

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



PROCEDURE	
Subject: Restrictive Controls Review Committee Procedure	Procedure No.: 2013-DDA-PR014
Responsible Program or Office:  Developmental Disabilities Administration	Effective Date: September 3, 2013
	Number of Pages: 9
Supersedes Procedure Dated: August 1, 2011	
Cross References and Related Policies and Procedures: Behavior Support policy; Behavior Support Plan procedure; Human Rights policy; Human Rights Definitions; Human Rights Advisory Committee procedure; Provider Human Rights Committee procedure; Health and Wellness Standards; Individual Support Plan policy; Imposition of Sanctions policy; Enhanced Monitoring procedure; Watch List procedure.	

**1. PURPOSE**

The purpose of this procedure is to establish the process the Department on Disability Services (“DDS”) shall use to: (1) ensure that restrictive controls are used only as a last resort, when active treatment strategies have been considered/attempted and would not protect the person or others from harm; (2) ensure the health, safety and dignity of each person for whom restrictive controls are recommended; (3) evaluate the technical aspects of programs that include restrictive control procedures; and (4) delineate the process for reviewing the use of restrictive controls. Restrictive control procedures are those methods that are imposed by others on an individual that limit the exercise of rights and includes, but is not limited to the use of psychotropic medications, physical restraint, limitations on freedom of movement and freedom of choice.

**2. APPLICABILITY**

This procedure applies to all people receiving supports and services, Developmental Disabilities Administration (“DDA”) 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 DDA Service Delivery System funded by DDA or the Department of Health Care Finance (“DHCF”).

### 3. PROCEDURES

The Restrictive Control Review Committee (“RCRC”) is responsible for reviewing designated restrictive controls to ensure people's rights are protected and that the person’s behavior support plan conforms to DDS’s policies and procedures. Based on the number of people receiving services, DDA may elect to establish multiple RCRCs that operate independently of each other.

#### A. Behavior Support Plans That Are Subject to RCRC Review

1. DDS RCRC shall review all BSPs that meet one of the following criteria:
  - a. All BSPs involving individualized staffing due to behavioral health concerns.
  - b. All BSPs involving non-crisis use of physical restraint.
  - c. All BSPs that involve the use of any other restrictive control.
  - d. All BSPs for people who are prescribed psychotropic medication to affect or alter thought processes, mood, sleep, or behavior.
  - e. Any BSP or request for exemption that is referred to the RCRC by the person, a member of his or her support team, or by the provider HRC.
2. DDS RCRC shall also review all initial requests for exemption from having a BSP.
3. BSPs that meet the criteria for RCRC review, must be submitted to RCRC for review:
  - a. Prior to the initiation of any new restrictive control(s), with the exception of properly prescribed psychotropic medications;
  - b. When there is an increase in any restrictive control, except for when the prescribing psychiatrist increases a psychotropic medication, and the medication does not exceed the pharmaceutical standard or does not exceed the range already approved;
  - c. When there is a change in psychotropic medication, except for when the medication is in the same class, e.g., the person was prescribed an antidepressant and the psychiatrist changes the prescription to a different antidepressant.
  - d. At the time designated by the RCRC or upon request of HRAC, RCRC, or the DDS Psychotropic Review Panel; or
  - e. At the request of any member of the person’s support team, including the person.
4. RCRC shall review all BSPs involving restrictive interventions for *Evans* class members at least annually, and more frequently as needed. For non-class members, RCRC may grant approval for a BSP involving restrictive interventions for up to two years.

## **B. Restrictive Control Review Committee(s)**

### **1. Membership**

- a. RCRC shall have at least three members. Members are appointed for a two-year term by the DDS Deputy Director for DDA, and may be reappointed for subsequent terms.
- b. In appointing committee members, the DDS Deputy Director for DDA shall seek representation from the following categories:
  - i. Allied health professionals (preferably a psychiatrist with expertise in behavior supports);
  - ii. Behavioral health professionals (preferably a psychologist with expertise in behavior supports); and
  - iii. Advocates for people with developmental disabilities (this category includes people DDS supports, but does not include any employees or contractors of DDS);
  - iv. At the discretion of the DDS Deputy Director for DDA , other DDS employees.
- c. In that event of absence, a committee member may have a designated alternate approved by the DDS Deputy Director for DDA, from the same category, who would attend and participate in RCRC in the members' stead.

## **C. RCRC Responsibilities**

1. RCRC shall review BSPs to ensure that restrictive controls are used only as a last resort, when active treatment strategies have been considered / attempted and would not protect the person or others from harm.
2. RCRC members are responsible for staying abreast of and following all DDA policies and procedures pertaining to restrictive controls, behavior support plans, and human rights; for attending any required trainings; and for reviewing RCRC packets prior to the meeting.
3. RCRC members will maintain the confidentiality of the people being reviewed and the contents of the plan.
4. Committee members shall actively support people who attend meetings to discuss their BSP and any concerns they may have.
5. RCRC will monitor areas of potential conflict within the committee and ensure members who identify an area of conflict recuse themselves for that particular decision.
6. RCRC's function and duties shall be to:
  - a. Review and approve or reject BSPs to ensure that the plan:

- i. Demonstrates that the restrictive/ intrusive control is the last resort and that proactive, positive strategies have been considered/attempted and would not protect the person or others from harm;
  - ii. Includes a rationale for the use of each restrictive/intrusive control;
  - iii. Describes the benchmarks for reducing the use of each restrictive/intrusive control;
  - iv. When psychotropic medication(s) are used, includes a goal for medication titration, a physician's statement as to why a therapeutic dosage of medication should not be lowered, or specific documented evidence from previous titration attempts it is contraindicated;
  - v. Contains positive strategies to enhance skills and, where possible, address target behaviors using the least intrusive/restrictive means;
  - vi. Preserve's people's rights to self-determination and choice; and
  - vii. Is consistent with established DDS policies and procedures.
- b. Review and approve or reject rights limitations.
7. The RCRC shall identify any systemic issues that arise for providers, DDA, and/or other government agencies regarding the use of restrictive controls and make recommendations to the DDS Deputy Director for DDA.

#### **D. RCRC Operations**

RCRC will:

1. Meet as frequently as necessary to ensure all BSPs that require review are reviewed.
2. Make decisions only when there is a quorum, which is a simple majority of Committee members with a preference for having at least one external member. The Committee will make accommodations for members to participate via conference call if unable to attend in person. Members of the committee who are not able to participate in the meeting may submit comments in advance for consideration, but these would not count as attendance for the purpose of a quorum. The DDS Rights and Advocacy Specialist may coordinate RCRC meetings, but does not count for the purposes of determining quorum.
3. Review BSPs containing restrictive interventions to ensure the following. For each review topic, the committee may answer "Yes," "No," or "Yes with Recommendations for Improvement."
  - a. Does the BSP include targeted behavior that is consistent with the person's diagnosis?
  - b. Does the BSP include relevant data collection?
  - c. Does the BSP include demonstrated review of the data by the psychologist?
  - d. Does the BSP include procedures to address behavioral issues consistent with DDA policies?
  - e. Does the BSP include a functional analysis?
  - f. Are there proactive, positive strategies identified in the BSP?

- g. Is there a rationale for using the restrictive interventions?
  - h. Are there benchmarks for reducing the restrictive interventions including a titration plan for medications (or statement of lowest effective dose based on prior attempts to reduce)?
4. After reviewing and discussing each BSP and supporting materials, the Committee shall approve, defer or reject each plan. As part of the review, the RCRC may also make recommendations for changes to the contents of the BSP to ensure that the BSP comports with DDA policy and that the interventions used are the least restrictive and most appropriate interventions to meet the person’s behavioral needs.
    - a. The Committee shall “approve” a BSP that meets all the criteria discussed above at D.3 and meets professional standards. Approvals are time limited and can be up to 12 months for *Evans* class members and up to 24 months for non-class members. The Committee shall be specific in the length of approval, and, if appropriate, align the BSPs expiration with the person’s Individual Support Plan (“ISP”), so that the person’s BSP and ISP dates align.
    - b. The Committee shall “defer” making a determination on a BSP when it does not have all of the information needed for the review. For plans that are deferred, the Committee shall make specific recommendations about information needed and set a date for the plan to come back to the Committee for review.
    - c. The Committee shall “reject” a plan when it does not meets the criteria discussed above at D.3. For plans that are rejected, the Committee shall make specific recommendations for improvement and set a date for the revisions to come back to the Committee for review.
  5. The RCRC will take immediate actions, as necessary, to protect the health and safety of people served. Such action may include, as appropriate, the following:
    - a. Suspending any BSPs that are not developed, implemented, documented, or monitored in accordance with this policy or where significant trends and patterns in data suggest the need for further review.;
    - b. Offering technical assistance in the development of a new BSP; and/ or
    - c. Recommending training for the provider’s HRC.
  6. The RCRC shall make recommendations to providers for policies, procedures, practices and/or strategy changes that lead to reduced restrictive controls and more positive behavioral supports.
  7. The RCRC shall make recommendations to the DDS Deputy Director for DDA for corrective actions, including for technical assistance and training to providers who inappropriately use restrictive controls.

**E. Emergency RCRC Review**

1. Any member of the person’s support team or the RAS may request an urgent or

emergency review of a BSP that includes a restrictive control or the use of psychotropic medication.

2. Emergency reviews will take place within three business days of the request.
3. Upon request for emergency review, the RAS will facilitate an expedited RCRC review by:
  - c. Coordinating a meeting or conference call with at least three (3) members of the RCRC within one business day;
  - d. Ensuring each committee member has the opportunity to review the BSP and all supporting documentation; and
  - e. Inviting the person and members of his or her support team to participate in the review; and
4. After expedited review, the committee may approve, defer, or reject the plan. If approved, the approval will be valid until the next regularly scheduled RCRC meeting, unless there was quorum for the expedited meeting and evidence that the person was invited and offered support to attend, in which case the decision stands. The RAS will inform the person and his or her Support Team of the Committee's decision by notifying the Service Coordinator or designee within one business day.

#### **F. Responsibilities of the Rights and Advocacy Specialist (RAS)**

1. The RAS shall offer RCRC members initial and annual trainings on relevant DDS policies and procedures and other topics related to the responsibilities of the RCRC. The RAS shall also ensure each member of the RCRC has been given copies of related policies, procedures, and other relevant advisories as changes occur.
2. The RAS will maintain a master calendar to ensure that all BSPs that require RCRC review are scheduled.
3. The RAS, or his or her designee, will develop a packet for committee members to be received as soon as possible before the meeting (preferably 5 business days) that contains:
  - a. Minutes from the last meeting;
  - b. The BSP;
  - c. Updated behavioral data;
  - d. Evidence of informed consent by the person or his or her substitute decision-maker;
  - e. Evidence of provider HRC approval;
  - f. Evidence of provider training; and
  - g. For Committee updates, minutes from the prior reviews of the person's plan.
4. The RAS shall facilitate RCRC meetings, including emergency reviews, as needed.

5. The RAS, or his or her designee, shall ensure that the person's provider and service coordinator are invited to attend the RCRC meeting and asked to work together to invite the person and support him or her to attend, if he or she would like to participate. The person's provider shall also share information about the review with other members of the person's circle of support and invite them to attend the meeting, unless the person prefers not to share that information.
6. The RAS, or his or her designee, shall follow-up on RCRC meetings, by providing written feedback from the Committee on plans to the person's Support Team via MCIS, and to the Deputy Director for DDA or DDS Director as appropriate when the RCRC makes recommendations for corrective action for people, provider or systemic improvements within five (5) business days of review, or, if applicable, in accordance with the Emergency Review procedures, above.
7. The RAS, or his or her designee, shall maintain documentation of the Committee attendance, proceedings and file and ensure that the record of RCRC meetings include Committee activities, issues reviewed, actions taken and follow-up requested with timelines.
8. The RAS shall ensure that RCRC practice complies with the process outlined in this procedure.
9. The RAS shall monitor areas of potential conflict within the Committee, ensure members who identify an area of conflict recuse themselves for that particular decision, and document both the conflict and recusal.
10. The RAS, or his or her designee, shall manage and validate the database for the purpose of tracking, and to provide the ability to provide trends and analysis. The RAS shall also provide any reports requested by the Director, Quality Management Division, DDS Deputy Director for DDA, or the DDS Director.
11. The RAS shall ensure an adequate number of meetings are held each year to prevent and backlog from occurring.
12. The RAS, or his or her designee, shall provide minutes of RCRC meetings to the Quality Trust for Individuals with Disabilities, and, as applicable, the *Evans* Court Monitor.

#### **G. DDS/DDA Service Coordination Responsibilities**

1. The person's service coordinator shall participate in the relevant portion of the RCRC review, either in person or by phone. In the event that the service coordination is not available to participate, it is his or her responsibility to work with his or her supervisor to have someone at the meeting who can represent service coordination and has knowledge of the person.

2. The person's service coordinator shall work with the person's provider to support the person to attend, if he or she would like to be there.
3. The person's service coordinator shall review both the BSP and ISP to confirm that the BSP and ISP are consistent and that one does not contradict the other. The BSP and ISP should work in harmony to appropriately support the person.

## **H. Provider Responsibilities**

1. The person's provider shall participate in the relevant portion of the RCRC review, either in person or by phone.
2. The person's provider shall explain the meeting to the person and support him or her to participate, if he or she would like to do so. The provider should also invite the person's substitute decision-maker (if applicable).
3. The person's provider shall upload into MCIS (or confirm already uploaded):
  - a. The most recent version of the person's BSP;
  - b. Evidence of informed consent by the person or his or her substitute decision-maker;
  - c. Evidence of review and approval by the provider HRC;
  - d. Evidence of staff training;
  - e. Behavioral data from the past three (3) months; and
  - f. The person's psychiatric assessment.

## **I. Appeal Rights**

Any person served by DDS and its providers may appeal the decision of the RCRC to either the DDS HRAC, or directly to the DDS Deputy Director for DDA. Appeals must be made within 30 days, unless there is good cause for a late appeal. Representation by an attorney, advocate or other non-legal representative is allowed, but not required. If a person decides to appeal the RCRC determination to the HRAC for committee review, the person retains the right to appeal the HRAC decision to the DDS Deputy Director for DDA within 30 days after the HRAC review.

The HRAC shall review the decision at the next meeting and, in no more than 30 days. Recommendations by the RCRC to approve any restrictive control or limitation on a person's individual rights shall not be implemented while an appeal is pending, unless failure to implement would result in imminent risk to the health and/ or safety of the person or others around them. Psychotropic medications shall be implemented when prescribed.

The Deputy Director will provide a final, written administrative decision within 30 days to the person and his or her Support Team, if appropriate. If the final, written decision

upholds the RCRC or HRAC decision, it will outline the additional steps a person could take to seek redress, including referral information.

#### **J. Annual Report**

Each year the RAS shall produce and publish a report that includes a general assessment of the Committee's impact on ensuring and protecting a person's rights over the year and recommendations for change in the coming year. The report shall also include, without any identifying information, the scope of work done by RCRC, trends, and the number and types of recommendations made.

#### **K. Sanctions**

DDS may impose sanctions on providers who do not comply with the Human Rights policy, Behavior Support policy, or this procedure.