

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



PROCEDURE	
Subject: Human Rights Advisory Committee Procedure	Procedure No.: 2013-DDA-H&W-PR012
Responsible Program or Office: Developmental Disabilities Administration	Effective Date: September 3, 2013
	Number of Pages: 7
Supersedes: Human Rights Advisory Committee Procedure dated August 1, 2011	
Cross References and Related Policies and Procedures: Behavior Support policy; Human Rights policy; Human Rights Definitions; Behavior Support Plan Requirements procedure; Behavior Support Plan Safeguards and Oversight procedure; Restrictive Control Review Committee procedure; Health and Wellness Standards; Individual Support Plan policy; Imposition of Sanctions policy; Enhanced Monitoring procedure; Watch List procedure.	

Underlined words 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 people supported through the Developmental Disabilities Administration (“DDA”) Service Delivery System.

2 . APPLICABILITY

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

3 . PROCEDURES

The following are the procedures by which the DDS and the Human Rights Advisory Committee (HRAC) will assure that best practice is employed in promoting and protecting the human, civil and legal rights of all people receiving services through its service delivery system; and that all allegations of human rights violations are properly reviewed and resolved consistent with DDS policies and procedures.

A. **Human Rights Advisory Committee:**

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

1. Membership

- a. The HRAC shall have at least five members appointed for a two-year term by the DDS Deputy Director for DDA. Members may be reappointed for subsequent terms. In appointing committee members, the DDS Deputy Director for DDA shall seek representation from the following categories:
 - i. People who receive supports and services from DDA;
 - ii. Family members of people who receive services from DDA and/ or advocates for people with intellectual and developmental disabilities;
 - iii. Allied health professionals, which may include DDA Health and Wellness or other DDS/DDA clinical staff or contractors.
 - iv. People with experience supporting people with disabilities;
 - v. An attorney; and
 - vi. At the discretion of the DDS Deputy Director for DDA, other DDS employees.
- b. The number of external members on the Committee shall be greater than the number of internal members.
- c. In the event of absence, a committee member may have a designated alternative, from the same category, who would attend and participate in the member's stead. The alternate must be approved by the DDS Deputy Director for DDA, or his or her designee.

2. HRAC Responsibilities

- a. HRAC shall review any human rights violations arising from the DDS Rights and Advocacy Specialist's (RAS) review of provider Human Rights Committee (HRC) meeting minutes, or requested by a person, provider, service coordinator, family member, or other concerned party, including systemic issues that affect people served by DDA. HRAC shall also review issues and concerns brought by people served by DDA, DDA staff, provider staff and administrators, parents or advocates that involve potential violations of people's rights.
- b. HRAC shall review all proposed: nursing facility placements; placements in long term acute care (LTAC); placements in large institutions (defined as having seven or more people); and placements of people who live outside of a 25 mile radius of the District of Columbia. HRAC shall routinely review those continued placements to ensure that the person is in the least restrictive and most appropriate settings to meet his or her needs. Reviews of placements outside of a 25 mile radius of the District of Columbia shall occur at least annually, following review by the person's support team as part of the person's Individual Support Plan process. All other reviews regarding

placements will occur at least quarterly, and more frequently as determined by the HRAC, or upon request of the person or any member of his or her Support Team.

- c. HRAC members are responsible for attending any required trainings, staying abreast of and following all DDA policies and procedures pertaining to human rights and for reviewing HRAC packets prior to the meeting.
- d. HRAC members will maintain the confidentiality of the people being reviewed and the contents of the review packet.
- e. Committee members shall actively support people who attend meetings to discuss their rights concerns. Additionally, the DDA Service Coordinator for the person reviewed shall be invited to attend HRAC meetings and shall participate in the meeting, either in person or by phone. If the Service Coordinator is not available, he or she must work with his or her supervisor to have someone at the meeting who can represent service coordination and has knowledge of the person.
- f. HRAC members shall identify any areas of potential conflict and recuse themselves for that particular decision.
- g. HRAC shall identify any systemic issues that arise for providers, DDA, and/or other government agencies and make specific outcome-driven recommendations for corrective action for people, provider or systemic improvements to the DDS Deputy Director for DDA or DDS Director as appropriate.

3. HRAC Operations

- a. HRAC shall meet as frequently as necessary, but no less than ten (10) times per year.
- b. HRAC shall make recommendations only when there is a quorum. A quorum shall constitute a simple majority, where the number of external members is greater than internal. 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.
- c. Committee members who fail to attend three (3) or more meetings in a calendar year may be replaced.
- d. The RAS shall serve as an advisor not a decision maker, and does not count towards quorum.
- e. The DDA Service Coordinator for the person reviewed shall be invited to the HRAC meeting and shall participate either in person or by phone. If the Service Coordinator is not available, he or she must work with his or her supervisor to have someone at the meeting who can represent service coordination and has knowledge of the person.

- f. For reviews of proposed nursing facility placements, placements in LTACs, and placements in large institutions (more than seven people), after reviewing and discussing each packet, the HRAC will:
 - i. Approve the placement if the committee determines that the placement is the least restrictive and most appropriate placement to meet the needs for the person. The committee will also establish the expectation for on-going review.
 - ii. Defer if the committee needs additional information to make a determination.
 - iii. Disapprove if the committee determines that there was insufficient evidence that the placement does not represent the least restrictive and most appropriate placement.

4. Emergency HRAC Review

- a. Any member of the Support Team, including the person, his/ her advocate, and the RAS may request urgent or emergency review of a proposed nursing facility placement, placement in an LTAC, or placement in a large institution (more than seven people); or of any human rights concern that requires expedited review.
- b. Upon receiving a request for emergency review, the RAS will facilitate an expedited HRAC review within three (3) business days of the request by:
 - i. Arranging a meeting or conference call of at least three (3) members of the HRAC, at least one of whom is an external member, within one business day;
 - ii. Ensuring each committee member has the opportunity to review the HRAC packet and be provided answers to any questions or concerns; and
 - iii. Inviting the person and members of his or her support team to participate in the review.
- c. The HRAC may approve, defer or disapprove a proposed placement. If approved, the approval will be valid until the next regularly scheduled HRAC 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 person's Service Coordinator within (2) two business days.

B. Responsibilities of the Rights and Advocacy Specialist (RAS) related to the HRAC

The RAS shall:

1. Facilitate HRAC meetings, including emergency reviews, as needed and serve as an advisor to the Committee.
2. Work with the person's Support Team to ensure that the person is supported to attend the meeting, their circle of support are invited, and all relevant documents are available to the

Committee for review; and that after the meeting, the person is notified of the results of the review and the person's right to appeal the Committee's recommendation(s) in accordance with Section D, below. The circle of support includes, but is not limited to the person's DDS service coordinator and the person's substitute decision-maker, if any.

3. Follow-up on HRAC meetings, by providing written feedback from the Committee to the person's Support Team via MCIS, and to the Deputy Director for DDA or DDS Director as appropriate when the HRAC 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. HRAC recommendations that are specific to the people DDA supports shall be entered into the DDA Issue System; systemic recommendations for DDA shall be entered into the DDS Recommendations report.
5. Offer each HRAC member initial and annual training on human rights and freedoms, confidentiality, DDA's complaint procedures, applicable policies and procedures, and topics related to the responsibilities of the HRAC. The RAS is also responsible for ensuring that each member of the HRAC has been given copies of related policies, procedures, and other advisories as changes occur.
6. Maintain documentation of the Committee attendance and proceedings and ensure that the record of HRAC meetings includes Committee activities, issues reviewed, actions taken and follow-up requested with timelines.
7. Regularly review HRAC recommendations to identify trends, and/ or areas for systemic improvement, and make recommendations as needed to the DDS Deputy Director for DDA or DDS Director as appropriate.
8. Ensure that HRAC practice and the process of bringing matters before the Committee complies with this procedure.
9. 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. Ensure that the Committee is provided a meeting agenda and information packets including prior HRAC meeting minutes and all relevant data for review.
11. Provide minutes of HRAC meetings to the Quality Trust for Individuals with Disabilities, and, as applicable, the *Evans* Court Monitor and *Evans* plaintiffs' counsel.
12. Submit an annual report (or more often as requested) to the DDS Deputy Director for DDA, the DDS Quality Management Division (QMD), Quality Improvement Manager, and the DDS Director, summarizing the activities of the HRAC during the past year.
13. Ensure that an adequate number of meetings are held to stay current on reviews and to

avoid any backlog.

C. 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 HRAC, trends, and the number and types of recommendations made.

D. Appeal Rights

1. Any person served by the DDS/DDA service system, or any provider affected by a decision of the HRAC, may appeal the decision of the HRAC to the DDS Deputy Director for DDA.
2. Appeals must be made within 30 days, unless there is good cause for a late appeal, and must be in writing. If a person needs help with filing an appeal, including writing the appeal letter, he or she may ask the RAS for assistance.
3. Representation by an attorney, advocate or other non-legal representative is allowed, but not required.
4. Recommendations to approve any restrictive control or limitation on a person's individual rights, with the exception of properly prescribed psychotropic medications, 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.
5. 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 HRAC decision, it will outline the additional steps a person could take to seek redress.

E. Provider Responsibilities

1. In order to ensure that HRAC members have the information they need for the review, including the perspective of the person involved and those who know him or her best, providers are expected to participate in the meeting, to invite and assist the person to attend, and to invite his or her substitute decision maker to attend. In the event that it is the provider that is alleged to be violating the person's rights, the person's Service Coordinator, in coordination with the RAS, will to invite and assist the person to attend and participate at the meeting.
2. Providers shall also provide copies of any documentation the HRAC or RAS requests in the time frame designated.

F. Sanctions

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