

DEPARTMENT OF DEVELOPMENTAL SERVICES

Title 17, Division 2, Chapter 3, Subchapter 3, Article 1

FINDING OF EMERGENCY

These regulations are being amended and adopted on an emergency basis for the immediate preservation of the public peace, health and safety, and general welfare, for purposes of sections 11346.1 and 11349.6 of the Government Code, within the meaning of Article IV of the Constitution. In order to make changes necessary for implementation of the Budget Act of 2011, it is necessary that this act take effect immediately.

Government Code section 11346.1(a)(2) requires that, at least five working days prior to submission of the proposed emergency action to the Office of Administrative Law (OAL), the adopting agency provide a notice of the proposed emergency action to every person who has filed a request for notice of regulatory action with the agency. After submission of the proposed emergency action, the OAL shall allow interested persons five calendar days to submit comments on the proposed emergency regulations as set forth in Government Code section 11349.6.

The Department of Developmental Services (DDS) has approved emergency regulations to implement provisions of the Welfare and Institutions (W & I) Code sections 4626, 4626.5 and 4627 pursuant to the enactment of Senate Bill (SB) 74 (Statutes of 2011, chapter 9, effective March 24, 2011) which requires DDS to adopt emergency regulations to establish standard conflict-of-interest reporting requirements regarding regional center governing board members, employees and others identified in regulation. The DDS may adopt emergency regulations pursuant to the express authority provided in W & I Code section 4627 and is exempt from the requirement that it describe specific facts showing the need for immediate action.

W & I Code section 4627 provides, in pertinent part:

“(a) The director of the department shall adopt and enforce conflict-of-interest regulations to ensure that members of the governing board, program policy committee, and employees of the regional center make decisions with respect to the regional centers that are in the best interests of the center’s consumers and families,

....

(c) The department shall adopt regulations to develop standard conflict-of-interest reporting requirements.

(d) The Department shall adopt emergency regulations to implement this section and Sections 4626 and 4626.5. . . The adoption, amendment, repeal, or readoption of a regulation authorized by this section is deemed to be necessary for the immediate preservation of the public peace, health and safety, or general welfare, for purposes of Sections 11346.1 and 11349.9 of the Government Code, and the department is hereby exempted from that requirement. . . . “

AUTHORITY AND REFERENCE

Authority: Sections 4626 and 4627 Welfare and Institutions Code.

Reference: Sections 4520, 4525, 4543, 4546, 4620.3, 4622, 4622.5, 4625.5, 4626, 4626.5 and 4627 and 4635 Welfare and Institutions Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Policy Statement Overview

Problem Statement: SB 74 requires the Department to implement, interpret, or make specific enacted provisions as a result, regulations are required. Existing Department regulations do not address the provisions specified in SB 74.

Objectives: Broad objectives of this proposed regulatory action are to

- Implement SB 74
- Provide well-defined terms and implement procedures to identify and address conflict of interest situations for specified individuals

Benefits: Anticipated benefits, including non-monetary benefits, from this regulatory action are:

- Ensuring that specified individuals act in the best interest of the regional center consumers and their families
- Providing specific guidance as to the procedures for identifying and handling conflict of interest matters
- Clarifying terms
- Publishing a standard conflict-of-interest reporting statement to be completed by specified individuals who have decision making or policymaking authority or authority to obligate the regional center's resources.

DDS oversees implementation of regional center contracts and monitors their performance pursuant to the terms of the contracts and the Lanterman Developmental Disabilities Services Act (Lanterman Act). Regional centers have statutory and contractual reporting obligations to DDS. The Lanterman Act contains conflict-of-interest requirements related to the state council, area boards, regional center governing boards, regional center employees, those acting on behalf of the regional center and regional center vendors.

SB 74 amended W & I Code section 4626 to require the DDS to give a very high priority to ensuring that regional center board members, employees, and those acting on behalf of the regional center, act in the course of their duties solely in the best interest of the regional center consumers and their families without regard to the interests of any other organization with which they are associated or persons to whom they are related.

W & I Code section 4626 requires the DDS to develop and publish a standard conflict-of-interest reporting statement to be used by all regional centers. The conflict-of-interest reporting statement shall be completed by each regional center governing board member and each regional center employee specified in regulations, including, at a minimum, the executive director, every administrator, every program director, every service coordinator, and every employee who has decision-making or policy-making authority or authority to obligate the regional center's resources. W & I Code section 4626 requires persons identified in regulation to complete and submit a conflict-of-interest reporting statement annually by August 1 of each year and upon appointment or change in status.

W & I Code section 4626 provides for the submission and review of the conflict-of-interest reporting statement and requires the regional center to submit a plan that proposes measures to eliminate or mitigate and manage the conflict of interest, including timeframes and actions the regional center governing board, the regional center and/or the individual(s) will take to eliminate or mitigate and manage the conflict of interest.

This emergency regulatory action proposes to adopt and amend California Code of Regulations, title 17, Division 2, Chapter 3, Subchapter 3, Article 1, sections 54500, 54505, and 54520 through 54535.

The proposed regulations define terms relevant and necessary for the determination of conflicts of interest for regional center governing board members, employees and others identified in regulation. The regulations set forth uniform standards, requirements and procedures for the 21 regional centers, including provisions identifying individual(s) covered under the regulations, completion and submission of the standard conflict-of-interest reporting statement and development, submission and review of a Conflict Resolution Plan.

The proposed regulations provide the method for submitting a written proposed Conflict Resolution Plan to DDS when a present or potential conflict of interest has been identified for covered persons. The regulations specify the required elements of the proposed Conflict Resolution Plan and require a description of the precise nature of the present or potential conflict of interest or activity and a detailed description of the conflict, including the type of interest creating the conflict, the identity and relationship between the individual(s) and/or entity(ies) involved and the roles and duties that give rise to the conflict.

The proposed regulations require that the proposed Conflict Resolution Plan contain a thorough explanation of the proposed actions the regional center governing board, the regional center and/or the individual(s) will take, including necessary timeframes to eliminate or mitigate and manage the present or potential conflict of interest. For Conflict Resolution Plans pertaining to regional center governing board members and regional center executive directors, the regulations provide for submission and review of the proposed plan to the relevant area board, the State Council and DDS. The regulations provide that DDS shall determine whether a proposed Conflict Resolution Plan is sufficient or needs to be modified to adequately eliminate or mitigate and manage the conflict. DDS may impose additional restrictions and additional obligations to the proposed Conflict Resolution Plan and/or make a determination that further information is required. The regulations require that the proposed Conflict Resolution Plan provide the name, position and duties of the individual(s) who will be responsible for ensuring that any actions, limitations, or restrictions included in the Conflict Resolution Plan, approved by DDS, will be taken, applied, followed, and monitored.

W & I Code section 4626 added the provision that a person who knowingly provides false information on a conflict-of-interest reporting statement shall be subject to a civil penalty in an amount up to fifty thousand dollars (\$50,000), in addition to any civil remedies available to DDS. The proposed regulations provide that DDS' approval of a proposed Conflict Resolution Plan is not valid unless it is based upon full disclosure by the regional center governing board, the regional center, and/or the individual(s) with the present or potential conflict of interest. Nondisclosure or misrepresentation of present or potential conflicts of interest or of material information bearing on the proposed Conflict Resolution Plan decision, shall result in DDS' rescission of its approval and/or immediate denial of the proposed Conflict Resolution Plan, in addition to any civil penalties imposed pursuant to Welfare and Institutions Code section 4626.

SB 74 added W & I Code section 4626.5 requiring each regional center to develop and submit a conflict-of-interest policy to the Department by July 1, 2011, and to post the policy on its Internet Website by August 1, 2011. The policy must define conflicts of interest; identify positions within the regional center required to complete and file a conflict-of-interest statement; facilitate disclosure of information to identify conflicts of interest; require candidates for

nomination, election, or appointment to a regional center board, and applicants for regional center director to disclose any potential or present conflicts of interest prior to being appointed, elected, or confirmed for hire by the regional center or the regional center governing board; and require the regional center and its governing board to regularly and consistently monitor and enforce compliance with its conflict-of-interest policy.

The proposed amendments would:

§ 54500. Authority and Scope

Amend language to expand the scope of the conflict-of-interest standards to also cover individuals “acting on the regional center’s behalf.”

Remove language making the conflict-of-interest standards, procedures, and regulations, applicable to members serving on the governing board of a regional center on January 1, 1982, as this language is no longer pertinent.

§ 54505. Definitions

Amend the definition of "Business Entity, Entity or Provider" to add other types of entities that provide services to persons with developmental disabilities so as to expand the scope of persons who must disclose and eliminate or mitigate conflicts of interest.

Add definition of “Consumer” to be persons who meet the statutory definition of having a developmental disability.

Amend the definition of “Decision or Policy-Making Authority” to add those who exercise discretion or judgment, without significant intervening substantive review, in making, advising or recommending a decision or in making a final decision. Add those who modify, amend or renew contractual agreements on behalf of his or her entity or has the authority to obligate resources and include those who approve, appoint, ratify, elect, confirm, contracts or hires any director, trustee, member of the board, member of a board committee, officer, agent, employee, contractor, or consultant, for his or her entity or any other business entity or provider.

Move the definition of “family members” from section 54521(a)(4)(B) so that it applies to all sections, and amend the definition of “family member” to include the individual’s spouse, domestic partner, parents, step-parents, grandparents, siblings, step-siblings, children, step-children, grandchildren, and in-laws.

Add “Regional Center” to the definition of “Governing Board” so that it defines “Regional Center Governing Board” to address specific references to the regional center governing board.

§ 54520. Positions Creating Conflicts of Interest for Regional Center Governing Board Members and Executive Directors.

Amend to clarify what constitutes a conflict of interest for Regional Center Governing Board Members and Executive Directors.

Amend to clarify that a conflict of interest exists when a Regional Center Governing Board Member, Executive Director, or family member of such persons hold certain specified positions with business entities or providers that contract with regional centers to provide services to the regional center consumers.

Add that employees or contractors of a state or local government entity which provides services to consumers but the employee or contractor does not work in a position that provides services to consumers do not have a conflict of interest for purposes of the regulations.

Add that there is no conflict of interest for purposes of the regulations where a consumer receives employment services through a regional center provider, and the consumer's family member is a Governing Board Member or Executive Director of the regional center, or the consumer's family member holds a position described in the section with the provider providing the employment services, if the employment service is made equally available to all eligible consumers of the regional center in question.

Add that the conflict of interest provisions are in addition to those conflicts identified in Welfare and Institutions Code sections 4622 and 4626.

Remove regulation's prior definition of what constitutes a conflict of interest.

§ 54521. Conflict of Interests For Regional Center Advisory Committee Board Members.

Define when a conflict of interest for a regional center advisory committee board member exists.

Define which positions if held by an advisory committee board member in a business entity, entity or provider can create a conflict of interest and which specific conduct undertaken by the advisory committee board member creates the conflict of interest.

Add definition of "fiscal matter" that applies when an advisory committee board member votes on any fiscal matter affecting the purchase of services from any regional center provider.

Remove regulation's prior definition of what constitutes a conflict of interest for a regional center employee. This will be defined in a revised regulation.

§ 54522. Financial Interests in Decisions Creating a Conflict of Interest for Regional Center Governing Board Members and Executive Directors.

Add provision specifying that a regional center governing board member or regional center executive director shall not make, participate in making or in any way attempt to use his or her position to influence a regional center or board decision, in which he or she knows or has reason to know, that he or she or a family member has a financial interest.

Add provision specifying what constitutes a “financial interest” that creates the conflict of interest.

Remove provisions requiring the filing of a conflict of interest statement. The revised regulations will require the filing of a Conflict Resolution Plan.

§ 54523. Financial Interests in Contracts Creating a Conflict of Interest For Regional Center Governing Board Members and Executive Directors.

Add provision that regional center governing board members and executive directors are to be guided solely by the interests of the regional center and its consumers and not by their personal financial interests when participating in the making of contracts in their official capacity.

Add requirement that regional center governing board members and regional center executive directors shall not be financially interested in any contract in which they participate in making in their official capacity.

Add provision defining what constitutes a financial interest in a contract that creates conflict of interest.

Add provision specifying the steps that must be undertaken if a regional center governing board member, executive director, or his or her family member, has a financial interest in a potential contract that creates a present or potential conflict of interest.

Add provision specifying that there is no conflict if a board member, who is also a regional center consumer, has a financial interest in a contract that will provide him or her with a financial benefit, if that benefit will be available to any regional center consumer.

Add language that a regional center governing board members and executive directors may not make any contract which is financially beneficial to a family member of such person, unless the benefits associated with the contract are available to regional center consumers or their families generally. Clarify that

when benefits associated with the contract are available to regional center consumer or their families generally, there is no conflict.

Add language that a regional center board may not avoid a conflicting financial interest in a contract by delegating its decision-making authority to another individual or body.

Remove all current waiver and waiver process language as process has been amended and set forth in other proposed sections.

§ 54524. General Prohibition of Conflicts of Interest for Regional Center Governing Board Members and Executive Directors.

Add provision that in addition to the specific conflict of interest requirements and restrictions set forth in the proposed regulations, regional center governing board members and executive directors are obligated to discharge their responsibilities with integrity and fidelity, and are prohibited from placing themselves in a position where their private, personal interests may conflict with their official duties.

Add provision that governing board members and executive directors are impliedly bound to exercise the powers conferred on them with disinterested skill, zeal and diligence and for the benefit of the regional center and the consumers.

Add provision that if a situation arises that has not been specifically addressed in these regulations, where a governing board member, executive director or his or her family member's personal or pecuniary interest conflicts with the individual's duty to act in the best interest of the regional center or the consumers, the governing board member or executive director is disqualified from taking any part in the discussion, or from making any recommendation or decision regarding the transaction or decision.

Add language that in interpreting and applying this section, the common law doctrine against conflict of interest and the authorities interpreting that doctrine shall govern.

Remove current language of regulation requiring the area board, the State Council, and the Department of Developmental services to approve requests for waivers of conflict of interest. The process for mitigation of conflicts will be set forth in a new provision.

§ 54525. Necessity of Conflict Resolution Plan for Conflicts of Interests For Regional Center Governing Board Members and Executive Directors.

Add provision that the regional center governing board or executive director shall not allow the regional center to refer a consumer to any business entity, entity or provider in which a board member or executive director has a conflict of interest as set forth in these regulations, unless the board member or executive director

has eliminated the conflict of interest or obtained an approved Conflict Resolution Plan prior to the referral.

Add provision that no regional center governing board member or executive director who has a conflict of interest, shall continue to serve as a board member or executive director in violation of these provisions, unless the individual has eliminated the conflict of interest or obtained an approved Conflict Resolution Plan. Specify that this provision does not apply to the extent continued service is permitted by Welfare and Institutions Code, sections 4622 and 4626.

Remove current language specifying steps Department of Developmental Services must take if it finds a person in violation of current conflict rules. The steps required by the Department are set forth in a new regulatory provision.

§ 54526. Positions Creating Conflicts of Interests for Employees, Contractors, Agents and Consultants.

Remove “Purchases” title for previously repealed section 54526.

Add provision that a conflict of interest exists when a regional center employee with decision or policy making authority, or contractor, agent or consultant with authority to act on behalf of the regional center, or family member of such person, holds a specified position with a business entity, entity, or provider as defined in the regulations.

Add provision that an employee or contractor of a state or local government entity, which provides services to regional center consumers, who works in a position having no relation to providing those services to regional center consumers, does not have a conflict of interest as a result of his or her position. Specify that the exception does not apply to an employee of the Department of Developmental Services.

§ 54527. Financial Interests in Decisions Creating a Conflict of Interest for Employees, Contractors, Agents or Consultants.

Remove “Records” title for previously repealed section 54527.

Add provision that a regional center employee, contractor, agent or consultant shall not make, participate in making or in any way attempt to use his or her position to influence a regional center decision, in which he or she knows or has reason to know that he or she, or his or her family member has a financial interest.

Add provision defining what constitutes a “financial interest” for purposes of the above restriction.

§ 54528. Financial Interests in Contracts Creating a Conflict of Interest For Regional Center Employees, Contractors, Agents and Consultants.

Remove “Board Meetings” title for previously repealed section 54528.

Add provision that Regional center employees, contractors, agents and consultants shall not be financially interested in any contract in which they participate in making in their official capacity.

Add provision defining what constitutes a “financial interest” for purposes of the above restriction.

§ 54529. General Prohibition of Conflicts of Interest for Regional Center Employees, Contractors, Agents and Consultants.

Remove “Sanctions” title for previously repealed section 54529.

Add provision that in addition to the specific conflict of interest requirements and restrictions set forth in the regulations, regional center employees, contractors, agents and consultants are obligated to discharge their responsibilities with integrity and fidelity, and are prohibited from placing themselves in a position where their private, personal interests may conflict with their official duties.

Add provision that a regional center employee, contractor, agent or consultant is impliedly bound to exercise the powers conferred on him or her with disinterested skill, zeal and diligence and for the benefit of the regional center and its consumers.

Add provision that if a situation arises that has not been specifically addressed in these regulations, where a present or potential personal conflict of interest exists as to a particular transaction or decision, the employee, contractor, agent or consultant is disqualified from taking any part in the discussion, or from making any recommendation or decision regarding the particular matter.

Add provision that in interpreting and applying this section, the common law doctrine against conflict of interest and the authorities interpreting that doctrine shall govern.

§ 54530. Employees, Contractors, Agents and Consultants Conflicts With Regional Center Duties.

Add provision that a conflict of interest exists when a regional center employee, contractor, agent or consultant participates in the evaluation of an application for employment or bid for position or contract at the regional center that is submitted by a family member of such person.

Add provision that a potential conflict of interest exists when a regional center employee, contractor, agent or consultant acts as a supervisor of his or her family member.

§ 54531. Conflict of Interest Reporting Statements for Employees, Contractors, Agents and Consultants, Time for Filing.

Add provision that each regional center employee, contractor, agent, and consultant, who has authority to act on behalf of the regional center, or who has decision or policy-making authority as defined in the regulations shall complete and file a standard conflict of interest reporting statement, developed by the Department.

Add provision that each regional center employee, contractor, agent, and consultant shall complete and file an annual conflict of interest reporting statement with his or her respective regional center, whether or not the individual has identified a present or potential conflict of interest, by August 1 of each year.

Add provision that each newly appointed regional center employee, contractor, agent, and consultant shall complete and file a standard conflict of interest reporting statement with the individual's respective regional center within 30 calendar days of assuming the position.

Add provision that each regional center employee, contractor, agent, and consultant shall complete and file a new conflict of interest statement within 30 calendar days of any change in status that creates a present or potential conflict of interest. Regulation defines what constitutes a change of status warranting a new conflict of interest statement.

Add provision that the executive director of the regional center shall review the completed conflict of interest reporting statement of each regional center employee, contractor, agent, and consultant required to file a statement and determine whether the statement identifies a present or potential conflict of interest.

§ 54532. Conflict of Interest Reporting Statements for Regional Center Governing Board Members and Regional Center Executive Directors, Time for Filing.

Add provision that each regional center governing board member and regional center executive director shall complete and file an annual conflict of interest reporting statement, developed by the Department, with his or her respective regional center governing board, whether or not the individual has identified a present or potential conflict of interest, by August 1 of each year.

Add provision that each new candidate for the regional center governing board and each new candidate for regional center executive director shall disclose any present or potential conflicts of interest to the regional center governing board, prior to being appointed, elected, or approved for hire, by the regional center or the regional center governing board.

Add provision that each new regional center governing board member and each new regional center executive director shall complete and file a conflict of interest reporting statement with his or her respective regional center board, within 30 calendar days of being selected, appointed, elected, or approved for the position.

Add provision that each regional center governing board member and each regional center executive director shall complete and file a new conflict of interest statement with his or her respective regional center board, within 30 calendar days of any change in status that creates a present or potential conflict of interest. Defines what constitutes a change of status that requires filing a new statement.

Add provision that the regional center governing board shall submit a copy of each completed conflict of interest statement, of the governing board members and the regional center executive director, to the Department of Developmental Services within 10 working days of receipt of the completed conflict of interest statement.

Add provision requiring the Department and the regional center governing board to review the conflict of interest statements of each regional center governing board member and each regional center executive director and determine whether the statement identifies a present or potential conflict of interest.

§ 54533. Present or Potential Conflict of Interest Identified, Proposed Conflict Resolution Plan Content, Timelines for Submission of Proposed Conflict Resolution Plan.

Add provision that when a present or potential conflict of interest is identified for a regional center board member, executive director, employee, contractor, agent or consultant, the present or potential conflict shall be either eliminated or mitigated and managed through a Conflict Resolution Plan, or the individual shall resign his or her position with the regional center or regional center governing board.

Add provision that when a present or potential conflict of interest has been identified by the regional center executive director for a regional center employee, contractor, agent or consultant, the regional center shall submit a copy of the completed conflict of interest statement and a proposed Conflict Resolution Plan for eliminating or mitigating and managing the present or potential conflict to the Department of Developmental Services within 30 calendar

days of receipt of the completed conflict of interest statement from the employee, contractor, agent or consultant.

Add provision that when a present or potential conflict of interest has been independently identified by the Department for a regional center employee, contractor, agent or consultant, the Department shall notify the regional center executive director, in writing, of the present or potential conflict, and that the regional center executive director shall submit a copy of the completed conflict of interest statement and a proposed Conflict Resolution Plan for eliminating or mitigating and managing the present or potential conflict, to the Department within 30 calendar days of receipt of the Department's notification.

Add provision requiring that when a present or potential conflict of interest has been identified by the regional center governing board, for a regional center governing board member or regional center executive director, the regional center governing board shall submit a copy of the completed conflict of interest statement and a proposed Conflict Resolution Plan for eliminating or mitigating and managing the present or potential conflict, to the Department, in addition to the area board in the respective area, and to the State Council, within 30 calendar days of receipt of the completed conflict of interest statement.

Add provision that when a present or potential conflict of interest has been independently identified by the Department for a regional center governing board member or regional center executive director, the Department shall notify the regional center governing board, in writing, of the present or potential conflict, and that the regional center governing board shall submit a copy of the completed conflict of interest statement and a proposed Conflict Resolution Plan for eliminating or mitigating and managing the present or potential conflict, to the Department, in addition to the area board in the respective area, and to the State Council, within 30 calendar days of receipt of the Department's notification.

Add provision requiring regional center to post on its Internet Website each completed conflict of interest reporting statement that identifies a present or potential conflict of interest that cannot be resolved within 30 calendar days of receipt by the regional center governing board or the regional center executive director, or within 30 calendar days of receipt of the Department's notification that it has independently identified a present or potential conflict of interest.

Add requirement that a completed conflict of interest reporting statement shall remain on the regional center's Internet Website until the present or potential conflict of interest has been eliminated, or the individual has resigned his or her regional center position.

Add provision that the proposed Conflict Resolution Plan must be a written, detailed plan to eliminate or mitigate and manage the present or potential conflict of interest

Add provision specifying the required contents of a Conflict Resolution Plan.

§ 54534. Conflict Resolution Plan Review, Procedures.

Add provision that not later than 90 calendar days after the area board in the respective area and the State Council receive copies of the completed conflict of interest reporting statement and the proposed Conflict Resolution Plan for a regional center governing board member or regional center executive director, the area board and the State Council shall each provide to the Department their written approval or disapproval of the proposed Conflict Resolution Plan.

Add provision specifying that if either the area board or the State Council fail to provide the Department with its written approval or disapproval of the proposed Plan within 90 calendar days of receipt of the conflict of interest statement and the proposed Plan, the Department of Developmental Services alone, may make the decision to disapprove the proposed Plan. Specify that the Department shall not approve a proposed Conflict Resolution Plan without the approval of both the area board and the State Council.

Add provision that the Department shall determine whether a proposed Conflict Resolution Plan is sufficient or needs to be modified to adequately eliminate, or mitigate and manage, the present or potential conflict of interest, and that the Department may impose additional restrictions and additional obligations to the proposed Conflict Resolution Plan and/or make a determination that further information is required.

Add provision that the Department is responsible for making the final decision as to what conditions, restrictions, obligations, or actions, if any, shall be imposed or taken, by the regional center governing board, regional center, and/or the individual(s), to eliminate, or mitigate and manage, the present or potential conflict of interest.

Add provision that the proposed Conflict Resolution Plan shall be approved, in writing, by the Department, and the Conflict Resolution Plan fully implemented, prior to the individual engaging in otherwise prohibited conduct, and that Department approval is not granted until the regional center receives such determination in writing. Specifies that individuals may not engage in activities in which there is a present or potential conflict of interest except in accordance with the terms of an approved Conflict Resolution Plan.

Add provision that Department approval of a proposed Conflict Resolution Plan is not valid unless it is based upon full disclosure of all relevant information by the regional center governing board, regional center, and/or the individual(s), with the present or potential conflict of interest. Specifies that nondisclosure or misrepresentation, of present or potential conflicts of interest or of material

information bearing on the proposed Conflict Resolution Plan decision, shall result in the Department's rescission of its approval and/or immediate denial of the proposed Conflict Resolution Plan, in addition to any civil penalties imposed by law.

Add provision that the Department shall issue its modification, approval, or denial of the proposed Conflict Resolution Plan, in writing, to the regional center governing board or the regional center's designated party, within 30 calendar days of receiving the written approval or disapproval of the proposed Conflict Resolution Plan from the area board and the State Council, for regional center governing board members or executive directors, and within 30 calendar days of receipt of the proposed Conflict Resolution Plan, for employees, contractors, agents and consultants, unless the Department determines there is good cause for extending the time to respond.

Add provision that if the proposed Conflict Resolution Plan of an employee, contractor, agent or consultant is denied by the Department, the individual shall have 30 calendar days, from the date of receipt of the Department's written denial, in which to take the necessary action to eliminate the conflict of interest or resign his or her position as an employee, contractor, agent, or consultant. Specify that the Department may, in exercise of its discretion grant the individual and/or the regional center an extension in which to complete any actions necessary to eliminate the conflict of interest.

Add provision that if the proposed Conflict Resolution Plan of a regional center governing board member or executive director is denied by the Department and/or the State Council or area board in the respective area, the governing board member or executive director shall have 30 calendar days, from the date of receipt of the Department's written denial, in which to take the necessary action to eliminate the conflict of interest or resign his or her position as a regional center governing board member or executive director. Specify that the Department may, in exercise of its discretion, grant the regional center governing board, governing board member, executive director or regional center, an extension in which to complete any actions necessary to eliminate the conflict of interest.

Add provision that if the proposed Conflict Resolution Plan is approved by the Department, the approved Conflict Resolution Plan shall be implemented not later than 30 calendar days after written notification is mailed by the Department, unless the Department, grants the regional center governing board, the regional center and/or the individual(s) an extension in which to complete any actions necessary to implement the approved Conflict Resolution Plan.

Adds provision that the regional center governing board, the regional center, and/or the covered individual(s) shall fully comply with all elements set forth in the approved Conflict Resolution Plan, and that when required by the terms of

the approved Plan, the regional center governing board, the regional center, and the individual(s) shall provide documentation demonstrating compliance with the approved Plan to the Department.

Adds provision that a new proposed Conflict Resolution Plan shall be submitted to the Department on an annual basis and upon any change of status that creates a present or potential conflict of interest.

Adds provision that the regional center governing board and/or the regional center shall retain a copy of each conflict of interest reporting statement and any approved Conflict Resolution Plan for the period of time consistent with the record retention requirements in its State contract.

§ 54535. Sanctions.

Adds provision specifying what actions must be taken if the Department of Developmental Services finds a regional center governing board, board member, executive director, employee, contractor, agent, or consultant, in violation of any of the provisions of the regulations.

Adds provision that if the violation is not resolved or eliminated within the 30 calendar days, and no extension of time has been granted by the Department, the Department may take immediate action to commence procedures for termination or nonrenewal of the regional center contract.

Evaluation As To Whether The Proposed Regulations Are Inconsistent Or Incompatible With Existing State Regulations

The Department has evaluated this proposal and determined that it will not be inconsistent or incompatible with existing state regulations. This evaluation included a review of the Department's existing regulations.

OTHER MATTERS PRESCRIBED BY STATUTES APPLICABLE TO THE SPECIFIC STATE AGENCY OR TO ANY SPECIFIC REGULATION OR CLASS OF REGULATIONS

No other matters are prescribed by statute applicable to the Authority or to any specific regulation or class of regulation pursuant to section 11346.1(b) or 11346.5(a)(4) of the Government Code pertaining to the Emergency Regulations or to the Authority.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

DDS has determined that the proposed amendments to the regulations do not impose a mandate on local agencies or school districts for a new program or higher level of service for an existing program.

FISCAL IMPACT

DDS has determined that the emergency regulations do not impose any additional cost or savings requiring reimbursement under Government Code section 17500, et seq., any non-discretionary cost or savings to local agencies or school districts, or any cost or savings in federal funding to the State. DDS has determined there will be no cost or savings to any State Agency pursuant to section 11346.1(b) or 11346.5(a)(6) of the Government Code.

ECONOMIC IMPACT

DDS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. DDS has made a determination that the emergency regulations would not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. DDS has determined that the emergency regulations would not significantly affect the creation or elimination of jobs, the creation of new businesses, the elimination of existing businesses, or the expansion of businesses currently doing business, within the State of California.