

Conservatorship Values and Principles

All individuals with intellectual and/or developmental disabilities (I/DD) have the same rights to personal autonomy, liberty, freedom, and dignity as individuals without disabilities.

Adults with I/DD are competent and able to make their own decisions with and without support. The individual's diagnosis and communication challenges should not be a factor in their ability to make decisions.

Individuals with I/DD should have opportunities and experiences throughout their life to make age-appropriate decisions and develop their decision-making skills. These may include:

- Information about formal and informal supports to help advocate for their decisions and preferences, including supported decision-making, healthcare proxies and advance directives.
- Access to educational opportunities and experiences to help strengthen decision-making skills.
- Access to formal and informal decision-making supports based on their preferences and choice.

Information and training about all options for assisting individuals with I/DD in making decisions and alternatives to conservatorship must be available to individuals and the people who support them. The materials should be in plain language and available in languages spoken by individuals served by regional center and their families.

Supported decision-making should be tried and found ineffective before a conservatorship petition begins. Decisions regarding conservatorship must be made individually, tailored to the person's specific needs and abilities and identify any additional services and supports for the individual or their family which may lessen the need for a conservatorship.

If a conservatorship is necessary, it should be limited to the fewest restrictions necessary for the shortest amount of time and tailored to the

individual's specific abilities and needs. The preferences and opinions of the individual with I/DD with respect to the identity and function of the proposed conservator must be considered.

Individuals with I/DD must be informed when a conservatorship is granted and be provided with information about the powers the conservator has and the powers they still have.

Individuals who are conserved should be afforded opportunities to participate to the maximum extent possible in making and carrying-out decisions about themselves. Conservators must engage individuals in decision-making processes and support their preferences and desires as much as possible.

The need for a conservatorship and the powers held by the conservator must be reviewed once a year. As part of the review process, the conservatee's preferences must be considered. Conservatorships should be terminated if no longer needed and the conservator's powers modified as appropriate.

As a system goal, the Department of Developmental Services (DDS), its partners and interested parties should work to decrease the number of conservatorships and expand knowledge and use of alternatives to conservatorships.

In addition to conservatorship principles, the DDS follows these principles when it is asked to be or is acting as an individual's conservator.

Initial Conservatorship Review

DDS accepts nominations for conservatorship only as a last option and following a detailed review process. When accepting a conservatorship request, DDS will decide if it is necessary to protect the health, safety, and well-being of an individual, if there are alternatives or less restrictive options to conservatorship and if others are available to be the conservator.

Monitoring of Conservatorships and Biennial Review

On an ongoing basis, DDS will monitor the health, safety and well-being of its conservatees. This includes confirming that the conservatee lives in the least restrictive environment, is receiving the services and supports identified in their Individual Program Plan (IPP) and their rights are protected. DDS will review whether its conservatorship is the least restrictive option for the individual including identifying other services that may increase the conservatee's decision-making skills, lessen the need for a conservatorship or support changes to the conservator's powers, and review the availability of another individual to serve as a conservator.

Monitoring includes:

- Review of the regional center's monthly status update; the independent advocates reports; other information including from licensing, and long-term care Ombudspersons.
- Meeting with the conservatee to address any questions or concerns.
- Follow up meetings or discussions with the conservatee, regional center, independent advocate and others as needed to address questions or concerns.

Yearly review the need for the conservatorship to continue, alternatives to conservatorship and to make changes to the conservatorship powers. The second-year review will include a review of the following:

- The information gathered through its ongoing monitoring.
- The information provided by the regional center during its person-centered review every two years, including any independent professional assessment about the need for the conservatorship.
- The probate investigator's report.
- Information from the conservatee about their preferences for alternatives to conservatorship, whether the conservatorship should end or continue, changes to the conservator's powers, who is appointed as conservator, additional services or supports they need to increase their decision-making skills.

Independent Advocate Responsibilities

DDS will arrange for an independent advocate to meet with each DDS conservatee following the court's approval of the conservatorship. This will take place twice in the first year to support the conservatee as needed at

IPP meetings or other inter-disciplinary team meetings and to take action if the conservatee's concerns are not addressed.

Regional Center Responsibilities

When a conservatorship is delegated to a regional center, DDS will require the following to ensure the individual is receiving the services and supports specified in their IPP and that their health, safety and well-being is protected.

- There is a separation of the service coordination responsibilities from the responsibilities the regional center has to make decisions for the conservatee.
- Identify the individual(s) responsible for meeting with the conservatee and making decisions required by the conservatorship.
- IPP teams should encourage goals and supports needed for the individual to strengthen skills to increase independence and decision-making skills to be able to direct their own life.
- Monthly review and reporting about the individual including the individual's health, safety and welfare, changes to their living arrangement, services and supports, current abilities and functioning and whether a less restrictive alternative is now indicated. Obtain and consider information provided by the conservatee.
- Yearly review to assess the need for a conservatorship, alternatives to conservatorship and the conservator's powers. Consider additional services and supports to improve the individual's decision-making skills. Obtain and consider information provided by the conservatee. The second-year review through a person-centered planning process, will review the need for the conservatorship, review each of the conservator powers, and alternatives to conservatorship, consider changes to the individual's decision-making skills, and the need for additional services and supports including those needed to support more independent decision-making skills. This review should include an independent professional assessment of the need for a conservatorship. Information provided by the conservatee must be obtained and considered

- Following the review, initiate the process to recommend termination of any conservatorships that are no longer needed and/or modify the powers held by the conservator as necessary.

Information and Training

DDS should provide information and annual training for regional center and Family Resource Center staff. The information and training should be sufficiently in depth so that regional center staff can appropriately respond to questions about conservatorship and alternatives; the range of services including person-centered planning to address individuals needs throughout their life-span, address biases about individuals with I/DD decision-making skills, alternatives to conservatorship, conservatorship principles, and culturally relevant options for families who are exploring conservatorship or alternatives.