



ACRC – CONSERVATORSHIP POLICY

Board Approved:

November 17, 2022

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).)

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).)



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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.

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.

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.

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.