

# STATE COUNCIL ON DEVELOPMENTAL DISABILITIES

## Appointment of Authorized Representative

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### **POLICY**

The State Council on Developmental Disabilities (SCDD) is entrusted with the authority to appoint an authorized representative to assist individuals with intellectual and developmental disabilities (I/DD) in expressing their desires, making decisions and advocating their needs, preferences, and choices where the individual has no other identified representative and has a need for representation. This Policy provides a summary of the duties and authority of Authorized Representatives and the roles and responsibilities associated with the review of requests for appointments of authorized representatives.

### **LEGAL AUTHORITY**

Welfare & Institutions Code §§ 4541, subd. (a)  
42 U.S.C. § 15001 et seq.

### **REQUIREMENTS FOR APPOINTMENT OF AN AUTHORIZED REPRESENTATIVE**

Welfare & Institutions Code (WIC) section 4541 authorizes the SCDD to appoint an Authorized Representative for persons with I/DD when the person with I/DD has no parent, guardian, or conservator legally authorized to represent them and either:

- 1) The person has requested the appointment of an Authorized Representative, or
- 2) The SCDD determines the rights or interests of the person will not be properly protected or advocated without the appointment of the representative.

In addition, the SCDD shall appoint an Authorized Representative to advocate the rights and protect the interest of a person residing in a developmental center when a regional center recommends that a person be admitted to a community care facility or health facility as a developmentally disabled resident pursuant to Welfare & Institutions Code section 4803.

It is essential to keep in mind that following the appointment of an Authorized Representative, the right of the person to reject the assistance of the Authorized Representative shall be honored. Furthermore, the appointment of an Authorized Representative is limited to advocacy purposes. Therefore, the Authorized Representative is not authorized to make decisions for the represented individual or to sign Individual Program Plans (IPPs) or any legal documents on the individual's behalf.

However, as an advocate, the authorized representative can speak on behalf of the represented individual.

## **AUTHORITY OF THE AUTHORIZED REPRESENTATIVE**

All appointments of Authorized Representatives will be limited to periods not to exceed one year, subject to renewal if requested and approved by the SCDD. Appointments will also be limited to specific purposes.

WIC section 4541(a)(1) provides authorized representatives with the general authority to assist individuals in expressing their desires and in making decisions and advocating their needs, preferences, and choices. Additional sections of the WIC address specific situations where Authorized Representatives may advocate for assist individuals by speaking on their behalf or providing other forms of assistance. Some of the statutory authority is summarized below. This list is neither fully inclusive nor restrictive but illustrates some of ways Authorized Representatives may advocate for individuals.

**WIC § 4803:** Advocate for the rights and protect the interests of individuals residing in a developmental center for whom community placement is proposed.

**WIC § 4418.3:** Provide assistance with Regional Resource Development Project in transition process from a developmental center to a community living arrangement.

**WIC § 4646:** Actively participate in the development of the represented individual's IPP. The Authorized Representative may not sign the IPP on behalf of the individual; rather, the Authorized Representative may sign the IPP as a participant only.

**WIC § 4646.6:** The Authorized Representative has the right to record electronically the proceedings of an IPP meeting on an audiotape recorder. The Authorized Representative shall notify the regional center of their intent to record the meeting at least 24 hours prior to the meeting.

**WIC § 4648(a)(6):** Participate in the process of selecting a provider of consumer services and supports.

**WIC § 4705(e):** Assist in the mediation and fair hearing procedure.

**WIC § 4685.7:** Authorized Representatives can also assist individuals who participate in the Self-Directed Services Program. As part of that process, the Authorized Representative will receive two individual budget amounts and assist the individual in selecting which of those budget amounts will be used to implement their IPP.

## **DETERMINATION OF THE APPROPRIATE AUTHORIZED REPRESENTATIVE**

Individuals have the right to choose their Authorized Representative, which shall be honored, unless good cause otherwise exists. If the individual does not express a preference, the order of preference for selection shall be as follows:

- 1) the person's parent;

- 2) involved family members;
- 3) a volunteer selected by the SCDD.

Unless good cause otherwise exists, the requests of parents or involved family members to be appointed as the Authorized Representative shall be honored. Parents or involved family members shall not be required to be appointed guardian or conservative to be selected as the Authorized Representative.

NOTE: An SCDD employee funded solely from the Basic State Grant may not be appointed as an authorized representative.

**ROLES AND RESPONSIBILITIES**

<b>Role</b>	<b>Responsibilities</b>
Regional Office Staff	<ul style="list-style-type: none"> <li>• Process the intake of requests for appointments of Authorized Representatives.</li> <li>• Maintain records of submitted requests.</li> <li>• Ensure the Regional Manager is timely notified of each request.</li> </ul>
Regional Office Managers	<ul style="list-style-type: none"> <li>• Establish interoffice procedures for processing requests for appointments of Authorized Representatives.</li> <li>• Inform the Executive Director and Deputy Director of Regional Office Operations of each request.</li> <li>• Review relevant documents and conduct investigations when it is determined that additional information is needed.</li> <li>• Submit recommendations to the Executive Director with a recommendation to approve or deny the request.</li> <li>• Upon receipt of a determination from the Executive Director, send the individual requesting the appointment a letter notifying the requestor that the request was approved or denied.</li> </ul>
Executive Director	<ul style="list-style-type: none"> <li>• Conduct a timely and prompt review of requests for appointments of Authorized Representatives and related documents.</li> <li>• Following review of the request and supporting documentation, determine if the request shall be approved or denied, or if further information is needed.</li> <li>• If the request is approved, determine the specific purposes of the appointment and authorize the appointment for a period not to exceed one year.</li> <li>• Provide the Council with updates of approved and denied requests during Executive Committee meetings.</li> </ul>