

**CHAPTER 333E**  
**DEVELOPMENTAL DISABILITIES**

Part I. General Provisions

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## "PART I. GENERAL PROVISIONS

### Note

Part heading added by L 1983, c 122, §3.

**§333E-1 Findings and purpose.** The legislature finds that:

- (1) The State of Hawaii has a responsibility to provide support and services for individuals with developmental disabilities in order to support them in living self-determined lives according to section 333F-8;
- (2) Several departments of the State are responsible for various support and services to individuals with developmental disabilities;
- (3) Lack of coordination among the services and planning activities of the various departments of the State results in gaps in the spectrum of needed services, duplication of services, lack of clarity in responsibility for services, and poorly articulated inter-agency programs, thereby reducing the quality of programs for individuals with developmental disabilities;
- (4) Because of specific mandates of the departments, it is essential that a body responsible for coordinating services and planning for individuals with developmental disabilities be established outside the departments responsible for support and services;
- (5) There exists within the state department of health for administrative purposes only, a state council on developmental disabilities appointed by the governor and mandated by federal legislation, supported in large part by federal moneys and required by federal law to provide advocacy, capacity building, systemic change, planning, and coordinating activities, promoting interagency collaboration, and enhancing coordination to better serve individuals with developmental disabilities and their families;
- (6) The purpose of this chapter is to establish the state council on developmental disabilities as the state agency responsible for coordinating services to individuals with developmental disabilities in Hawaii;
- (7) Community participation is a major goal of the State, thus state and county agencies should adopt policies and regulations which will support individuals and their families to fully participate in their communities; and

- (8) Family support is another major goal of the State in providing families of children with disabilities the support services necessary to support the family; to enable families of children with disabilities to nurture and enjoy their children at home; to enable families of children with disabilities to make informed choices and decisions regarding the nature of support, resources, services, and other assistance made available to the families; and to support family caregivers of adults with disabilities. [L 1975, c 198, §1; am L 1979, c 180, pt of §1; am L 1980, c 239, §1; am L 1987, c 339, §4; am L 2001, c 175, §1]

" **§333E-2 Developmental disabilities, definitions.** For the purposes of this chapter, the term "developmental disability" means a severe, chronic disability of a person which:

- (1) Is attributable to a mental or physical impairment or combination of mental and physical impairments;
- (2) Is manifested before the person attains age twenty-two;
- (3) Is likely to continue indefinitely;
- (4) Results in substantial functional limitations in three or more of the following areas of major life activity; self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, economic sufficiency; and
- (5) Reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, individualized support, or other forms of assistance that are lifelong or extended duration and are individually planned and coordinated. An individual from birth to age nine, who has a substantial developmental delay or specific congenital or acquired condition, may be considered to have a developmental disability without meeting three or more of the criteria described above, if the individual, without services and support, has a high probability of meeting those criteria later in life. [L 1975, c 198, §2; am L 1976, c 201, §1; am L 1979, c 180, pt of §1; am L 2001, c 175, §2]

" **§333E-3 State council on developmental disabilities.** The state council on developmental disabilities (hereinafter referred to as the council) shall be placed in the department of health for administrative purposes only and assigned the following responsibilities:

- (1) Planning. The state council shall:

- (A) Develop, prepare, adopt, and periodically review and revise, as necessary, the state plan for individuals with developmental disabilities (hereinafter called the state plan) in conformance with federal substantive and procedural requirements therefor. The state plan shall guide the development and delivery of all services to individuals with developmental disabilities. The state council shall transmit the state plan to the governor for approval, and upon approval shall be submitted to the federal government for appropriate approval. The state plan and revisions thereto shall be effective upon the governor's approval thereof. The state plan shall include establishment of goals and priorities of the State in meeting the needs of individuals with developmental disabilities, including the recommendation of priorities for the distribution of public funds for comprehensive services to individuals with developmental disabilities within the State and other matters deemed necessary to achieve productivity, integration, inclusion, self-determination, and independence of individuals with developmental disabilities. The state plan shall guide the coordinated delivery and establishment of comprehensive services, facilities, and programs for individuals with developmental disabilities;
  - (B) Review and comment upon implementation plans prepared and carried out by the various departments of the State in carrying out the state plan for individuals with developmental disabilities; and
  - (C) Review and comment upon any other state plans which affect services to individuals with developmental disabilities;
- (2) Coordination of departments and private agencies. The council shall:
- (A) Identify services duplicated by departments and private agencies and coordinate and assist in the elimination of unnecessary duplication;
  - (B) Encourage efficient and coordinated use of federal, state, and private resources in the provision of services;
  - (C) Recommend areas of responsibility for services to both public and private agencies serving

- individuals with developmental disabilities, reviewing designations as necessary. Identify gaps in services to individuals with developmental disabilities and coordinate responsibilities of various public or private agencies for such missing services; and
- (D) Ensure that implementation planning by the various departments is effectively coordinated and that interdepartmental programs receive the full support of all departments involved;
- (3) Evaluation. The council shall:
- (A) Monitor, evaluate, and comment upon implementation plans of the various public and private agencies for individuals with developmental disabilities;
  - (B) Monitor all ongoing projects relating to developmental disabilities of the various public and private agencies;
  - (C) Participate in the planning, design, or redesign, and monitoring of state quality assurance systems that affect individuals with developmental disabilities;
- (4) Advocacy. The council shall:
- (A) Advocate for the needs of individuals with developmental disabilities before the legislature and the public and to the governor;
  - (B) Act in an advisory capacity to the governor, the legislature, and all concerned department heads on all issues affecting individuals with developmental disabilities; and
  - (C) Support and conduct outreach activities to identify individuals with developmental disabilities and their families to obtain services, individualized supports, and other forms of assistance, including access to special adaptation of generic community services or specialized services; and
- (5) Report. The council shall:
- (A) Prepare and submit reports to the governor, the legislature, and all concerned department heads on the implementation of the state plan;
  - (B) Prepare and submit to the United States Secretary of Health and Human Services, through the governor, any periodic reports the Secretary may reasonably request; and
  - (C) Prepare other reports necessary to accomplish its duties under this chapter. [L 1975, c 198, §3; am

L 1976, c 201, §2; am L 1979, c 180, pt of §1; am  
L 1980, c 232, §17; am L 2001, c 175, §3]

### **Cross References**

Annual reports, see §93-12.

" **[§333E-3.5] Encouragement of suitable housing.** The state council shall encourage the adoption of ordinances in each political subdivision in the State which would permit the maintenance and construction of residences for persons with developmental disabilities, including those developmentally disabled persons defined in this chapter and in section 202 of the Federal Housing Act of 1959, as amended. The ordinances should include provisions for permitting an appropriate number of unrelated persons with developmental disabilities and two supervisory staff to reside in a single-family dwelling provided that in determining the appropriate number, the political subdivisions should consider the cost of maintenance and construction of the residence, in order that financial obligations can be met. [L 1980, c 239, §2]

" **§333E-4 Membership on the state council.** The state council shall consist of voting members as described in federal law, for staggered terms. The members of the council shall be residents of the State. The council shall at all times include in its membership six representatives from the neighbor islands with a minimum of one representative from Hawaii, Kauai, and Maui county and representatives of the following, unless these programs are no longer in existence in the State: state entities that administer funds provided under federal law relating to individuals with disabilities, including the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.), and Titles V and XIX of the Social Security Act (42 U.S.C. 701 et seq. and 1396 et seq.), university centers for excellence in developmental disabilities education, research, and service, and the state protection and advocacy system, and local and nongovernmental agencies, and private nonprofit groups concerned with services for individuals with developmental disabilities in this State.

(1) Not less than sixty per cent of the membership of the council shall consist of individuals who are:

(A) Individuals with developmental disabilities or their parents; or

- (B) Immediate relatives or guardians of such persons, and who are not employees of a state agency which receives funds or provides services under the state council, or managing employees, or persons with an ownership or controlling interest of any other entity which receives funds or provides services under the state council;
- (2) Of the members of the council described in paragraph (1):
  - (A) At least one-third shall be individuals with developmental disabilities; and
  - (B) At least one-third shall be immediate relatives or guardians of such person, of which at least one shall be an immediate relative or guardian of an institutionalized individual with developmental disabilities; and
- (3) The members of the state council shall serve without compensation, but shall be reimbursed for any actual and necessary expenses incurred in connection with the performance of their duties under this chapter. [L 1975, c 198, §4; am L 1979, c 180, pt of §1; am L 1983, c 121, §2; am L 1986, c 45, §1; am L 2001, c 175, §4]

" **§333E-5 Officers, committees, staff.** The state council shall, by majority vote of the voting members, elect its own chairperson from among the appointed members, and shall establish such committees as it deems necessary or desirable. The state council may appoint an executive administrator subject to chapter 76 who may appoint persons to such staff positions subject to chapter 76 as the council may authorize within available funds. The affirmative votes of a majority of the members of the council shall be necessary for the appointment or removal of the executive administrator. [L 1975, c 198, §5; ree L 1979, c 180, pt of §1; gen ch 1993; am L 2000, c 253, §150; am L 2001, c 175, §5]

" **§333E-6 Confidentiality of records.** (a) All certificates, applications, records, and reports made for the purposes of this chapter that are maintained, used, or disclosed by health care providers as defined in chapter 334, health plans as defined in title 45 Code of Federal Regulations section 160.103, and health care clearinghouses as defined in title 45 Code of Federal Regulations section 160.103, and directly or indirectly identifying a person who receives services because of a developmental disability shall be kept confidential and shall

not be disclosed by any person except as allowed by title 45 Code of Federal Regulations part 164, subpart E.

(b) Nothing in this section shall preclude the application of more restrictive rules of confidentiality set forth for records covered by title 42 Code of Federal Regulations part 2, relating to the confidentiality of alcohol and drug abuse patient records, or disclosure deemed necessary under the federal Developmental Disabilities Act of 1984, P.L. 98-527, to protect and advocate for the rights of persons with developmental disabilities who reside in facilities for persons with developmental disabilities. [L 1986, c 343, §2; am L 2014, c 214, §3]

**"PART II. COMMUNITY SERVICES FOR THE DEVELOPMENTALLY  
DISABLED--REPEALED**

**§§333E-11 to 14 REPEALED. L 1987, c 341, §4.**