

DEVELOPMENTAL DISABILITIES ADMINISTRATION
Olympia, Washington

TITLE: HUMAN RIGHTS COMMITTEE (HRC) POLICY 5.10

Authority: 42 CFR 483.10 *Resident Rights* (Regulations for NF clients)
42 CFR 483.440 *Condition of Participation: Active Treatment Services* (Regulations for ICF/ID clients)
[Chapter 71A RCW](#) *Developmental Disabilities*

Reference: DSHS Administrative Policy 5.01, *Privacy Policy - Safeguarding Confidential Information*
DSHS Administrative Policy 12.01, *Human Research Review Process*
DSHS Administrative Policy 12.06, *Research Misconduct*

DDA Policy 5.13, *Protection from Abuse: Mandatory Reporting*
DDA Policy 5.14, *Positive Behavior Support*
DDA Policy 5.15, *Use of Restrictive Procedures*

BACKGROUND

People who live at the Residential Habilitation Centers (RHCs) operated by the Developmental Disabilities Administration (DDA) have the same rights as all Washington citizens. Each RHC is required to have an ongoing oversight group to help safeguard the rights of people living there. The RHC Human Rights Committees (HRCs) are designed to fulfill this responsibility. HRC membership and responsibilities shall be consistent with federal regulations and DDA policy.

PURPOSE

This policy specifies the elements and processes which must be integrated into RHC standard operating procedures to protect the rights of the people who live at the RHCs. The RHC operating procedures must meet Nursing Facility (NF) and/or Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/ID) regulations that apply to Human Rights Committees.

SCOPE

This policy applies to all RHC Human Rights Committees.

DEFINITIONS

Facility means a DDA Residential Habilitation Center.

POLICY

A. Each RHC Superintendent shall appoint and maintain an active Human Rights Committee (HRC) to review and recommend approval or disapproval of policies, procedures, care plans, restrictive programs, and other RHC activities with a potential to impact client rights, and in general to monitor issues pertaining to client rights.

1. HRCs are advisory to the Superintendent and do not act as governing bodies for RHC administrative decisions.
2. The facilities may choose to have a separate HRC or combine HRCs with other facilities.

B. **HRC Membership Appointments and Recruiting**

1. Membership is time-limited.
 - a. The Superintendent shall appoint members for terms of two (2) or three (3) years. Terms should be staggered to enhance consistency in committee operations.
 - b. HRC members may serve up to a maximum of six (6) years.
 - c. Membership beyond six (6) years must be approved annually by the Regional Administrator.
 - d. Vacancies will be filled for the remainder of the term of the position.
2. Membership should broadly represent those interested and involved in services and supports for people with intellectual disabilities and their legal rights. For that reason, membership should come from the following groups:
 - a. Clients, parents, legal representatives, or family members of clients;
 - b. Other DSHS or state employees who do not work at the RHC;
 - c. Advocates and/or representatives of the disability community or of individuals with disabilities;

- d. Interested human services professionals; and
 - e. Citizens at large who are not connected with RHC operations.
3. Every effort will be made to balance membership by having the following representation:
- a. One-third clients and family members;
 - b. One-third community members (such as advocates, persons with disabilities, and other interested individuals) and/or other DSHS staff; and
 - c. One-third interested human services professionals.
4. RHC employees may be appointed under certain conditions with the approval of the Regional Administrator.
- a. In situations where recruitment has not resulted in adequate numbers of citizen, professional and family representatives, a limited number of RHC employees may be appointed to HRC committees.
 - b. No more than three (3) RHC employees may be appointed as voting members of the HRC.
 - c. RHC employees may never be the majority of the committee appointments.
 - d. RHC employees must recuse themselves from decision-making if the employee is an interdisciplinary team member for a client undergoing review.
 - e. Other non-voting RHC employees may be assigned responsibilities to organize, coordinate and otherwise support the committee process and work products of the HRC.
5. The RHC will maintain documentation that demonstrates efforts to recruit membership from each representative group.
6. Appointments shall be made in writing with a copy to the committee chair.
7. Committee Chair:
- a. The HRC members will select the chairperson (or co-chairs if desired).

- b. The chair will serve for a one-year term.
- c. Chairs may be re-elected on the vote of the other HRC members.

8. Quorum:

- a. A quorum includes at least three (3) members of the HRC.
- b. The quorum may not be made up of a majority of RHC employees.
- c. It is preferred that one (1) member of the three (3) identified representative groups is available for the committee to conduct business.
- d. To meet a quorum, the HRC may choose to conduct business by telephone.

9. Record keeping:

- a. The chairperson shall submit written minutes to the Superintendent on all matters acted upon by the committee within two (2) weeks of the meeting or sooner if there is an urgent issue.
- b. Committee meeting records will include individual written documentation of the committee's review and decisions for each client's program.

10. Meeting Schedules:

- a. Meetings will have a regular schedule to ensure routine committee work can be accomplished timely.
- b. Special meetings may be scheduled by the HRC chairperson as needed.
- c. Meetings may be scheduled by phone or other electronic media as long as appropriate documentation of committee decisions is recorded.

11. Attendance:

- a. Multiple or consecutive absences, without notice, is potential grounds for termination of membership.
- b. The Superintendent makes the final decision to terminate membership in consultation with the HRC chairperson.

C. HRC Member Responsibilities

1. HRC members have a responsibility to educate themselves and others about client legal rights, advocate for clients' legal rights, and in general represent the best interests of RHC clients.
2. Apply and be accepted as a DSHS volunteer.
3. Successfully pass a criminal history background check prior to HRC appointment and annually thereafter.
4. Participate in an orientation about HRC duties and specific member responsibilities prior to their first HRC meeting.
5. Consult as requested with the RHC Superintendent, other RHC staff, and clients, parents, legal representatives, or other appropriate individuals on issues pertaining to client's rights.
6. Participate in any ongoing or specially scheduled training identified for HRC members by DSHS/DDA related to client rights, human research review activities, and elements of informed consent, positive behavior support, and restrictive procedures.
7. Follow DSHS/DDA expectations about client and employee confidentiality.
 - a. Complete an annual confidentiality statement, which will be kept on file by the RHC.
 - b. Follow all confidentiality rules regarding client information.
 - c. Failure to maintain client confidentiality will be grounds for rescinding committee appointments.
8. Members must disqualify and remove themselves (recuse themselves) from participation in HRC discussions and decisions that could involve a conflict of interest. Such conflict could occur when:
 - a. The HRC member is a parent, family member, relative, friend of the family or client, or legal representative of the individual client undergoing review.
 - b. The HRC member is the representative payee or has financial interest in an individual client's funds or income.

- c. The HRC member employs the individual client.
- d. The HRC member is the therapist, healthcare provider, direct service provider, or treatment team member for an individual client.
- e. The HRC member is a legal or political advocate for the individual client. General advocacy work on behalf of all people with developmental or other disabilities would not be disqualifying.

D. Committee Roles and Responsibilities

Committee roles and responsibilities are advisory to the Superintendent and include the following:

- 1. To review and recommend approval or disapproval of program interventions that may place clients at risk, including:
 - a. All use of psychoactive medication, including:
 - 1) Any medications prescribed to treat mental illness or reduce challenging behaviors;
 - 2) Any use of psychotherapeutic medications prescribed for general functioning reasons, such as a psychoactive drug used to treat headaches.
 - 3) Chemical restraint.
 - 4) Use of psychoactive medications for medical/dental sedation.
 - 5) Prescribed use of general medications for their psychotherapeutic properties, such as prescribing an antihistamine for its sedating effects.
 - b. Any physical intervention, including:
 - 1) Any restrictive physical procedure identified in DDA Policy 5.15, *Use of Restrictive Procedures*, and/or DDA Policy 5.17, *Physical Intervention Techniques*.
 - 2) Any techniques used to interrupt or stop a behavior from occurring or to evade/avoid contact.

- 3) Physically supporting all or part of a person's body in a way that limits the person's free movement.
 - c. Use of protective or restrictive supervision of a client intended to prevent the client from engaging in identified behavior or limiting freedom of movement, such as one-to-one supervision of clients to prevent them from leaving a building, or one-to-one supervision during a meal to prevent clients from eating certain food items.
 - d. Use of any mechanical restraint or physically restraining device. Physical devices that are used for proper body alignment, positioning, seating and other therapeutic movements are not considered mechanical restraints.
 - e. Any environmental actions, practices or modifications that restrict access to places or objects or people, such as locking drawers, doors and cabinets or use of alarms.
 - f. Any exception to policy requests forwarded to Regional Administrators that have a potential for impacting client rights.
 - g. Any restrictive health practices, such as restricted calorie diets for weight control. Medically necessary diets such as those for diabetes, food allergies, or dysphagia are not considered restrictive health practices.
 - h. Any other action that may impact the rights of RHC clients or their family members or legal representatives, such as removing activities or objects as a form of control; removing someone's plate or spoon during a meal as a method to control rate of eating or inappropriate meal behavior; or preventing access to phone, mail or funds without a directly justifiable reason or rights review.
 - i. To ensure informed consent is received prior to the implementation of any program, procedure, and plan or practice that may infringe upon client rights. See DDA Policy 7.03, *Informed Consent*, for more information.
2. To review and advise the RHC Superintendent regarding:
 - a. Facility standard operating procedures, practices, protocols, and/or individual plans that have the potential to impact client rights.
 - b. Complaints or grievances filed by clients, their parents or legal representatives, and authorized representatives regarding rights issues (refer to DDA Policy 5.03, *Client Complaints*).

- c. Client rights issues related to proposed research activities or studies (refer to DSHS Administrative Policy 12.01, *Human Research Review Process*).
- d. Facility procedures that deal with informed consent, service delivery, conditions of treatment and client rights.
- e. Any other issue as requested by the RHC Superintendent.

EXCEPTIONS

Any exception to this policy must have the prior written approval of the Deputy Assistant Secretary or designee.

SUPERSESSION

DDD Policy 5.10
Issued November 15, 2012

Approved: /s/ Donald Clintsman
Deputy Assistant Secretary
Developmental Disabilities Administration

Date: March 1, 2016