

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



Title/Subject: Human Rights Advisory Committee Procedure

Policy (cross-referenced to): Human Rights Policy

All underlined words/definitions can be found in the Definitions Appendix.

1. PURPOSE

The purpose of this procedure is to establish the process for the review of human rights issues raised by or on behalf of individuals supported in DDS funded, and/or licensed facilities or programs, supports and services.

2. APPLICABILITY

This procedure applies to all individuals receiving services and DDA employees, subcontractors, providers/vendors, consultants, volunteers, and governmental agencies that provide services and supports on behalf of individuals with 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 following are the procedures by which the DDS and the Human Rights Advisory Committee (HRAC) will assure that best practices are employed in promoting and protecting the individual rights and freedoms of individuals receiving services and that all allegations of human rights violations are properly reviewed and resolved consistent with DDS directives.

I. Human Rights Advisory Committee:

DDA shall establish an HRAC that will act independently of any other committee established by providers.

A. Membership

- a. The HRAC shall have at least five (5) members appointed for a two-year term by the Deputy Director. Members may be reappointed for subsequent terms. The Deputy Director will nominate members for vacancies for review and approval by the HRAC.
- b. HRAC membership shall be broadly based and strive toward diversity. Committee membership shall include representatives from at least the following five groups:
 1. Individuals with disabilities;
 2. Family members, and/or advocates;
 3. Allied health professionals;
 4. People with experience or interest in supporting people with disabilities; and
 5. An attorney or paralegal.

- c. Each member of the HRAC shall receive training on human rights and freedoms, confidentiality, DDA's complaint procedures, applicable policies and procedures, and topics related to the responsibilities of the HRAC.
- d. Committee members must identify potential areas of conflict of interest (e.g., individuals, agencies, or programs with whom they are closely involved) and are responsible for refraining from participating when there is a conflict of interest.
- e. If a committee member is unable to participate in person, the member may participate by teleconference or may designate an alternate to attend meetings as long as the designee has the same designation as the committee member, e.g., attorney. Participating by teleconference or designee will meet the requirement to be a quorum.
- f. If a committee member is unable to participate in person, but submits written comments, the comments will be considered by the committee. Participating in this way will not be counted toward the quorum.
- g. Committee members who fail to attend five (5) or more meetings in a calendar year may be replaced.
- h. The Rights and Advocacy Specialist (RAS) shall serve as an advisor not a decision maker.
- i. The responsibilities of the RAS also include:
 - i. Ensure the process for bringing issues to the HRAC complies with the process outlined in this procedure including documentation of the committee attendance, and proceedings.
 - ii. Monitor areas of potential conflict within the committee and ensure members who identify an area of conflict recuse themselves for that particular decision.
 - iii. Ensure that the committee is provided a meeting agenda and information packets including meeting minutes from the RCRC Level I and Level II reviews, prior HRAC meeting minutes, nursing home packets and other relevant data for review.
 - iv. Ensure record of HRAC meetings include committee activities, issues reviewed, actions taken and follow up requested with timelines.
 - v. Ensure each member of the HRAC participates in all required training annually and as needed.
 - vi. Ensure each member of the HRAC has been given copies of related policies, procedures and other advisories as changes occur.
 - vii. Ensure HRAC recommendations and other actions identified are addressed within assigned timelines and/or take appropriate action to identify and resolve issues.
 - viii. Manage HRAC database for the purpose of tracking, and to provide the ability to provide trends and analysis.
 - ix. Facilitate Committee meetings.
 - x. Actively support individuals and their family members, guardian, surrogate decision-maker, or other representatives as desired by the individual to attend meetings when their individual plan or concerns are discussed.
 - xi. Facilitate review of proposed nursing facility placements, placements in long term acute care (LTAC) facilities, placements in large institutions

- (more than eight people) that require urgent or emergency reviews in accordance with the following procedures.
- xii. Recommend prospective committee members to the Deputy Director for appointment to the HRAC.
 - xiii. Submit an annual report (or more often as requested) to the Deputy Director summarizing the activities of the HRAC during the past year.

B. HRAC Responsibilities:

1. To proactively promote and protect the rights of individuals receiving services through the DDA service delivery system and make recommendations to DDS to resolve independent and systemic rights violations.
2. To provide oversight to the Three-panel medication review committee.
3. Monitor the activities of the DDS Restrictive Controls Review Committee(s) (RCRC) through a review of the committee's meeting minutes, and provide trending and analysis of the use of restrictive controls in the community.
4. Review all proposed nursing facility placements, placements in LTACs, placements in large institutions (more than eight people); and to routinely review those placements to ensure that the individual is in the least restrictive and most appropriate settings to meet his or her needs.
5. Require that all providers establish a volunteer Human Rights Committee (HRC) within their respective organizations.
6. Review any human rights violations arising from reviews of provider HRC meeting minutes, or requested by an individual, provider, service coordinator, family member, or other concerned party, including systemic issues that affect individuals served by DDA.
7. Support individuals (and their family members, advocate, attorney, guardian or other representatives, as agreed to with the person) with human rights issues to the HRAC meetings to discuss their grievances.

C. The function and duties of the HRAC shall be:

1. Make recommendations to DDA for promoting and protecting people's rights.
2. Review issues and concerns brought by individuals, DDA staff, provider staff and administrators, parents or advocates that involve potential violations of individual rights.
3. Identify any systemic issues that arise for providers, DDA, and/or other government agencies and make recommendations for corrective action for individuals, provider or systemic improvements to the Deputy Director.
4. Review and make recommendations regarding any DDA policies and practices that have the potential to limit the exercise of rights without an individualized assessment;
5. Meet as frequently as necessary, but no less frequently than ten (10) times a year.
6. Make decisions only when there is a quorum (simple majority).
7. Make accommodations for members to participate via conference call if unable to attend in person.
8. Maintain the confidentiality of the individual and staff.
9. Review packets within 30 calendar days of receipt, unless the review is an emergency request in which case an expedited procedure will be followed.
10. The HRAC, after reviewing the packet, shall

- a. Approve the placement if the committee determines that the placement is the least restrictive and most appropriate placement to meet the needs for the individual. The committee will also establish the expectation for on-going review. The RAS will communicate the approval and next proposed review date.
 - b. Approve with qualifications if the committee determines the placement does not represent the least restrictive and most appropriate, but the ISP Team has communicated that there is no less restrictive community option available and the Team has a plan to pursue other options. When the placement is approved with qualifications, the RAS will be responsible for communicating in writing the reason, expectation and timeline.
 - c. Disapprove if the committee determines that the placement does not represent the least restrictive and most appropriate placement, there are options available and the Team is not actively pursuing other options. When the placement is disapproved, the RAS will be responsible for communicating in writing the reason.
11. Provide written feedback to the Interdisciplinary Support Team within 15 calendar days of review.
 12. The expedited procedure will be initiated by the RAS based on the RAS's determination that the placement requires immediate review; there is no scheduled meeting within five (5) calendar days, or at the request of any member of the ISP Team, including the person or guardian/surrogate decision-maker.
 - a. The RAS will contact at least three (3) members of the HRAC to participate in a review within 24 hours or the next business day;
 - b. The RAS will facilitate the exchange of information and may choose to arrange a conference call or meeting in order to reach a consensus within two (2) business days of the request.
 - c. The committee may approve, approve with qualifications, or disapprove a proposed placement.
 - d. The approval will be valid until the next regularly scheduled HRAC meeting.
 - e. The RAS will provide written feedback to the ISP Team within five (5) business days of the decision.
 13. The HRAC will review the minutes/summary of activities from provider Human Rights Committees (HRCs) at the discretion of the RAS. The RAS will be responsible for communicating any recommendations or feedback to the provider HRC within 20 days of the review.

D. Review of Complaints:

The HRAC may request that the Deputy Director review or investigate a human rights complaint brought before the Committee. A written report of the findings of such review shall be provided to the HRAC.

If a complaint comes to the Deputy Director that addresses an alleged violation of human rights, the Deputy Director will assign fact finding to the most appropriate departmental staff. Once fact-finding is completed, this information will be forward to the RAS for review at the next HRAC meeting. At this meeting, a determination is made regarding whether a human right was violated, if so the service coordinator and as appropriate, other staff will be notified of the findings to determine next steps and /or corrective actions.

E. Annual Report

The annual report shall include a general assessment of the Committee's impact on ensuring and protecting an individual's rights over the year and recommendations for change in the coming year.

F. Appeal Rights

Any individual served by DDS and its providers may appeal the decision of the HRAC and the RCRC to the DDS Deputy Director for DDA following the Policy for Complaints/Appeal.

II. Provider Human Rights Committee

1. DDS shall require that all providers establish a volunteer HRC to promote and protect the rights of persons receiving services through DDA's service delivery system.
2. Each HRC will establish operating procedures that define the membership, training, roles and responsibilities of the committee.
3. Providers may establish an independent committee or join with other providers to establish a shared committee.
4. The HRC must meet as often as necessary and no less frequently than four (4) times a year.
5. The HRC shall establish a process for emergency review of restrictive or intrusive interventions that are part of a plan of behavior or medical supports so that plans are not implemented without review and approval and there is not an unnecessary delay in providing needed services.
6. The HRC is responsible for:
 - a. Reviewing and approving restrictive or intrusive interventions that are part of a plan of behavior or medical supports prior to implementation;
 - b. Ensuring that individuals or their guardians/substitute decision makers provide informed consent for a behavior support plan that includes the use of psychotropic medications, individualized staffing, or other restrictive/intrusive interventions;
 - c. Reviewing and approving rights limitations;
 - d. Reviewing issues and concerns brought by individuals, DDA staff, provider staff and administrators, parents or advocates that involve potential violations of individual rights.
 - e. Reviewing provider policies, procedures and practices that have the potential to limit the exercise of rights without an individualized assessment;
 - f. Reviewing the frequencies and reasons for the use of behavioral or medical restraints;
 - g. Reviewing reports of allegations of abuse, neglect, exploitation and other data, including complaints, that reveal the provider's practices in promoting and protecting human, civil, and legal rights;
 - h. Making recommendations to the provider organization for promoting people's rights; and
 - i. Proactively promoting and protecting people's rights.

7. Approvals will be time-limited, but cannot exceed 12 months. The provider HRC is responsible for reviewing any BSP or restriction as frequently as necessary and at least annually.
8. Each HRC shall be comprised of at least five (5) members, including one person meeting the following criteria:
 - a. Individuals with disabilities;
 - b. Family members and/or advocates;
 - c. Allied health professionals;
 - d. Behavioral health professionals; and
 - e. An attorney or paralegal.
9. Provider agency staff, members of the Board(s) of Directors, and any other person receiving payment from the provider(s) is excluded from a decision making role on the HRC.
10. All members of the HRC shall receive training on human rights and freedoms, grievance policies, DDA's complaint procedure, applicable policies and procedures and other topics related to their responsibility to protect and promote rights.
11. The HRC will maintain a record of its activities documenting issues reviewed, actions taken and follow up required.
12. The HRC will make available the meeting minutes/summaries to the Rights and Advocacy Specialist within fifteen (15) days of request.

DC Department on Disability Services



HUMAN RIGHTS ADVISORY COMMITTEE FORM

Consumer Initials: _____ DOB: _____

Provider: _____

Current Residence: _____

Service Coordinator: _____

Service Requested:

- | | |
|---|--|
| <input type="checkbox"/> Nursing Home Placement | <input type="checkbox"/> Medication/Treatment Refusals |
| <input type="checkbox"/> Capacity/Decision Making | <input type="checkbox"/> Physical Exercise & Healthy Diet |
| <input type="checkbox"/> Community Activities | <input type="checkbox"/> Visitation Rights |
| <input type="checkbox"/> Religious Freedom | <input type="checkbox"/> Personal Property |
| <input type="checkbox"/> Financial Control | <input type="checkbox"/> Communication (telephone, writing, etc) |

Diagnosis(es): _____

DDS Status: Evans ☐ Committed ☐ Admitted ☐

Date of Issue(s)/Concern(s) Presented to HRAC: _____

Narrative of Human Rights Issue(s)

[Please attach all applicable supporting documentation]:

Nursing Home Placements:

1. Are the nursing home placement forms complete and attached? ☐ Yes ☐ No
2. Does this individual require a trach? ☐ Yes ☐ No
3. Name of the nursing home: _____
4. Is this person currently in a hospital? ☐ Yes ☐ No
5. Has a discharge meeting been held? ☐ Yes ☐ No

HRAC Recommendation(s):

Nursing Home Placement:	<input type="checkbox"/> Approved	<input type="checkbox"/> Denied	<input type="checkbox"/> Partially Approved
Capacity/Decision Making:	<input type="checkbox"/> Approved	<input type="checkbox"/> Denied	<input type="checkbox"/> Partially Approved
Medication Treatment Refusals:	<input type="checkbox"/> Approved	<input type="checkbox"/> Denied	<input type="checkbox"/> Partially Approved
Physical Exercise & Health:	<input type="checkbox"/> Approved	<input type="checkbox"/> Denied	<input type="checkbox"/> Partially Approved
Community Activities:	<input type="checkbox"/> Approved	<input type="checkbox"/> Denied	<input type="checkbox"/> Partially Approved
Visitation Rights:	<input type="checkbox"/> Approved	<input type="checkbox"/> Denied	<input type="checkbox"/> Partially Approved
Religious Freedom:	<input type="checkbox"/> Approved	<input type="checkbox"/> Denied	<input type="checkbox"/> Partially Approved
Personal Property:	<input type="checkbox"/> Approved	<input type="checkbox"/> Denied	<input type="checkbox"/> Partially Approved
Financial Control:	<input type="checkbox"/> Approved	<input type="checkbox"/> Denied	<input type="checkbox"/> Partially Approved
Communication:	<input type="checkbox"/> Approved	<input type="checkbox"/> Denied	<input type="checkbox"/> Partially Approved

Due Date: _____

HRAC Chair Signature: _____

Date Resolved: _____

GUIDELINES For IMPLEMENTATION OF REFUSAL OF TREATMENT OR SERVICES

III.311.3

- 1) The “Refusal of Treatment or Services” protocol is implemented when an individual’s refusal meets a “standard of concern”: a) refuses a treatment or service repeatedly and/or b) refuses a treatment or service that has the potential to place the individual at imminent risk to health or safety.

This Would Not Include

- A one time refusal or occasional refusal of medication.
- The occasional refusal of therapy.
- Refusal of medical procedures that do not meet recommended standards of care or prevention, i.e. annual audiological, in which the primary care physician feels there is no adverse consequence.
- A one time refusal or occasional refusal to participate in training.

Some Examples This May Include

- Repeated refusal of a medication that has the potential for an adverse effect on the individual, i.e. seizure medication, insulin, blood pressure medication, psychotropic medication, etc.
 - Ongoing refusal to follow a recommended diet which could have a serious impact, i.e. diabetic diet, individual with Prader Willi, morbid obesity.
 - Refusal of medical treatment or prevention that are standard recommendations of care, i.e. dental visits, physicals including visits to the ob/gyn, mammograms, diagnostic or recommended lab work
 - Repeated refusal to participate in training.
 - Refusal to follow safe sex practices.
 - Refusal of C-Pap.
- 2) In the event an individual refusal meets the “standard of concern”, this issue must be made known to the Program Coordinator, Program Nurse, and Program Director. It is the responsibility of the Program Coordinator to convene an interdisciplinary meeting that includes the individual and, if applicable, his/her family member, advocate, psychologist, physician, direct support staff, etc.
 - 3) The “Protocol/Worksheet for Refusal of Service” and a sign in sheet of those attending the meeting is completed.
 - 4) Depending on the outcome of the meeting, the following will occur:

1. The individual agrees with the service/ treatment, an alternate service/ treatment, or a modified service/ treatment.	<ol style="list-style-type: none"> 1. The “Protocol Worksheet for Refusal of Treatment or Services” and the sign in sheet are placed in the individual’s File. 2. The team reviews the status at the next quarterly review. 3. A completed copy is forwarded to QI.
2. The individual refuses service/ treatment, but the team <u>does not feel</u> this places the individual and/or agency in an at-risk situation.	<ol style="list-style-type: none"> 1. The “Protocol Worksheet for Refusal of Services” and the sign in sheet are placed in the individual’s File. 2. The Program Director is informed of the outcome. 3. The team reviews the status at the next quarterly review. 4. A completed copy is forwarded to QI.
3. The individual refuses the service/ treatment and the team feels the refusal places the individual and/or agency in an at-risk situation.	<ol style="list-style-type: none"> 1. The “Protocol Worksheet for Refusal of Services” and the sign in sheet are placed in the individual’s File. 2. The Program Director and CEO are informed of the situation. 3. A copy is forwarded to Quality Improvement for review by the Human Rights Committee (HRC). 4. The individual and team representatives meet with the HRC. 5. The HRC reviews the case and makes recommendations to the individual and team. 6. In the event a decision is made to discharge the individual, the Program Director will inform the CEO.