

DEPARTMENT OF DEVELOPMENTAL SERVICES

1600 NINTH STREET, Room 240, MS 2-13
SACRAMENTO, CA 95814
TDD 654-2054 (For the Hearing Impaired)
(916) 654-1897



April 11, 2012

**DEPARTMENT OF DEVELOPMENTAL SERVICES
REQUEST FOR FUNDING****I. SUMMARY OF REQUEST**

The Department of Developmental Services (DDS) requests that the First 5 California Children and Families Commission (Commission) fund \$50,000,000 for regional center services provided to children aged 0 to 5 through the Early Start Program pursuant to the Lanterman Developmental Disabilities Services Act (Lanterman Act). Critical services need to be funded.

II. BACKGROUND

DDS provides community-based services to approximately 258,000 individuals with developmental disabilities (consumers) and their families through a statewide system of 21 regional centers. Regional centers are private, nonprofit agencies that DDS contracts with for the provision of services and supports to persons with developmental disabilities.

Regional centers diagnose individuals; assess eligibility for individuals; and help plan, access, coordinate and monitor the necessary services and supports for consumers.

The Department of Developmental Services administers a statewide service system for children ages 0 through 5 under the California Early Intervention Services Act and the Lanterman Developmental Disabilities Services Act as follows:

Individuals Aged 0 to 2

Families whose infants or toddlers age 0 through 2 have a significant developmental delay or an established risk for developmental delay or disability can participate in the Early Start Program. The Early Start Program is partially funded through the federal Individuals with Disabilities Education Act (IDEA), 20 U.S.C. section 1400, et seq. Teams of service

"Building Partnerships, Supporting Choices"

coordinators, healthcare providers, early intervention specialists, therapists, and parent resource specialists can evaluate and assess infants and toddlers and provide appropriate early intervention services to children eligible for California's Early Intervention Program.

Individuals Aged 3 and Older

Pursuant to the Lanterman Act, families with minor children who have developmental disabilities and adults with developmental disabilities are entitled to community-based services and supports from regional centers. Depending on the individual needs of the consumer, the services and supports could include: day program or residential services, information, referrals, assessments, diagnoses, assistance in finding and utilizing community and other resources, and family support.

Under the Lanterman Developmental Disabilities Services Act, quality services are provided to children three through five years of age with mental retardation, cerebral palsy, epilepsy, autism and other disabling conditions requiring treatment similar to mental retardation. Based on assessed need, a variety of services are provided to support development and to maintain the child in the family home.

The Commission has previously funded services for children ages 0 to 5 and fiscal years 2009-10 and 2010-1. Fiscal year 2011-12 funding is needed by DDS to provide necessary services to children. As part of this funding DDS will:

- A. Continue to receive federal funds that partially support Early Start services;
- B. Ensure access to services for young children early enough to make a long term difference in their developmental outcomes;
- C. Sustain the existing service system upon which Early Start and Lanterman services are built; and
- D. Fund growth in the program which is consistent with First 5 California's 2008 Strategic Plan.

Regional centers continue to experience growth in the number of new infants and toddlers requesting services from the system. A large number of these children have been diagnosed with autism. The continued growth of children needing early childhood services has outpaced resources.

The DDS budget appropriation for FY 2011-12 reflects the need of \$50,000,000 budgeted for services to children to age five that are eligible for funding from the California Children and Families Commission. The funding is needed to continue to provide the critical services.

III. LEGAL STANDARD FOR COMMISSION FUNDING REQUESTS

Proposition 10, the California Children and Families Act, was approved by voters in November 1998. The original ballot measure contained a section that is codified in Revenue and Taxation Code Section 30131.4. This section provides that no moneys in the California Children and Families Trust Fund shall be used to supplant state or local General Fund money for any purpose, and that these funds shall be used only to supplement existing levels of service and not to fund existing levels of service. The Attorney General's Office has interpreted this statute to mean that no moneys from the California Children and Families Trust Fund shall be used to take the place of existing funding that currently exists for any purposes, but, rather, moneys collected pursuant to the California Children and Families Act are to be used to add to existing levels of services that currently exist and to supplement those levels. In short, Commission funds shall be used to augment, add to or enhance existing programs, funds, grants and/or services.

IV. ANALYSIS

DDS's request for \$50,000,000 is consistent with California Revenue and Taxation Code Section 30131.4. First, the funds DDS seeks would be used to supplement existing regional center services for children aged 0 to 5 through the Early Start Program and pursuant to the Lanterman Act.

Second, the funds DDS seeks would not supplant any General Fund dollars. The DDS contracts with the regional centers do not currently include sufficient funding for these services. This funding will not be allocated to the regional centers in the contracts between DDS and the regional centers until the funds are approved by the Commission.

Additionally, it is well settled that a child's overall health and development can make an important difference in how he or she will do in school.

A child who does not receive necessary audiology or vision services or speech therapy might struggle to keep up with peers and even experience learning difficulties. Likewise, a child who does not receive critical nutritional or health services might miss school due to poor health. Further, more than any other time in their lives, infants and toddlers are growing and developing at an amazing rate. They must receive adequate nutrition, intervention services, and treatment for chronic and acute conditions. In addition, the parents of a child with a developmental disability or at risk of a developmental disability must receive critical information from health care professionals to help their child maximize his or her potential.

Furthermore, funding an expansion of Early Start Program and Lanterman Act services for children between 0 and 5 years of age is consistent with the Commission's 2008 Strategic Plan. Specifically, the expansion is consistent with the Commission's vision that all children enter school ready to achieve their greatest potential, as well as:

- *Strategy 1.1* – Increase the number and depth of state and national partnerships and affiliations.
- *Strategy 1.3* – Facilitate and support health care coverage and quality care for all children 0 to 5.
- *Strategy 1.4* – Facilitate and support early care and educational development for all children 0 to 5.
- *Strategy 1.5* – Facilitate and support policies and programs that promote family self-sufficiency.
- *Strategy 3.2* – Share information and messages with California's diverse populations through partnerships.
- *Objective 3.2.2* – Establish partnerships with at least two public agencies with similar goals, linking First 5 California's name and/or program with their name for increased effectiveness.

Finally, if the Commission chooses not to fund the new services for the regional centers' infant and toddler caseload growth in the current fiscal year, DDS will be unable to provide all of the necessary services to the infants and toddlers in need of regional center services, jeopardizing the individuals' progress toward minimizing the risk of developing a developmental disability or ameliorating the impact of their disability. In addition, the federal funds that DDS receives for the administration of the Early Start Program would be at risk.

April 11, 2012
Page Five

V. CONCLUSION

DDS respectfully requests that the Commission fund regional center services for children between 0 and 5 years of age. The regional center services serve a critical role for the affected children. Funding the \$50,000,000 is consistent with the Commission's statutory authority and mission statement, and no reasonable alternatives exist to serve the relevant infants and toddlers. Therefore, DDS requests the Commission approve its request.

Sincerely,

Original signed by Mark Hutchinson for

TERRI DELGADILLO
Director



February 1, 2012

Ms. Jennifer Kent, Chair
California Children and Families Commission
2389 Gateway Oaks, Suite 260
Sacramento, CA 95833

Dear Ms. Kent:

Proposition 10 Funds for the Department of Developmental Services

This letter is in response to the California Children and Families Commission's (Commission's) concern that the Fresno County Superior Court's decision regarding Chapter 4, Statutes of 2011 (AB 99, Blumenfield, et al.) may have legal ramifications that would preclude the Commission from allocating \$50 million in Proposition 10 funds that are budgeted for the Department of Developmental Services (DDS) as part of the Budget Act of 2011.

As enacted, AB 99 would have transferred \$50 million from the Commission's Proposition 10 accounts and \$950 million from the various county Children and Families Trust Funds into the Children and Families Health and Human Services Fund (CFHHSF) to support state health and human services programs for children from birth through five years of age. However, given the litigation that ensued, the 2011 May Revision removed all anticipated funding from the CFHHSF. In addition, the Budget Act assumed \$50 million in Reimbursements to DDS would be continued for the 2011-12 fiscal year. Per past practices, it is anticipated the DDS and the Commission will enter into an Interagency Agreement to transfer these funds.

Based on discussions with Department of Finance legal staff, the Writ of Mandate issued by the California Superior Court (attached) pertains solely to AB 99 and would have no bearing on the Commission's ability to voluntarily provide \$50 million for DDS programs for children aged zero through five. Specifically, it ordered the state to refrain from transferring any moneys (either state or local) from the California Children and Families Trust Fund to the CFHHSF or the General Fund, pursuant to AB 99. Since the \$50 million included in the Budget Act is neither tied to AB 99, nor does it transfer funds into the CFHHSF or the General Fund, it should have no impact on the Commission's decision to voluntarily expend Proposition 10 funds.

We ask for your continued support of funding for DDS programs serving California's most vulnerable children and approval of an Interagency Agreement that will effectuate the transfer included in the Budget Act of 2011. If you have any questions or need additional information regarding this matter, please call Audrey Bazos, Principal Program Budget Analyst, at (916) 445-6423.

ANA J. MATOSANTOS

Director

By:



MICHAEL COHEN

Chief Deputy Director

Attachment

**cc: Honorable Bill Emmerson, Vice Chair, Senate Budget and Fiscal Review Committee
Honorable Jim Nielsen, Vice Chair, Assembly Budget Committee
Honorable Mark DeSaulnier, Chair, Senate Budget and Fiscal Review Subcommittee No. 3
Honorable Holly Mitchell, Chair, Assembly Budget Subcommittee No. 1
Mr. Mac Taylor, Legislative Analyst (3)
Ms. Keely Bosler, Staff Director, Senate Budget and Fiscal Review Committee
Mr. Bob Franzoia, Staff Director, Senate Appropriations Committee
Mr. Seren Taylor, Staff Director, Senate Republican Fiscal Office
Mr. Craig Cornett, Senate President pro Tempore's Office (2)
Mr. Christian Griffith, Chief Consultant, Assembly Budget Committee
Mr. Geoff Long, Chief Consultant, Assembly Appropriations Committee
Mr. Eric Swanson, Staff Director, Assembly Republican Fiscal Committee
Ms. Deborah Gonzalez, Policy and Fiscal Director, Assembly Republican Leader's Office
Mr. Christopher W. Woods, Assembly Speaker's Office (2)
Mr. Michael Wilkening, Undersecretary, Secretary of Health and Human Services Agency
Ms. Terri Delgadillo, Director, Department of Developmental Services
Ms. Kris Perry, Executive Director, California Children and Families Commission**

**icc: CAP-OFFICE, ROCKWELL, DAROSA, BUCHEN, DOYLE, SHELTON, CASTANEDA,
BAZOS, BACIGALUPI, C/F (3), SUSPENSE, FILE
I:\DEPT OR PROG FILES\4250 - CCFC\CCFC\LTR RE 50 MILL TO DDS FOR 11-12 KS
EDITS.DOC**

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF FRESNO, CENTRAL DIVISION**

**CHILDREN AND FAMILIES
COMMISSION OF FRESNO COUNTY, a
public agency, MADERA COUNTY
CHILDREN AND FAMILIES
COMMISSION, a public agency, FIRST 5
MERCED COUNTY, an agency of the County
of Merced, and KENDRA ROGERS, an
individual and taxpayer,**

Petitioners and Plaintiffs,

v.

**EDMUND G. BROWN, JR., California State
Governor, JOHN CHIANG, California State
Controller, ANA J. MATOSANTOS,
California Director of Finance, in their official
capacities, and DOES 1 to 100, inclusive, .**

Respondents and Defendants.

AND CONSOLIDATED CASES

CASE No. 11CECG01077

**ORANGE COUNTY SUPERIOR COURT
CASE No. 30-2011 00463630
MARIN COUNTY SUPERIOR COURT
CASE No. CIV 1102028
LOS ANGELES COUNTY SUPERIOR
COURT CASE NO. BC461005
SONOMA COUNTY SUPERIOR COURT
CASE No. SVC 249633
SAN DIEGO COUNTY SUPERIOR COURT
CASE No. 37-2011-00091556-CU-WM-CTL**

**PEREMPTORY WRIT OF MANDATE
[Code Civ. Proc. 1087]**

**Judge: Hon. Debra J. Kazanjian
Dept.: 51**

Action Filed: April 5, 2011

**To Respondents EDMUND G. BROWN JR., California State Governor, JOHN
CHIANG, California State Controller, BILL LOCKYER, California State Treasurer, and ANA J.
MATOSANTOS, California Director of Finance, in their official capacities:**

**WHEREAS Petitioners CHILDREN AND FAMILIES COMMISSION OF THE
COUNTY OF FRESNO, MADERA COUNTY CHILDREN AND FAMILIES COMMISSION,
FIRST 5 MERCED COUNTY and KENDRA ROGERS and Intervenor FIRST 5 SOLANO
CHILDREN AND FAMILIES COMMISSION; Petitioners CHILDREN AND FAMILIES**

1045116v4 / 16453.0014

1 COMMISSION OF ORANGE COUNTY, MICHAEL RUANE, BRIAN T. MALLOS and
2 RIVERSIDE COUNTY CHILDREN & FAMILIES COMMISSION; Petitioners FIRST 5 MARIN
3 COUNTY CHILDREN AND FAMILIES COMMISSION and BARBARA CLIFTON-
4 ZARANTI; Petitioner FIRST 5 LOS ANGELES; Petitioner COUNTY OF SONOMA on behalf of
5 FIRST 5 SONOMA COUNTY COMMISSION; and Petitioner COUNTY OF SAN DIEGO
6 (collectively "Petitioners") have served and filed herein their verified petitions for a writ of
7 mandate, and a hearing was held thereon on August 30, 2011;

8 WHEREAS this Court has determined that Petitioners have no other plain, speedy,
9 and adequate remedy in the ordinary course of law;

10 WHEREAS it has been determined and declared by this Court that Assembly Bill
11 99 (2011-2012 Reg. Sess.) is invalid in its entirety;

12 THEREFORE, you are hereby commanded to:

- 13 1. Refrain from implementing any of the provisions of Assembly Bill 99;
- 14 2. Refrain from complying with Assembly Bill 99 by transferring, or causing
15 to be transferred, pursuant to Assembly Bill 99, any moneys from the California Children and
16 Families Trust Fund, whether held by the California Children and Families Commission or any
17 County Children and Families Commission, to the Children and Families Health and Human
18 Services Fund or the General Fund.

19 Witness the Honorable Debra J. Kazanjian, Judge of the Superior Court.
20 Attest my hand and the seal of this Court this 12 day of ^{January 12} ~~December~~, 2011.

21
22 By Tamara Beard
23 Clerk of the Court

24
25 By K. SULLIVAN
26 Deputy Clerk

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