



**ALTA CALIFORNIA REGIONAL CENTER  
CONSERVATORSHIP POLICY  
OCTOBER 2022  
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**Board Approved:           DATE**

**Purpose**

This policy is intended to provide Alta California Regional Center (ACRC) board members, employees, individuals served and their families, community partners, and members of the broader community with information about ACRC perspective, policy, and process regarding conservatorships of individuals with developmental disabilities.

**Legal Background**

Individuals with developmental disabilities have the same legal rights and responsibilities guaranteed all other individuals by the U.S. Constitution and laws and the Constitution and laws of the State of California. (WIC section 4502(a).)

Among those rights are the right to receive treatment and services in the least restrictive environment, and to make choices in their 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. (WIC 4502(b)(1) and (10).)

In California, adults with disabilities are presumed competent and to have the capacity to make decisions regarding their day-to-day health, safety, welfare, and social and financial affairs, unless otherwise determined through legal proceedings. (Probate Code section 810(a); WIC section 21000(a).) A person who has a mental or physical disorder may still be capable of contracting, conveying, marrying, making medical decisions, executing wills or trusts, and performing other actions. (Probate Code section 810(b).) All adults, to the best of their ability and with supports they choose, should be able to be informed about, and participate in, the management of their affairs. (WIC section 21000(b).)



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The capacity of an adult should be assessed with any supports, including supported decision-making, that the person is using or could use. (WIC section 21000(d).)

A conservatorship of the person or estate shall not be granted by the court unless the court makes an express finding that the granting of the conservatorship is the least restrictive alternative needed for the protection of the conservatee. (Probate Code section 1800.3(b).)

### **Policy**

Consistent with the law cited above, and the intent of the Legislature as expressed in the Lanterman Act to promote the empowerment of individuals with developmental disabilities to make choices in all life areas, to be integrated into the mainstream of life in their communities, and to provide services and supports to assist individuals with living independent, productive, and normal lives in healthy and stable environments, ACRC has developed this Conservatorship Policy.

#### **1. Need for Decision-Making Support**

ACRC acknowledges that many adults, both with and without disabilities, may require assistance to make decisions in a variety of life areas. For adults with developmental disabilities, ACRC supports the full exploration of options available to support client choice and decision-making while at the same time protecting and advancing their fundamental civil rights. ACRC believes that the range of decision-making support options should be available to all individuals with developmental disabilities regardless of ethnicity, primary language, or socioeconomic status.

ACRC believes that Supported Decision-Making, newly codified in Welfare and Institutions Code sections 21000 through 21008, represents a promising alternative to conservatorship. It enables adults with disabilities to maintain authority over their own lives while encouraging them to identify, create, and maintain supportive communities that can assist them with making informed decisions. Formalizing Supported Decision-Making in State law, including its application in medical, legal, financial, and educational decision-making, would enhance its broader acceptance and effectiveness.



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ACRC further believes that existing less restrictive alternatives to conservatorship, which are typically also free or low in cost, voluntary, easily modifiable and revocable by the client, can also offer effective alternatives to conservatorship, including, but not limited to: advance healthcare directives, powers of attorney for healthcare, written authorization to disclose information and records, Assignment of Educational Decision-Making Rights, regional center planning team process, representative payeeship, CalABLE accounts, as well as more informal supports.

### **2. ACRC Conservatorship Recommendations Shall be Based on Assessment and Conservatorship Review Committee Findings**

In developing agency recommendations relating to proposed or existing client conservatorships, ACRC shall rely upon an individualized assessment of the client by the Service Coordinator, in conjunction with a review of existing client information and records, and the majority opinion of a multidisciplinary Conservatorship Review Committee (CRC). The CRC shall be composed of a minimum of one ACRC Legal Department staff member, one Associate Client Services Director, One Client Advocate, Two Client Services Managers, Two Service Coordinators, a Staff Psychologist, and a Staff Physician.

### **3. Conservatorship Shall Be a Last Resort**

Because conservatorship by definition removes or restricts an adult's fundamental civil rights and choice in their life, it is an inherently restrictive legal arrangement. Therefore, ACRC, in its recommendations to the probate court, DDS, County Public Guardians, or to other agencies or individuals shall consider and promote the use of the least restrictive alternatives to meet the needs of individuals with developmental disabilities in lieu of conservatorship to the greatest extent possible. This includes for recommendations provided by ACRC

- in assessment reports filed connection with initial conservatorship petitions pursuant to Probate Code section 1827.5;
- in relation to any subsequent conservatorship proceeding for a conserved client;
- in communications with probate court investigators as part of any conservatorship investigation or review of an ACRC client; and
- in considerations of whether to refer a client for conservatorship by a County Public Guardian or to nominating DDS to petition for appointment as the individual's conservator.



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**4. If Conservatorship is Needed, Limited Conservatorship Should be Established**

If after a thorough exploration of alternatives to conservatorship ACRC determines there is no less restrictive option for any specific individual, a limited rather than a general conservatorship should be approved following careful consideration of the need for granting each proposed power to a conservator, as well as careful consideration of the need to remove or restrict the client's rights in each area.

**5. ACRC Conservatorship Referrals to County Public Guardians**

ACRC may refer a client to the Public Guardian for the County in which the client resides, to request they consider petitioning for appointment as the client's limited conservator only when ACRC has:

- Undertaken an individualized assessment of the client's needs; AND
- Through the Conservatorship Review Committee, thoroughly explored all alternatives to meet the client's needs and determined that there are no less restrictive options to meet the client's needs, AND
- Through the Conservatorship Review Committee determined that conservatorship is needed to protect the health, safety, or welfare of the client, or otherwise provide a critical service, AND
- ACRC finds there is no appropriate individual able or willing to serve as the client's conservator.

**6. ACRC Nomination for DDS Conservatorship**

ACRC may refer a client to the Director of the Department of Developmental Services (DDS) to request they consider petitioning for appointment as the client's limited conservator only when ACRC has:

- Undertaken an individualized assessment of the client's needs; AND
- Through its Conservatorship Review Committee thoroughly explored all alternatives to meet the client's needs and determined that there are no less restrictive options to meet the client's needs, AND
- Through its Conservatorship Review Committee determined that conservatorship is needed to protect the health, safety, or welfare of the client, or otherwise provide a critical service, AND
- ACRC finds there is no appropriate individual able or willing to serve as the client's conservator, AND



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- The Public Guardian for the County in which the client resides has refused or declined ACRC's conservatorship referral AND
- ACRC's Executive Director approves of the nomination.

The Director of DDS has the absolute discretion to decline any nomination for conservatorship.

### **7. ACRC shall provide the services of the Conservator for DDS-Conserved individuals.**

In the rare instance that the Director accepts the nomination, and applies for and is granted limited conservatorship of the person of an ACRC client, ACRC is responsible to provide the client the services of the conservator as DDS's designee.

ACRC must follow the guidelines developed by DDS to ensure appropriate oversight of the client, and to mitigate any conflicts that might arise when a regional center acts as designee of the DDS Director for the conservatee while also being responsible for service coordination. Among DDS guidelines for DDS-conserved clients is monthly monitoring of any changes to the client or their status or services, and the requirement for the regional center to complete for each DDS-conserved client a person-centered comprehensive assessment at least every other year to inform the client's IPP.

In providing the services of the Conservator as designee of DDS, ACRC shall accommodate the desires of the conservatee to the greatest extent possible. Also, to the greatest extent possible, ACRC shall support the DDS conservatee to maximize their autonomy, support the conservatee in making decisions, and, on a regular basis, inform the conservatee of decisions made on their behalf. In determining the desires of the conservatee, ACRC shall consider stated or previously expressed preferences, including preferences expressed by speech, sign language, alternative or augmentative communication, actions, facial expressions, and other spoken and nonspoken methods of communication.

### **Notification of Conservatorship Policy**

ACRC will post this Conservatorship Policy on its website and will provide copies of the Policy to any individual upon request.