



**FLORIDA LAWS PERTINENT TO A DISCRIMINATION CASE
CHAPTER 393: DEVELOPMENTAL DISABILITIES**

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TABLE OF CONTENTS | CHAPTER 393: DEVELOPMENTAL DISABILITIES

ID	Statute	Title	Page
S01	393.063	Definitions	457
-	n/a	Appendix	545



CHAPTER 393 FLORIDA STATUTES | FLORIDA

TITLE: XXIX PUBLIC HEALTH

CHAPTER: 393 DEVELOPMENTAL DISABILITIES

PART: --

SECTIONS: §393.063 only

NOTE:



§393.063 FS | DEFINITIONS¹

(1) "Adult day training" means training services that take place in a nonresidential setting, separate from the home or facility in which the client resides, and are intended to support the participation of clients in daily, meaningful, and valued routines of the community. Such training may be provided in work-like settings that do not meet the definition of supported employment.

(2) "Agency" means the Agency for Persons with Disabilities.

(3) "Algorithm" means the mathematical formula used by the agency to calculate budget amounts for clients which uses variables that have statistically validated relationships to clients' needs for services provided by the home and community-based services Medicaid waiver program.

(4) "Allocation methodology" is the process used to determine a client's iBudget by summing the amount generated by the algorithm, and, if applicable, any funding authorized by the agency for the client pursuant to s. 393.0662(1)(b).

(5) "Autism" means a pervasive, neurologically based developmental disability of extended duration which causes severe learning, communication, and behavior disorders with age of onset during infancy or childhood. Individuals with autism exhibit impairment in reciprocal social interaction, impairment in verbal and nonverbal communication and imaginative ability, and a markedly restricted repertoire of activities and interests.

(6) "Cerebral palsy" means a group of disabling symptoms of extended duration which results from damage to the developing brain that may occur before, during, or after birth and that results in the loss or impairment of control over voluntary muscles. For the purposes of this definition, cerebral palsy does not include those symptoms or impairments resulting solely from a stroke.

(7) "Client" means any person determined eligible by the agency for services under this chapter.

(8) "Client advocate" means a friend or relative of the client, or of the client's immediate family, who advocates for the best interests of the client in any proceedings under this chapter in which the client or his or her family has the right or duty to participate.

(9) "Comprehensive assessment" means the process used to determine eligibility for services under this chapter.

(10) "Comprehensive transitional education program" means the program established in s. 393.18.

(11) "Developmental disabilities center" means a state-owned and state-operated facility, formerly known as a "Sunland Center," providing for the care, habilitation, and rehabilitation of clients with developmental disabilities.

(12) "Developmental disability" means a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, Down syndrome, Phelan-McDermid syndrome, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.

(13) "Direct service provider" means a person 18 years of age or older who has direct face-to-face contact with a client while providing services to the client or has access to a client's living areas or to a client's funds or personal property.

(14) "Domicile" means the place where a client legally resides and which is his or her permanent home. Domicile may be established as provided in s. 222.17. Domicile may not be established in Florida by a minor who has no parent domiciled in Florida, or by a minor who has no legal guardian domiciled in Florida, or by any alien not classified as a resident alien.

(15) "Down syndrome" means a disorder caused by the presence of an extra chromosome 21.

(16) "Express and informed consent" means consent voluntarily given in writing with sufficient knowledge and comprehension of the subject matter to enable the person giving consent to make a knowing decision without any element of force, fraud, deceit, duress, or other form of constraint or coercion.

(17) "Family care program" means the program established in s. 393.068.

(18) "Foster care facility" means a residential facility licensed under this chapter which provides a family living environment including supervision and care necessary to meet the physical, emotional, and social needs of its residents. The capacity of such a facility may not be more than three residents.

(19) "Group home facility" means a residential facility licensed under this chapter which provides a family living environment including supervision and care necessary to meet the physical, emotional, and social needs of its residents. The capacity of such a facility shall be at least 4 but not more than 15 residents.

(20) "Guardian" has the same meaning as in s. 744.102.

(21) "Guardian advocate" means a person appointed by a written order of the court to represent a person with developmental disabilities under s. 393.12.

(22) "Habilitation" means the process by which a client is assisted in acquiring and maintaining those life skills that enable the client to cope more effectively with the demands of his or her condition and environment and to raise the level of his or her physical, mental, and social efficiency. It includes, but is not limited to, programs of formal structured education and treatment.

(23) "High-risk child" means, for the purposes of this chapter, a child from 3 to 5 years of age with one or more of the following characteristics:

(a) A developmental delay in cognition, language, or physical development.

(b) A child surviving a catastrophic infectious or traumatic illness known to be associated with developmental delay, when funds are specifically appropriated.

(c) A child with a parent or guardian with developmental disabilities who requires assistance in meeting the child's developmental needs.

(d) A child who has a physical or genetic anomaly associated with developmental disability.

(24) "Intellectual disability" means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior which manifests before the age of 18 and can reasonably be expected to continue indefinitely. For the purposes of this definition, the term:

(a) "Adaptive behavior" means the effectiveness or degree with which an individual meets the standards of personal independence and social responsibility expected of his or her age, cultural group, and community.

(b) "Significantly subaverage general intellectual functioning" means performance that is two or more standard deviations from the mean score on a standardized intelligence test specified in the rules of the agency.

For purposes of the application of the criminal laws and procedural rules of this state to matters relating to pretrial, trial, sentencing, and any matters relating to the imposition and execution of the death penalty, the terms "intellectual disability" or "intellectually disabled" are interchangeable with and have the same meaning as the terms "mental retardation" or "retardation" and "mentally retarded" as defined in this section before July 1, 2013.

(25) "Intermediate care facility for the developmentally disabled" means a residential facility licensed and certified under part VIII of chapter 400.

(26) "Medical/dental services" means medically necessary services that are provided or ordered for a client by a person licensed under chapter 458, chapter 459, or chapter 466. Such services may include, but are not limited to, prescription drugs, specialized therapies, nursing supervision, hospitalization, dietary services, prosthetic devices, surgery, specialized equipment and supplies, adaptive equipment, and other services as required to prevent or alleviate a medical or dental condition.

(27) "Personal care services" means individual assistance with or supervision of essential activities of daily living for self-care, including ambulation, bathing, dressing, eating, grooming, and toileting, and other similar services that are incidental to the care furnished and essential to the health,

safety, and welfare of the client if no one else is available to perform those services.

(28) "Phelan-McDermid syndrome" means a disorder caused by the loss of the terminal segment of the long arm of chromosome 22, which occurs near the end of the chromosome at a location designated q13.3, typically leading to developmental delay, intellectual disability, dolicocephaly, hypotonia, or absent or delayed speech.

(29) "Prader-Willi syndrome" means an inherited condition typified by neonatal hypotonia with failure to thrive, hyperphagia or an excessive drive to eat which leads to obesity usually at 18 to 36 months of age, mild to moderate intellectual disability, hypogonadism, short stature, mild facial dysmorphism, and a characteristic neurobehavior.

(30) "Relative" means an individual who is connected by affinity or consanguinity to the client and who is 18 years of age or older.

(31) "Resident" means a person who has a developmental disability and resides at a residential facility, whether or not such person is a client of the agency.

(32) "Residential facility" means a facility providing room and board and personal care for persons who have developmental disabilities.

(33) "Residential habilitation" means supervision and training with the acquisition, retention, or improvement in skills related to activities of daily living, such as personal hygiene skills, homemaking skills, and the social and adaptive skills necessary to enable the individual to reside in the community.

(34) "Residential habilitation center" means a community residential facility licensed under this chapter which provides habilitation services. The capacity of such a facility may not be fewer than nine residents. After October 1, 1989, new residential habilitation centers may not be licensed and the licensed capacity for any existing residential habilitation center may not be increased.

(35) "Respite service" means appropriate, short-term, temporary care that is provided to a person who has a developmental disability in order to meet the planned or emergency needs of the person or the family or other direct service provider.

(36) "Restraint" means a physical device, method, or drug used to control dangerous behavior.

(a) A physical restraint is any manual method or physical or mechanical device, material, or equipment attached or adjacent to an individual's body so that he or she cannot easily remove the restraint and which restricts freedom of movement or normal access to one's body.

(b) A drug used as a restraint is a medication used to control the person's behavior or to restrict his or her freedom of movement and is not a standard treatment for the person's medical or psychiatric condition. Physically holding a person during a procedure to forcibly administer psychotropic medication is a physical restraint.

(c) Restraint does not include physical devices, such as orthopedically prescribed appliances, surgical dressings and bandages, supportive body bands, or other physical holding necessary for routine physical examinations and tests; for purposes of orthopedic, surgical, or other similar medical treatment; to provide support for the achievement of functional body position or proper balance; or to protect a person from falling out of bed.

(37) "Seclusion" means the involuntary isolation of a person in a room or area from which the person is prevented from leaving. The prevention may be by physical barrier or by a staff member who is acting in a manner, or who is physically situated, so as to prevent the person from leaving the room or area. For the purposes of this chapter, the term does not mean isolation due to the medical condition or symptoms of the person.

(38) "Self-determination" means an individual's freedom to exercise the same rights as all other citizens, authority to exercise control over funds needed for one's own support, including prioritizing these funds when necessary, responsibility for the wise use of public funds, and self-advocacy to speak and advocate for oneself in order to gain independence and ensure that individuals with a developmental disability are treated equally.

(39) "Specialized therapies" means those treatments or activities prescribed by and provided by an appropriately trained, licensed, or certified professional or staff person and may include, but are not limited to, physical therapy, speech therapy, respiratory therapy, occupational therapy, behavior therapy, physical management services, and related specialized equipment and supplies.

(40) "Spina bifida" means a medical diagnosis of spina bifida cystica or myelomeningocele.

¹(41) "Support coordinator" means a person who is designated by the agency to assist individuals and families in identifying their capacities, needs, and resources, as well as finding and gaining access to necessary supports and services; coordinating the delivery of supports and services; advocating on behalf of the individual and family; maintaining relevant records; and monitoring and evaluating the delivery of supports and services to determine the extent to which they meet the needs and expectations identified by the individual, family, and others who participated in the development of the support plan.

(42) "Supported employment" means employment located or provided in an integrated work setting, with earnings paid on a commensurate wage basis, and for which continued support is needed for job maintenance.

(43) "Supported living" means a category of individually determined services designed and coordinated in such a manner as to provide assistance to adult clients who require ongoing supports to live as independently as possible in their own homes, to be integrated into the community, and to participate in community life to the fullest extent possible.

(44) "Training" means a planned approach to assisting a client to attain or maintain his or her maximum potential and includes services ranging from sensory stimulation to instruction in skills for independent living and employment.

(45) "Treatment" means the prevention, amelioration, or cure of a client's physical and mental disabilities or illnesses.

History. — s. 1, ch. 77-335; s. 1, ch. 79-148; s. 153, ch. 79-400; s. 3, ch. 81-23; s. 4, ch. 85-54; s. 1, ch. 85-147; s. 5, ch. 87-238; s. 5, ch. 88-398; s. 7, ch. 89-308; ss. 2, 4, ch. 89-339; s. 27, ch. 90-306; s. 1, ch. 90-333; s. 17, ch. 91-158; s. 3, ch. 94-154; s. 1045, ch. 95-148; s. 53, ch. 95-228; s. 1, ch. 95-293; s. 13, ch. 96-417; s. 23, ch. 98-171; s. 140, ch. 98-403; s. 80, ch. 99-8; s. 203, ch. 99-13; s. 3, ch. 2000-338; s. 35, ch. 2002-400; s. 7, ch. 2004-260; s. 71, ch. 2004-267; s. 15, ch. 2006-197; s. 10, ch. 2006-227; s. 2, ch. 2008-244; s. 2, ch. 2011-135; s. 9, ch. 2013-162; s. 6, ch. 2016-3; ss. 38, 39, 126, ch. 2016-62; ss. 11, 12, ch. 2016-65; s. 1, ch. 2016-140; s. 58, ch. 2019-3; s. 1, ch. 2020-71.

¹*Note.*—Section 1, ch. 2020-71, added new subsection (39), and amended present subsection (41), renumbered as subsection (42), effective July 1, 2021, to read:

(39) “Significant additional need” means an additional need for medically necessary services which would place the health and safety of the client, the client’s caregiver, or the public in serious jeopardy if it is not met. The term does not exclude services for an additional need that the client requires in order to remain in the least restrictive setting, including, but not limited to, employment services and transportation services. The agency may provide additional funding only after the determination of a client’s initial allocation amount and after the qualified organization has documented the availability of nonwaiver resources.

* * * * *

(42) “Support coordinator” means an employee of a qualified organization as provided in s. 393.0663 designated by the agency to assist individuals and families in identifying their capacities, needs, and resources, as well as finding and gaining access to necessary supports and services; coordinating the delivery of supports and services; advocating on behalf of the individual and family; maintaining relevant records; and monitoring and evaluating the delivery of supports and services to determine the extent to which they meet the needs and expectations identified by the individual, family, and others who participated in the development of the support plan.



APPENDIX



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E: TextBookDiscrimination@gmail.com
W: www.TextBookDiscrimination.com

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