer.

## POLICY

NLACRC complies fully with all federal and state privacy protection laws and regulations. Protection of consumer privacy is of paramount importance to NLACRC. Violations of NLACRC privacy policy will result in disciplinary action including termination of employment and possible referral for criminal prosecution.

NLACRC will adopt, maintain, and comply with our Notice of Privacy Practices, which shall be consistent with HIPAA and California law including the Lanterman Act and Early Start regulation.

All members of NLACRC workforce have been trained by the compliance date on the policies and procedures governing protected health information and how NLACRC complies with the HIPAA privacy and security rules.

Please refer to Service Standard Section VII and NLACRC Privacy Policy for additional detailed information:

- Release of Information/Form of Disclosure: NLACRC will exercise strict confidentiality regarding any HIV/AIDS information relating to consumers. Any disclosure of HIV/AIDS related information will be made in accordance with NLACRC Notice of Privacy Practices and current law.
- NLACRC requires a specific written authorization by the consumer or legally authorized party to release any HIV/AIDS related information to any third party as per California Health and Safety code 120975, 120980.
- In cases where a consumer poses a significant risk of danger to self or others, which has been substantiated and documented, the Special Health Needs Committee will be convened. The committee will make provisions for immediate and thorough education, assess the consumers' needs, and develop appropriate recommendations.

## **HIV/ AIDS AND SERVICE PROVISION**

### DEFINITION

Provision of service includes, but is not limited to, the obtaining of residential placement, day program services, family support services and health care services.

### POLICY

NLACRC will not discriminate in the provision of services, including placement, to consumers who are known to be HIV positive or have AIDS.

In special circumstances, if indicated, recommendations regarding the provision of specific services to consumers known to be HIV positive or have AIDS will be made by the Special Health Needs Committee.

If a consumer has tested HIV positive, services will be provided without disclosure of the condition as per NLARC's Notice of Privacy Practices, unless authorized in writing by the consumer or the authorized legal representative.

### EXCEPTION PROCEDURE

NLACRC cannot anticipate all requests for legal services. It is recognized that some individual needs are so unique that they are not addressed in this Service Standard. Therefore, NLACRC's Executive Director or his/her designee may grant exceptions. The planning team must make a request for an exception to the center's staffing committee. The committee must review the request and make a recommendation to the executive director or his/her designee.

## **X. TRANSPORTATION SERVICES**

### **Service and Procedural Standards**

#### PHILOSOPHY

It is the philosophy of NLACRC that individuals with developmental disabilities should have the same access to public and para-transportation services as non-disabled individuals. Transportation is a necessary service for the entire community. Individuals typically use transportation to access work, education, and fully participate in the communities where they live. Therefore, NLACRC will advocate for appropriate and accessible transportation services for individuals with developmental disabilities.

#### DEFINITION

Transportation is a service that uses many resources. Potential resources that may provide transportation are consumer/family, private ride-sharing, and public or private transportation agencies. Public (generic) transportation encompasses publicly funded bus transit and para-transit systems. Commercial transportation includes individual providers, taxis, transportation companies, non-emergency medical transportation and ambulance services.

Travel training is a transportation service that teaches a consumer how to use public transportation safely to get to destinations in the community, such as a program or work site, and may be provided by several types of vendors, including, but not limited to, independent living trainers, tutors, adaptive skills trainers, and mobility trainers.

#### POLICY

It is the policy of NLACRC to fund transportation services for adult consumers to primary program sites if the consumer cannot safely access and utilize public transportation or other appropriate personal or public resources and as identified in the consumer's Individual Program Plan (IPP).

NLACRC will fund the least expensive transportation modality that meets the consumer's needs, as set forth in the consumer's IPP. Moreover, transportation services will be safe and appropriate in meeting the transportation needs of consumers. Finally, NLACRC will only transport consumers from the consumer's residence to the lowest-cost vendor that provides the service that will meet the goals and objectives on their IPP.

Effective July 1, 2011, where applicable, at the time of development, review, or modification of the IPP a Transportation Access Plan for a consumer will be developed when all of the following conditions are met:



- NLACRC is purchasing private, specialized transportation services or services from a residential, day, or other provider, excluding vouchered service providers, to transport the consumer to and from day or work services.
- The planning team has determined that a consumer's community integration and participation could be safe and enhanced through the use of public transportation service: and
- The planning team has determined that generic transportation services are available and accessible.

The Transportation Access Plan must identify the services and supports necessary to assist the consumer in accessing public transportation. These services and supports may include, but not limited to, mobility training services and the use of transportation aides.

NLACRC may fund for transportation services to minor children living in the family residence only if the family of the child provides sufficient written documentation to the regional center to demonstrate that it is unable to provide transportation for the child. Transportation for consumers of school age to education sites or to related education services is the responsibility of the school district that serves the consumer.

The consumer, family member or service provider is responsible for the consumer's transportation to medical, dental or therapy appointments, discretionary transportation for community excursions, shopping trips, recreational activities, after school programs, camp, or respite services, and to and from work when the consumer is actively employed.

### EXCEPTION PROCEDURE

NLACRC cannot anticipate all requests for transportation services. It is recognized that some individual needs are so unique that they are not addressed in this service standard. Therefore, NLACRC's executive director or his/her designee may grant exceptions. The planning team must make a request for an exception to the center's staffing committee. The committee must review the request and make a recommendation to the executive director or his/her designee.

## **XI. APPEAL PROCESS**

### **Service and Procedural Standards**

#### PHILOSOPHY

NLACRC respects the due process rights of individuals with developmental disabilities and is committed to ensuring that consumers and their families are informed of their rights. The appeal process is the avenue for resolving disagreements between the regional center and consumers or applicants who are age three or older. The disagreements may be about services, eligibility or any decision or action of the regional center with which an individual disagrees. The appeal process may include a voluntary informal meeting, mediation, and a fair hearing. Appeal process information packets created by the department will be made available with all Notices of Action and will be available on the NLACRC website. NLACRC will assist in completing the appropriate appeal request form if assistance is needed.

#### DEFINITION AND POLICIES

##### **ADEQUATE NOTICE**

#### DEFINITION

Adequate notice means a written notice provided within the statutory timelines informing the applicant, consumer, or authorized representative, and/or the clients' rights advocate<sup>34</sup> of an action that NLACRC proposes to take and with which the applicant, consumer or authorized representative disagrees.

#### POLICY

NLACRC will provide a consumer with adequate notice when the center makes a decision without the mutual consent of the consumer to reduce, terminate, or change services set forth in an Individual Program Plan (IPP), determines that the consumer is no longer eligible for regional center services, denies the initiation of a service or support requested for inclusion in the IPP, or denies eligibility for regional center services. As applicable, the center will provide notice to the consumer's parents, legal guardian, conservator, or legal representative. The notice will be sent, by standard mail, certified mail, or email at the preference included in the consumer's IPP and will comply with the following:

- Proposed reduction, termination, or change in service or termination of eligibility requires notice at least 30 calendar days prior to taking any of the aforementioned

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34 Adequate notice will be provided to the clients' rights advocate for any adult who does not have a court-appointed conservator pursuant to Title 17, Section 50922.

actions.

- Denial of initiation of a service or denial of eligibility for regional center services requires notice no more than 5 business days after the center makes the decision.

In the event of an appeal regarding an existing service, NLACRC shall continue funding the service in question during the appeal procedure if the request for a fair hearing is postmarked or received no later than 30 calendar days after receipt of the proposed notice of action and no later than the effective date of the proposed reduction, termination or change in service. In the event of an eligibility appeal, NLACRC shall continue the services identified in the individual program plan if the request for a fair hearing is postmarked or received no later than 30 calendar days after receipt of the proposed notice of action.

The notice will provide the consumer, applicant, or authorized representative with the following information:

- The action that NLACRC proposes to take, including a statement of the basic facts upon which NLACRC is relying.
- The reason(s) for the action.
- The effective date of the action.
- The specific law, regulation, or policy supporting the action and whether the consumer is eligible for an exemption or exception to the action NLACRC proposes to take.
- Information regarding the appeal procedure, including how to file an appeal with the department, timelines, continuances, access to regional center records, opportunity to request an informal meeting, mediation, and/or hearing.
- Information regarding the consumer or applicant's appeal rights including the right to have an interpreter, the opportunity to be present at all proceedings, to present evidence, examine and cross examine witnesses, and to designate a representative.
- Information on the availability of advocacy assistance including referral to the clients' rights advocates, the State Council on Developmental Disabilities, publicly funded legal service organizations, and other advocacy organizations.

## **AUTHORIZED REPRESENTATIVE**

### DEFINITION

**An authorized representative** can be a conservator of an adult consumer, a guardian, conservator, parent, or person having legal custody of a minor consumer, or a person or agency appointed in writing by an adult consumer or by a legal guardian, conservator, parent, an adult appointed by court order, or person having legal custody of a minor consumer, to act

for or represent the claimant in the appeal process. In lieu of an authorized representative, adult consumers may choose to represent themselves in the appeal process.

## POLICY

Upon written notification of an authorized representative representing a consumer in a fair hearing, NLACRC will direct all communication to the authorized representative. Unless the consumer or their authorized representative is an attorney licensed in the state of California, the regional center cannot have an attorney licensed in the state of California attend an informal meeting, mediation, or fair hearing.

## **INFORMAL MEETING**

### DEFINITION

**The informal meeting** is the first opportunity to resolve the issue(s) for fair hearing. Pursuant to law, the consumer, applicant, or authorized representative has the right to request a voluntary informal meeting. If an informal meeting is not requested at the time of filing for an appeal, an informal meeting can be requested at a later time.

### POLICY

If requested, NLACRC will conduct an informal meeting within 10 calendar days of receipt of the appeal request form unless a continuance (postponement) is requested by the claimant. The informal meeting is typically conducted by NLACRC's due process representative, however, may be conducted by another individual as designated by NLACRC's executive director. Access to regional center files will be granted no later than 3 business days following request.

NLACRC will conduct the informal meeting at a time and place mutually agreeable to the claimant. The meeting will be conducted in English unless an interpreter is needed. The need for an interpreter should be indicated on the appeal request form and arrangements will be made by NLACRC.

NLACRC will notify the claimant and his or her authorized representative, of the decision resulting from the informal meeting in writing within 5 business days of the meeting. The written decision will identify the issues presented in the appeal, rule on each issue identified, state the facts supporting each ruling identify the laws, regulations, and/or policies upon which each ruling is based and notify the claimant of their right to request a consolidation of appeals involving a common question of law or fact. The informal decision will be provided in the preferred language of the claimant or their authorized representative.

If the claimant is satisfied with all or part of NLACRC's decision, the request for appeal on the agreed upon matter(s) shall be withdrawn. The decision will be implemented 10 calendar days after the resolution. NLACRC will submit a copy of the withdrawal including the written decision to the department and hearing office. Upon dissatisfaction with NLACRC's decision following the informal meeting, the applicant or his/her authorized representative may request mediation, if not previously requested, or proceed directly to a fair hearing.

If a claimant or authorized representative has not requested a mediation or fair hearing within 3 calendar days of receiving NLACRC's informal decision, they may do so at a later date. An appeal will be considered withdrawn if the claimant does not advise the regional center of their intent to proceed to a mediation or fair hearing.

## **MEDIATION**

### DEFINITION

A claimant may choose to participate in a **Mediation** with a neutral person (the mediator) who has training and experience helping people settle conflicts. It is a common method for resolving disputes. The mediator facilitates an informal, non-adversarial meeting where the parties have the opportunity and authority to agree on a resolution. The mediator helps the parties consider facts, issues, and reasons for the appeal and reasons for the regional center's decision. The goal of mediation is to reach a solution that is satisfactory to both parties.

### POLICY

A claimant may withdraw at any time from mediation and proceed to a fair hearing. NLACRC must participate in a mediation if requested by the claimant.

If an agreement or partial agreement is reached through mediation and the claimant no longer wishes to proceed to hearing, the claimant or his/her authorized representative must complete a Notification of Resolution form provided by NLACRC or the mediator. The completed Notification of Resolution form must be submitted to NLACRC. The final resolution agreed to during mediation will go into effect 10 calendar days after receipt by the regional center of the Notification of Resolution of the request for a fair hearing.

If the mediation fails to resolve part or all of an issue(s) to the satisfaction of the claimant, their authorized representative or NLACRC, the matter shall at claimant's request proceed to fair hearing, unless the claimant does not wish to proceed.

## **FAIR HEARING**

### DEFINITION

**The fair hearing** is an evidentiary hearing to resolve disagreements about services, eligibility, or any decision or action of the regional center. It is more formal and is conducted by an Administrative Law Judge employed by the Office of Administrative Hearings. People who have the right to request a fair hearing include an applicant, consumer, applicant or consumer's legal guardian or conservator, applicant, or consumer's parent (if a minor), and applicant or consumer's authorized representative. A consumer or applicant who has filed for a fair hearing is referred to as a “claimant” in the appeal process.

## POLICY

NLACRC will provide the claimant and Administrative Law Judge a written statement of NLACRC’s position summarizing the facts of the case, justification for the regional center action, a list of potential witnesses and the general subject of the testimony of each witness and a copy of all potential documentary evidence at least 2 business days before the hearing. The position statement will be provided in the claimant’s preferred language. If NLACRC cannot provide the position statement in the preferred language, NLACRC will notify the claimant, provide the statement in English, and apply for a continuance of the hearing accompanied by evidence of our efforts to translate the position statement.

The claimant must provide NLACRC and the hearing office with a list of intended witnesses and a brief description of their relationship to the claimant and copies of any professional assessments or reports related to eligibility or services. If the claimant is a California licensed attorney or is represented by a California licensed attorney, the claimant must provide a written position statement to NLACRC and the hearing office at least two business days prior to the hearing. The statement must summarize the facts of the case and include the justification for the claimant’s position, a list of potential witnesses and the general subject of the testimony of each witness and a copy of all potential documentary evidence to be used in the hearing.

The fair hearing will be held at a time and place reasonably convenient and agreed upon by both parties. Locations may include over the telephone, by videoconference or other electronic means. A claimant can request that a hearing be continued (postponed) once without good cause and either the claimant or regional center can request additional continuances upon a showing of good cause. Good cause includes, but is not limited to:

- Death of an immediate family member of the claimant, authorized representative, or regional center representative.
- Personal illness or injury of the claimant, authorized representative, or regional center representative.
- Sudden and unexpected emergencies or conflicting schedules if conflict is beyond the control of the claimant, authorized representative, or regional center representative.
- Unavailability of a witness or evidence.

- An intervening request by the claimant or the claimant's authorized representative for mediation.

If the final decision is not favorable to the claimant, and the claimant has been receiving services that were the subject of the appeal, the decision will not be implemented until 15 calendar days after receipt of the final hearing decision, unless a reconsideration is requested within 15 calendar days from the date of the final hearing decision.

Within 15 calendar days of the date of a final hearing decision, a party seeking reconsideration of the final hearing decision may apply to the hearing office or to director issuing the final decision for a correction of a mistake of fact or law, or a clerical error in the decision, or regarding the decision of the hearing officer not to recuse themselves, following the request pursuant subdivision (g) of Section 4712. The other party may provide a written statement supporting or opposing the application for reconsideration. The party seeking reconsideration shall state the specific grounds on which the application is made. Notice of the application shall be given to the other parties to the proceeding and to the department.

NLACRC shall implement the final hearing decision as soon as practical but not later than 30 calendar days following the date of the final hearing decision or final corrected decision. If NLACRC cannot implement the decision within this timeframe, NLACRC must notify the claimant, the authorized representative, and the department in writing of the exceptional circumstances which make implementation impossible and provide a date of implementation.

The claimant may contact DDS if dissatisfied with the regional center's compliance with the final hearing decision. Upon notification, DDS will take appropriate action to obtain compliance with the final hearing decision.

NLACRC will notify the clients' rights advocate and the State Council on Developmental Disabilities if a determination is made that the rights or interests of the claimant will not be properly protected or advocated, and the claimant has not personally authorized a representative. The State Council on Developmental Disabilities may appoint a person or agency as a representative to assist the claimant in the mediation and fair hearing. The appointment of a representative shall be in writing to the authorized representative and a copy of the appointment shall be immediately mailed to NLACRC's executive director.

## **ACCESS TO RECORDS**

### DEFINITION

Pursuant to law, a claimant has the right to inspect, review or obtain a copy of any record obtained in the course of providing intake, assessment, and/or services under the Lanterman Act. A record is any item of information directly relating to a person with developmental disabilities or to one who is believed to have a developmental disability which is maintained

by NLACRC, whether recorded by handwriting, print, tapes, film, microfilm, or other means.

## POLICY

NLACRC will provide access to records to an applicant, consumer, or authorized representative for purposes of the appeal procedure. NLACRC will grant access to the records no later than 3 business days following the date of receipt of the oral or written request for access. Access to records is available during regular NLACRC business hours. NLACRC will make available qualified personnel to interpret records upon request from the consumer, applicant, or authorized representative. Actual copies of the record can be obtained by making an oral or written request to the Office of the Contract Administrator. There is a nominal fee, which does not exceed the actual cost, for reproduction of the record. In the event of a demonstrated financial hardship where the imposition of the fee would preclude the claimant from obtaining a copy of the record(s), NLACRC will consider waiving the fee for reproduction of record(s).

NLACRC maintains records in two locations, on-site at NLACRC offices and off-site at a storage facility.