

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
DEPARTMENT ON DISABILITY SERVICES**



POLICY	
Department on Disability Services	Subject: Human Rights
Responsible Program or Office: DDS Deputy Director, Developmental Disabilities Administration	Policy Number: 2013-DDA-H&W-POL007
Date of Approval by the Director: August 9, 2013	Number of Pages: 5
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Supersedes Policy Dated: August 1, 2011	
Cross References and Related Policies, Procedures and Documents: Behavior Support policy; Behavior Support Plan Requirements procedure; Behavior Support Safeguards and Oversight procedure; Human Rights Definitions; Human Rights Advisory Committee procedure; Restrictive Control Review Committee procedure; Health and Wellness Standards; Individual Support Plan policy; Incident Management policy and corresponding procedures; Imposition of Sanctions policy; Enhanced Monitoring procedure; Watch List procedure.	

**1. PURPOSE**

The purpose of this policy is to establish the standards and guidelines by which the Department on Disability Services (“DDS”), Developmental Disabilities Administration (“DDA”) will ensure safeguards are established to protect and promote the human rights and freedoms of all people receiving services through its service delivery system.

**2. APPLICABILITY**

This policy applies to all DDS employees, subcontractors, providers/vendors, consultants, volunteers, and governmental agencies that provide services and supports on behalf of people with intellectual and developmental disabilities receiving services as part of the DDS Service Delivery System funded by DDS or the Department of Health Care Finance (“DHCF”).

**3. AUTHORITY**

The authority for this policy is established in the Department on Disability Services as set forth in D.C. Law 16-264, the "Department on Disability Services Establishment

Act of 2006," effective March 14, 2007 (D.C. Official Code § 7-761.01 *et seq.*); and D.C. Law 2-137, the "Citizens with Intellectual Disabilities Constitutional Rights and Dignity Act of 1978," effective March 3, 1979 (D.C. Official Code § 7-1301.01 *et seq.*).

#### **4. POLICY**

It is the policy of DDS to ensure that:

- A. People with intellectual and developmental disabilities can exercise their right to personal liberty, dignity, respect and privacy.
- B. People with intellectual and developmental disabilities are supported with the most proactive, least restrictive and effective interventions.
- C. People with intellectual and developmental disabilities can exercise their right to freely make and express choices through verbal, nonverbal and behavioral means; and that their right to voice complaints, concerns and suggestions without interference or fear of reprisal is protected
- D. Safeguards are established in order to protect and promote the human, civil and legal rights of all people receiving supports and services through its service delivery system.
- E. People with intellectual and developmental disabilities are free from abuse, neglect and exploitation.
- F. People with intellectual and developmental disabilities are provided with the least restrictive living conditions possible. This standard shall apply to use of free time, movement, privacy, opportunities to engage in interpersonal relationships, staffing support, employment, and access to community resources.
- G. People with intellectual and developmental disabilities are taught functional skills that help them learn how to effectively utilize their environment and how to make choices necessary for daily living.

#### **5. RESPONSIBILITY**

The responsibility for this policy is vested in the Director, Department on Disability Services. Implementation for this policy is the responsibility of the Deputy Director for the Developmental Disabilities Administration.

#### **6. STANDARDS**

The following are the standards by which DDS will evaluate compliance with

this policy:

1. DDS shall establish a Human Rights Advisory Committee (“HRAC”) and one or more Restrictive Control Review Committee(s) (“RCRC”) to protect and promote the basic human, civil and legal rights of all people receiving supports and services through its service delivery system. The HRAC and RCRC shall provide independent program and rights review. The HRAC and RCRC shall also make recommendations to the DDS Deputy Director for DDA or Director of DDS as appropriate regarding systemic issues and concerns relevant to the rights of people receiving DDS services.
2. Each provider will have and implement a written policy and procedure for human rights and restrictive controls in accordance with DDS policies and procedures. Each provider will also establish an independent Human Rights Committee (“HRC”) or an agreement with a standing HRC, operated by one or more provider. In either case, the provider must inform its staff, the people they support, their families, and substitute decision makers, if applicable, how to contact the HRC.
3. DDS expressly prohibits the use of the following (in addition to the list of prohibited practices in the DDS Behavior Support policy):
  - a. Any procedure or action that is degrading, humiliating, harsh, punitive, painful, abusive, that causes undue trauma or deprivation of rights, that is used as a means of coercion, discipline, or retaliation, or that is used solely or primarily for the convenience of staff. This includes any form of corporal punishment.
  - b. Any aversive practices, defined as unpleasant, painful, uncomfortable or distasteful stimuli used to alter a person’s behavior. The use of aversive interventions is strictly prohibited in all programs funded or operated by DDS, including but not limited to shock therapy, white noise and bitter tasting foods procedures.
  - c. The use of seclusion or secured time-out rooms.
  - d. The use of any restraint which is not time-limited. Restraints must be removed as soon as the person is no longer an imminent threat to himself or others.
  - e. The following forms of restraint or physical management strategies:
    - i. Standing orders for restraint;
    - ii. Mechanical restraint defined as an apparatus used to restrict a person’s movement such as straight jacket, shackles, or belted jackets and that cannot be removed;
    - iii. Prone (face down) Restraint or any other restraint that restricts breathing;
    - iv. Restraint that places the person lying on the ground or in a bed with a staff

- person on top of the person;
  - v. Restraint that relies on pain for control;
  - vi. Restraint that relies on a take-down technique in which the person is not supported and allows for a free fall as they go to the floor or another surface;
  - vii. Any other physical management strategies that are not included in a DDS/DDA-approved physical management approach;
  - viii. Chemical restraint; and
  - ix. Any form of restraint used on a person who:
    - a. has a medical or psychological condition contraindicative to restraint, if known or documented in records available to the provider; or
    - b. has been sexually or physically abused, if known or documented in records available to the provider;
  - x. Except that mechanical supports approved by a physician used to achieve proper body position or balance; protective devices for specific medical conditions or behavior are permitted (e.g., helmet to protect a person from falls or mitts used to protect a person from injuring him/herself).
- f. Deprivation of any of the following:
- i. Basic needs, e.g., comfort, hygiene, service;
  - ii. Any needed health care or mental health services;
  - iii. Fluids or nutritionally balanced meals or snacks;
  - iv. Sleep or rest; and
  - v. Any information, opportunity or support needed for the person to freely make and express choices and exercise self-determination and control in all aspects of his or her daily life.
- h. Forced exercise.
- i. Restrictions on any contacts the person wants to have, including a person's family, friends, attorney, physician, psychologist, clergyman, social worker, substitute decision-maker, or advocate.

#### 4. Use of Restrictive Controls

- a. When non-restrictive strategies have not successfully protected the person, other persons, or property from harm, the use of restrictive controls may be considered to safeguard people and property if:
  - i. A person's health or safety is at risk;
  - ii. It is the only way to protect a person or other people from harm;
  - iii. It is the only way to prevent the serious destruction of property;
  - iv. A physician orders such an intervention as a health-related protection of the person during a specific medical or surgical procedure; or to ensure the person's protection during the time a medical condition is present; or
  - v. When court ordered.

- b. When the health or safety of the person or other persons is at risk or there is danger of serious property destruction, restrictive controls may be implemented incrementally just sufficient to eliminate the imminent risk of harm. The restrictive control shall constitute the least restrictive intervention. The least restrictive control is considered achieved when less intrusive alterations/interventions are not as effective in protecting the individual or others from harm or preventing property destruction.
  - c. In the event there is no time to attempt less restrictive measure, the emergency use of restrictive controls is permitted on a time-limited basis when:
    - i. A person's health or safety is at imminent risk;
    - ii. It is the only way to protect a person or other people from harm; or
    - iii. It is the only way to prevent the serious destruction of property.
  - d. The emergency use of physical restraint is limited to a cumulative total of 30 minutes within a 2 hour time. After 30 cumulative minutes within 2 hours, the provider shall call 911 or take the person to the emergency room for assessment.
  - e. The use of restrictive controls, as well as all attempts to use less restrictive methods, must be documented. Use of restrictive controls must also be reported in accordance with the DDS Incident Reporting procedures.
5. DDS may sanction providers who do not comply with the requirements of this policy and its related procedures.



Laura L. Nuss, Director



Approval Date