

Part 2 Utah State Developmental Center

62A-5-201 Utah State Developmental Center.

- (1) The intermediate care facility for people with an intellectual disability located in American Fork City, Utah County, shall be known as the "Utah State Developmental Center."
- (2) Within appropriations authorized by the Legislature, the role and function of the developmental center is to:
 - (a) provide care, services, and treatment to persons described in Subsection (3); and
 - (b) provide the following services and support to persons with disabilities who do not reside at the developmental center:
 - (i) psychiatric testing;
 - (ii) specialized medical and dental treatment and evaluation;
 - (iii) family and client special intervention;
 - (iv) crisis management;
 - (v) occupational, physical, speech, and audiology services; and
 - (vi) professional services, such as education, evaluation, and consultation, for families, public organizations, providers of community and family support services, and courts.
- (3) Except as provided in Subsection (6), within appropriations authorized by the Legislature, and notwithstanding the provisions of Part 3, Admission to an Intermediate Care Facility for People with an Intellectual Disability, only the following persons may be residents of, be admitted to, or receive care, services, or treatment at the developmental center:
 - (a) persons with an intellectual disability;
 - (b) persons who receive services and supports under Subsection (2)(b); and
 - (c) persons who require at least one of the following services from the developmental center:
 - (i) continuous medical care;
 - (ii) intervention for conduct that is dangerous to self or others; or
 - (iii) temporary residential assessment and evaluation.
- (4)
 - (a) Except as provided in Subsection (6), the division shall, in the division's discretion:
 - (i) place residents from the developmental center into appropriate less restrictive placements; and
 - (ii) determine each year the number to be placed based upon the individual assessed needs of the residents.
 - (b) The division shall confer with parents and guardians to ensure the most appropriate placement for each resident.
- (5) Except as provided in Subsection (7), within appropriations authorized by the Legislature, and notwithstanding the provisions of Subsection (3) and Part 3, Admission to an Intermediate Care Facility for People with an Intellectual Disability, a person who is under 18 years of age may be a resident of, admitted to, or receive care, services, or treatment at the developmental center only if the director certifies in writing that the developmental center is the most appropriate placement for that person.
- (6)
 - (a) If the division determines, pursuant to Utah's Community Supports Waiver (CSW) for Individuals with Intellectual Disabilities and Other Related Conditions, that a person who otherwise qualifies for placement in an intermediate care facility for people with an intellectual disability should receive services in a home or community-based setting, the division shall:

- (i) if the person does not have a legal representative or legal guardian:
 - (A) inform the person of any feasible alternatives under the waiver; and
 - (B) give the person the choice of being placed in an intermediate care facility for people with an intellectual disability or receiving services in a home or community-based setting; or
- (ii) if the person has a legal representative or legal guardian:
 - (A) inform the legal representative or legal guardian of any feasible alternatives under the waiver; and
 - (B) give the legal representative or legal guardian the choice of having the person placed in an intermediate care facility for people with an intellectual disability or receiving services in a home or community-based setting.
- (b) If a person chooses, under Subsection (6)(a)(i), to be placed in an intermediate care facility for people with an intellectual disability instead of receiving services in a home or community-based setting, the division shall:
 - (i) ask the person whether the person prefers to be placed in the developmental center rather than a private intermediate care facility for people with an intellectual disability; and
 - (ii) if the person expresses a preference to be placed in the developmental center:
 - (A) place the person in the developmental center if the cost of placing the person in the developmental center is equal to, or less than, the cost of placing the person in a private intermediate care facility for people with an intellectual disability; or
 - (B)
 - (I) strongly consider the person's preference to be placed in the developmental center if the cost of placing the person in the developmental center exceeds the cost of placing the person in a private intermediate care facility for people with an intellectual disability; and
 - (II) place the person in the developmental center or a private intermediate care facility for people with an intellectual disability.
- (c) If a legal representative or legal guardian chooses, under Subsection (6)(a)(ii), to have the person placed in an intermediate care facility for people with an intellectual disability instead of receiving services in a home or community-based setting, the division shall:
 - (i) ask the legal representative or legal guardian whether the legal representative or legal guardian prefers to have the person placed in the developmental center rather than a private intermediate care facility for people with an intellectual disability; and
 - (ii) if the legal representative or legal guardian expresses a preference to have the person placed in the developmental center:
 - (A) place the person in the developmental center if the cost of placing the person in the developmental center is equal to, or less than, the cost of placing the person in a private intermediate care facility for people with an intellectual disability; or
 - (B)
 - (I) strongly consider the legal representative's or legal guardian's preference for the person's placement if the cost of placing the person in the developmental center exceeds the cost of placing the person in a private intermediate care facility for people with an intellectual disability; and
 - (II) place the person in the developmental center or a private intermediate care facility for people with an intellectual disability.
- (7) The certification described in Subsection (5) is not required for a person who receives services and support under Subsection (2)(b).

Amended by Chapter 366, 2011 General Session

62A-5-202 Developmental center within division.

The programs and facilities of the developmental center are within the division, and under the policy direction of the division.

Amended by Chapter 75, 2009 General Session

62A-5-202.5 Utah State Developmental Center Board -- Creation -- Membership -- Duties -- Powers.

- (1) There is created the Utah State Developmental Center Board within the Department of Human Services.
- (2) The board is composed of nine members as follows:
 - (a) the director of the division or the director's designee;
 - (b) the superintendent of the developmental center or the superintendent's designee;
 - (c) the executive director of the Department of Human Services or the executive director's designee;
 - (d) a resident of the developmental center selected by the superintendent; and
 - (e) five members appointed by the governor with the advice and consent of the Senate as follows:
 - (i) three members of the general public; and
 - (ii) two members who are parents or guardians of individuals who receive services at the developmental center.
- (3) In making appointments to the board, the governor shall ensure that:
 - (a) no more than three members have immediate family residing at the developmental center; and
 - (b) members represent a variety of geographic areas and economic interests of the state.
- (4)
 - (a) The governor shall appoint each member described in Subsection (2)(e) for a term of four years.
 - (b) An appointed member may not serve more than two full consecutive terms unless the governor determines that an additional term is in the best interest of the state.
 - (c) Notwithstanding the requirements of Subsections (4)(a) and (b), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of appointed members are staggered so that approximately half of the appointed members are appointed every two years.
 - (d) Appointed members shall continue in office until the expiration of their terms and until their successors are appointed, which may not exceed 120 days after the formal expiration of a term.
 - (e) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.
- (5)
 - (a) The director shall serve as the chair.
 - (b) The board shall appoint a member to serve as vice chair.
 - (c) The board shall hold meetings quarterly or as needed.
 - (d) Five members are necessary to constitute a quorum at any meeting, and, if a quorum exists, the action of the majority of members present shall be the action of the board.
 - (e) The chair shall be a non-voting member except that the chair may vote to break a tie vote between the voting members.

- (6) An appointed member may not receive compensation or benefits for the member's service, but, at the executive director's discretion, may receive per diem and travel expenses in accordance with:
 - (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (7)
 - (a) The board shall adopt bylaws governing the board's activities.
 - (b) Bylaws shall include procedures for removal of a member who is unable or unwilling to fulfill the requirements of the member's appointment.
- (8) The board shall:
 - (a) act for the benefit of the developmental center and the division;
 - (b) advise and assist the division with the division's functions, operations, and duties related to the developmental center, described in Sections 62A-5-102, 62A-5-103, 62A-5-201, 62A-5-203, and 62A-5-206;
 - (c) administer the Utah State Developmental Center Miscellaneous Donation Fund, as described in Section 62A-5-206.5;
 - (d) administer the Utah State Developmental Center Land Fund, as described in Section 62A-5-206.6; and
 - (e) approve the sale, lease, or other disposition of real property or water rights associated with the developmental center, as described in Subsection 62A-5-206.6(5).

Enacted by Chapter 300, 2016 General Session

62A-5-203 Operation, maintenance, and repair of developmental center buildings and grounds.

- (1) The division shall operate, maintain, and repair the buildings, grounds, and physical properties of the developmental center. However, the roads and driveways on the grounds of the developmental center shall be maintained by the Department of Transportation.
- (2) The division has authority to make improvements to the buildings, grounds, and physical properties of the developmental center, as it deems necessary for the care and safety of the residents.

Amended by Chapter 207, 1991 General Session

62A-5-205 State Board of Education -- Education of children at developmental center.

- (1) The State Board of Education is responsible for the education of school-aged children at the developmental center.
- (2) In order to fulfill its responsibility under Subsection (1), the State Board of Education shall, where feasible, contract with local school districts or other appropriate agencies to provide educational and related administrative services.
- (3) Medical, residential, and other services that are not the responsibility of the State Board of Education or other state agencies are the responsibility of the division.

Amended by Chapter 207, 1991 General Session

62A-5-206 Powers and duties of division.

The powers and duties of the division, with respect to the developmental center are as follows:

- (1) to establish rules, not inconsistent with law, for the government of the developmental center;
- (2) to establish rules governing the admission and discharge of persons with an intellectual disability in accordance with state law;
- (3) to employ necessary medical and other professional personnel to assist in establishing rules relating to the developmental center and to the treatment and training of persons with an intellectual disability at the center;
- (4) to transfer a person who has been committed to the developmental center under Part 3, Admission to an Intermediate Care Facility for People with an Intellectual Disability, to any other facility or program operated by or under contract with the division, after careful evaluation of the treatment needs of that person, if the facilities or programs available meet the needs indicated, and if transfer would be in the best interest of that person. A person transferred shall remain under the jurisdiction of the division;
- (5) the developmental center may receive a person who meets the requirements of Subsection 62A-5-201(3) from any other facility or program operated by or under contract with the division, after careful evaluation of the treatment needs of that person, if the facility or programs of the developmental center meet those needs, and if transfer would be in the best interest of that person. A person so received by the developmental center remains under the jurisdiction of the division;
- (6) to manage funds for a person residing in the developmental center, upon request by that person's parent or guardian, or upon administrative or court order;
- (7) to charge and collect a fair and equitable fee from developmental center residents, parents who have the ability to pay, or guardians where funds for that purpose are available; and
- (8) supervision and administration of security responsibilities for the developmental center is vested in the division. The executive director may designate, as special function officers, individuals to perform special security functions for the developmental center that require peace officer authority. Those special function officers may not become or be designated as members of the Public Safety Retirement System.

Amended by Chapter 300, 2016 General Session

62A-5-206.5 Utah State Developmental Center Miscellaneous Donation Fund -- Use.

- (1) There is created an expendable special revenue fund known as the "Utah State Developmental Center Miscellaneous Donation Fund."
- (2) The board shall deposit donations made to the Utah State Developmental Center under Section 62A-1-111 into the expendable special revenue fund described in Subsection (1).
- (3) The state treasurer shall invest the money in the fund described in Subsection (1) according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act, and the revenue received from the investment shall remain with the fund described in Subsection (1).
- (4)
 - (a) Except as provided in Subsection (5), the money or revenue in the fund described in Subsection (1) may not be diverted, appropriated, expended, or committed to be expended for a purpose that is not listed in this section.
 - (b) Notwithstanding Section 63J-1-211, the Legislature may not appropriate money or revenue from the fund described in Subsection (1) to eliminate or otherwise reduce an operating deficit if the money or revenue appropriated from the fund is expended or committed to be expended for a purpose other than one listed in this section.

- (c) The Legislature may not amend the purposes for which money or revenue in the fund described in Subsection (1) may be expended or committed to be expended except by the affirmative vote of two-thirds of all the members elected to each house.
- (5)
- (a) The board shall approve expenditures of money and revenue in the fund described in Subsection (1).
 - (b) The board may expend money and revenue in the fund described in Subsection (1) only:
 - (i) as designated by the donor; or
 - (ii) for the benefit of:
 - (A) residents of the developmental center; or
 - (B) individuals with disabilities who receive services and support from the Utah State Developmental Center, as described in Subsection 62A-5-201(2)(b).
 - (c) Money and revenue in the fund described in Subsection (1) may not be used for items normally paid for by operating revenues or for items related to personnel costs without specific legislative authorization.

Amended by Chapter 300, 2016 General Session

62A-5-206.6 Utah State Developmental Center Land Fund -- Use of fund.

- (1) As used in this section, "long-term lease" means:
 - (a) a lease with a term of five years or more; or
 - (b) a lease with a term of less than five years that may be unilaterally renewed by the lessee.
 - (2) Notwithstanding Section 63A-5-215, any money received by the board from the sale, lease, except any lease existing on May 1, 1995, or other disposition of real property associated with the developmental center shall be deposited in the expendable special revenue fund created in Subsection (3).
- (3)
- (a) There is created an expendable special revenue fund known as the "Utah State Developmental Center Land Fund."
 - (b) The Division of Finance shall deposit the following money into the expendable special revenue fund:
 - (i) money from the sale, long-term lease, except any lease existing on May 1, 1995, or other disposition of real property associated with the developmental center; and
 - (ii) money from the sale, long-term lease, or other disposition of water rights associated with the developmental center.
 - (c) The state treasurer shall invest money in the fund described in Subsection (3) according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act, and the revenue from the investment shall remain with the expendable special revenue fund, except as provided in Subsection (4).
- (d)
- (i) Except as provided in Subsection (4), the money or revenue in the fund may not be diverted, appropriated, expended, or committed to be expended for a purpose that is not listed in this section.
 - (ii) Notwithstanding Section 63J-1-211, the Legislature may not appropriate money or revenue from the fund to eliminate or otherwise reduce an operating deficit if the money or revenue appropriated from the fund is expended or committed to be expended for a purpose other than one listed in this section.

- (iii) The Legislature may not amend the purposes for which money or revenue in the fund may be expended or committed to be expended except by the affirmative vote of two-thirds of all the members elected to each house.
- (4) The board may expend money or revenue from the Utah State Developmental Center Land Fund to:
 - (a) fulfill the functions of the Utah State Developmental Center as described in Sections 62A-5-201 and 62A-5-203; and
 - (b) assist the division in the division's administration of services and supports, as described in Sections 62A-5-102 and 62A-5-103.
- (5)
 - (a) Notwithstanding Section 65A-4-1, any sale, long-term lease, or other disposition of real property or water rights associated with the developmental center shall be conducted as provided in this Subsection (5).
 - (b) The board shall:
 - (i) approve the sale, long-term lease, or other disposition of real property or water rights associated with the developmental center;
 - (ii) secure the approval of the Legislature before offering the real property or water rights for sale, long-term lease, or other disposition; and
 - (iii) if the Legislature's approval is secured, as described in Subsection (5)(b)(ii), direct the Division of Facilities Construction and Management to convey, lease, or dispose of the real property or water rights associated with the developmental center according to the board's determination.

Enacted by Chapter 300, 2016 General Session

62A-5-207 Superintendent -- Qualifications.

The superintendent of the developmental center, appointed in accordance with Subsection 62A-5-104(4), shall have a bachelor's degree from an accredited university or college, be experienced in administration, and be knowledgeable in developmental disabilities and intellectual disability.

Amended by Chapter 366, 2011 General Session

62A-5-208 Powers and duties of superintendent.

The chief administrative officer of the developmental center is the superintendent, and has the following powers and duties:

- (1) to manage the developmental center and administer the division's rules governing the developmental center;
- (2) to hire, control, and remove all employees, and to fix their compensation according to state law; and
- (3) with the approval of the division, to make any expenditures necessary in the performance of his duties.

Amended by Chapter 207, 1991 General Session