



DELAWARE HEALTH AND SOCIAL SERVICES

Division of Developmental Disabilities Services

DDDS Policy:
Human Rights Committee


See Also:

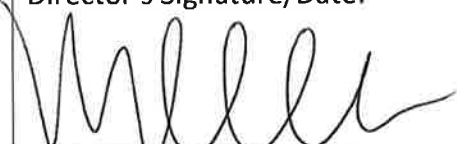
CS PRO 200 - HRC Review of Rights Restrictions Contained in PROBIS-Approved Behavioral Support Plans

CS PRO 201 - HRC - Review of Rights Restrictions as Submitted on Rights Review Request Form

CS PRO 202 - HRC - Review of Formal Rights Complaints

January 1, 2021

	<h2 style="margin: 0;">DDDS Policy</h2> <h3 style="margin: 0;">Human Rights Committee (HRC)</h3>
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Revision Date	Sections Revised	Description of Revision
01/01/2021	All	Consolidation to one Human Rights Committee statewide, inclusion of Rights Review Procedures and Rights Complaint Review Procedures
08/10/2018	All	Origination date
Director's Signature/Date: 		<i>Live signature is located in the Office of the Director</i> Effective: 1/1/2021



DDDS Policy Human Rights Committee (HRC)

1. Purpose

- 1.1 This policy specifies the elements and operations of the DDDS Human Rights Committee (HRC). The purpose of the Human Rights Committee (HRC) is to review: complaints of rights violations made by DDDS service recipients; completed investigations that determine whether a service recipient's rights were violated; rights restrictions included in a Behavior Support Plan; rights restrictions necessary for a medical or safety-related reason not related to a behavior support need; and to advise and make recommendations to the DDDS Director of Community Services to ensure that the human rights of DDDS service recipients are protected.

2. Scope

- DDDS Community Services staff providing coordination, oversight and monitoring of services
- DDDS Authorized Providers of Residential Habilitation, Medical Residential Habilitation, Day Habilitation, Prevocational Service, Supported Employment, Supported Living, Targeted Case Management, Behavior Consultation, Nurse Consultation, Respite, and Personal Care
- Human Rights Committee (HRC) Members
- Service recipients and their families served by DDDS Community Services and by DDDS Authorized Providers

3. Definitions

Behavior Support Plan

A person-centered document developed by a Behavioral Consultation provider in conjunction with the service recipient and their support team, containing all behavior intervention strategies and supports, including any rights restrictions or planned restraints, to assist the service recipient in living a productive life of their choosing.

Conflict of Interest

A personal or private interest in a matter before the HRC which may impair a member's independence of judgment in the performance of the member's duties with respect to that matter. (*Del Code Title 29, 5805.*)

Human Rights

Rights and freedoms everyone is entitled to without distinction of any kind, such as race, color, sex, language, religion, politics or other opinion, national or social origin, property, birth, disability or other status. (*United Nations General Assembly resolution 217A*)

<i>HRC Chairperson</i>	A volunteer member of the Human Rights Committee who is elected by the HRC membership to serve as Chairperson of the DDDS HRC for the period of one (1) year.
<i>HRC Liaison</i>	A non-voting DDDS representative to the HRC who has a professional background in the delivery and/or coordination of services for individuals with developmental disabilities and provides guidance and technical assistance to the HRC to ensure a consistent application of philosophy and practice on a statewide basis.
<i>HRC Vice Chairperson</i>	A volunteer member of the HRC who is elected by committee membership to serve as Vice Chairperson for the period of one (1) year. The Vice Chairperson performs the duties of the HRC Chairperson in the event that the HRC Chairperson is unable to attend or otherwise fulfill her or his duties for the scheduled HRC meeting.
<i>HRC Member</i>	A member of the community-at-large who expresses interest in participating and is appointed by the DDDS Director of Community Services to serve on the HRC.
<i>Human Rights Committee (HRC)</i>	A volunteer group of community members appointed by the Director of Community Services who, as a function of their life and/or professional experiences, are able to objectively evaluate allegations of the violation of human rights and planned rights restrictions.
<i>Rights Restriction</i>	Any intervention that is used to restrict the human rights or freedom of movement of a service recipient.

4. Standards

- 4.1 The HRC shall operate as a state-wide committee under the appointment and direction of the DDDS Director of Community Services.
- 4.2 The responsibilities of the HRC Liaison shall be to:
- Verify that proposed HRC agenda items meet the criteria for HRC reviews (*rights restrictions, and completed formal rights complaint investigations*);
 - Provide logistical support the HRC Chairperson and members;
 - Assist the Administrative Specialist assigned to work with the HRC with creation of HRC Meeting Agendas and maintenance of the HRC Database;
 - Coordinate and facilitate initial orientation for new HRC members and annual orientation for existing members;
 - Offer technical and clinical perspective (*matters of regulation, Division philosophy, team members duties and responsibilities*) to the HRC;
 - Help to focus the conversation to align with The Home & Community Based Services Final Regulation, CMS 2249-F (the Community Settings Rule) and Federal Law when necessary;
 - Assist Director of Community of Services with recruiting new members;

- Elevate HRC operational issues to DDDS Community Services leadership as necessary;
 - Communicate HRC feedback to DDDS Community Services Leadership;
 - Provide orientation and technical guidance as needed to assist the provider presenters with preparation for the HRC meeting;
 - Make operational decisions regarding scheduled HRC events in conjunction with Director of Community Services and HRC Chairperson (*i.e. meeting postponement due to inclement weather, lack of quorum etc.*)
- 4.3 DDDS shall provide administrative support to the HRC (*i.e. scheduling, meeting minutes, updating regional databases, etc.*) The responsibilities of the HRC Administrative Specialist shall be to:
- Coordinate HRC meeting schedule and agenda;
 - Arrange a phone or video conference line for remote participation, as needed;
 - Monitor the HRC resource mailbox;
 - Notify provider staff or other applicable team members of scheduled meeting dates and times;
 - Take minutes of the HRC meeting;
 - Scan documents;
 - Enter/update information within the HRC database;
 - Other administrative tasks as necessary.
- 4.4 The minutes of HRC meetings shall be prepared by the DDDS Administrative Specialist assigned to the HRC and include:
- Date, place and time of the meeting;
 - The HRC Chairperson presiding;
 - The names and titles of all members present or absent, and guests;
 - All motions (*unless withdrawn*) with the names of the persons making and seconding the motion;
 - The names of members voting in the minority (*including all abstentions*) and a synopsis of their position, and the names of HRC member(s) not present during the vote;
 - All transactions reviewed by HRC and the number of HRC Members approving/disapproving each, summaries of reports and appointments;
 - The time of adjournment;
 - If available, the agenda for the next meeting.
- 4.5 DDDS will select a second “back-up” DDDS staff person to fill in for the primary HRC Liaison when he/she is unable to attend the meeting or has a conflict of interest in some matter before the committee.
- 4.6 DDDS shall maintain, at minimum, one pool of HRC members from Sussex, Kent and New Castle counties, and shall strive to have a minimum of five (5) volunteers. If necessary, to conduct business efficiently and prevent a backlog of items under HRC review, the Director of Community Services may

establish a second additional pool of HRC volunteers and strive to have a minimum of five (5) volunteers in that pool. The additional pool of HRC volunteers may meet at a time and location specified by the Director of Community Services.

- 4.7 The presence of at least fifty-one per cent (51%) of the HRC members shall constitute a quorum to conduct business. HRC members may attend an HRC meeting remotely by phone or video conference when necessary. An HRC member who wishes to participate remotely may request this accommodation at least 3 days in advance of the scheduled HRC meeting. Alternatively, at the discretion of the HRC Chairperson, the entire monthly HRC committee meeting may be held remotely, as necessary. HRC members meeting remotely shall be supplied the appropriate documents for review in a secure manner and are responsible at the end of the meeting for appropriate secure disposal. HRC members meeting remotely are responsible to ensure the privacy of information shared and discussed during the meeting.
- 4.8 The Disability Law Program shall be extended an invitation to designate a representative to serve as a member on the HRC. The remaining membership shall include individuals who are not directly employed by DDDS or HCBS providers that contract with DDDS. The Director of Community Services shall appoint each member.
- 4.9 The HRC Chairperson and HRC Vice Chairperson shall be chosen by the membership of the HRC by an annual vote of at least fifty-one per cent (51%) at the first HRC meeting in July each year.
- 4.10 The role of the HRC Chairperson is to conduct the official business of the HRC for the specific meeting over which he/she is presiding by facilitating the discussion of each case presented for HRC review. The HRC Chairperson serves as the recorder of determinations made by the Committee using the appropriate HRC forms. The HRC Chairperson signs the completed HRC forms on behalf of the HRC upon the conclusion of each discussion. The HRC Chairperson may delegate the role of recorder of determinations, first to the HRC Vice Chairperson, then to another HRC volunteer or HRC Liaison.
- 4.11 Membership on the HRC is at the discretion of the Director of Community Services and shall be reviewed annually. Members are expected to participate in at least three-quarters of the monthly HRC meetings and failure to do so may lead to dismissal by the Director of Community Services.
- 4.12 HRC volunteers shall participate in annual DDDS-provided orientation conducted by the DDDS HRC Liaison each July, which shall include a review of relevant DDDS policies and a short training on the Health Insurance Portability and Accountability Act (HIPAA). The DDDS Administrative Specialist assigned to the HRC shall maintain documentation of orientation attendance and ensure that HRC volunteers attend orientation both prior to serving as an HRC member and annually thereafter.
 - The HRC Liaison shall ensure that all members review and sign the Human Rights Committee (HRC) Committee Member Conflict of Interest Policy and Disclosure Form (*Exhibit A*), the HRC Confidentiality Statement (*Exhibit B*), and the DDDS HIPAA and Confidentiality Policy Acknowledgement prior to his/her involvement with HRC and annually thereafter.
 - The HRC Liaison shall ensure that all members annually complete the assigned HIPAA compliance training on the Division's web-based learning management system.
 - Copies of the signed DDDS Human Rights Committee Confidentiality Statement, the DDDS Conflict of Interest Policy and Disclosure Form, and the DDDS HIPAA and Confidentiality Policy

Acknowledgement shall be maintained electronically in the folder R:>HRC>Committee Membership Documents by the DDDS Administrative Specialist assigned to the HRC.

- 4.13 The HRC members are subject to the DDDS HIPAA and Confidentiality policy and shall safeguard and protect all information shared within the context of HRC. Each member of the HRC shall sign the HRC Confidentiality Statement and the DDDS HIPAA and Confidentiality Policy Acknowledgement. The HRC shall not release information to outside agencies or persons, excluding those individuals presenting to the committee. Unauthorized disclosure of any confidential information gained within the context of the HRC shall result in immediate dismissal from the Committee and the disclosure will be handled according to the DDDS HIPAA and Confidentiality policy. Exception: The HRC member who represents the Disability Law Program (*Protection and Advocacy*) may disclose information in accordance with applicable Federal and State statutes (*42 U.S.C. § 10801 et seq. (federal PAIMI Act); 42 U.S.C. § 15001 et seq. (federal PADD Act) and 16 Del. Code Section 1134 e-g*).
- 4.14 Committee members have an ethical obligation to conduct themselves without conflict to the interests of the individual. In their capacity as committee members, they must set aside personal, individual business, third party, and other interests to the welfare and best interests of the individuals. HRC committee members must act at all times in the best interest of people receiving services through the DDDS.
- 4.15 Full disclosure of all actual and potential conflicts should be made through the annual disclosure form or whenever a conflict arises. The DDDS Director of Community Services or designee shall make a determination as to whether a conflict exists and what subsequent action is appropriate (*if any*). The Director or designee shall inform the committee members of such determination and/or action.
- 4.16 In the event of an actual conflict of interest, the interested HRC committee member(s) must recuse themselves from participating in reviews, discussions, and voting on the matter(s) at hand when the conflict of interest is present. The interested individual shall not be present during deliberations by the HRC.
- 4.17 Documents distributed to HRC members, with the exception of HRC meeting minutes and agenda, shall be returned to DDDS or securely destroyed upon completion of the meeting. HRC meeting minutes and agenda contain confidential and protected health information and HRC members shall be responsible for ensuring the confidentiality and privacy of these documents in their possession.
- 4.18 HRC shall review rights restrictions and Rights Complaints for DDDS service recipients receiving supports from a DDDS authorized provider, in the following service areas:
- Residential Habilitation and Medical Residential Habilitation;
 - Day Habilitation, Prevocational Service, and Supported Employment;
 - Nurse Consultation;
 - Behavioral Consultation;
 - Respite;
 - Personal Care;
 - Supported Living

- Targeted Case Management.
- 4.19 The HRC shall review planned rights restrictions contained in a PROBIS-approved Behavior Support Plan (BSP). The HRC is only responsible for reviewing any rights restrictions in a BSP and none of the other essential elements of the BSP. The HRC responsibilities for the review of a BSP shall be to:
1. Review proposed rights restrictions and consider whether:
 - The proposed intervention is a restriction of rights;
 - The rights restriction ensures the respect and dignity of the person; and
 - The rights restriction is justified.
 2. Vote as to whether the BSP rights restriction is “satisfactory” or “team review needed,” and provide supporting recommendations/comments verbally and in writing in Part V – HRC Review of the BSP.
 - “Satisfactory” shall indicate that the HRC concurs with the rationale for the rights restriction and believes that it will help the individual achieve greater independence.
 - “Team Review Needed” shall indicate that HRC does not concur with the rights restriction and recommends that the person-centered support team review alternative and less restrictive options. Any changes made to the rights restrictions by the person-centered planning team shall be re-reviewed by PROBIS.
- 4.20 The HRC shall review proposed medical or safety-related rights restrictions that do not relate to a behavior support need, after they have been approved by the person-centered support team and:
1. Review proposed rights restrictions and consider whether:
 - The proposed intervention is a restriction of rights;
 - The rights restriction ensures the respect and dignity of the person; and
 - The rights restriction is justified.
 2. Vote as to whether rights restriction is “satisfactory” or “team review needed,” and provide supporting recommendations/comments verbally and in writing in Part IV of the HRC Review Request Form.
 - “Satisfactory” shall indicate that the HRC concurs with the rationale for the rights restriction and believes that it will help the individual move achieve greater independence.
 - “Team Review Needed” shall indicate that HRC does not concur with the rights restriction and recommends that the person-centered support team review alternative and less restrictive options.
- 4.21 The HRC shall review all rights restrictions no less than annually, regardless of the reason for the restriction.
- 4.22 The HRC shall review completed Rights Complaint Investigations and consider whether rights were violated and if appropriate actions were taken, in accordance with DDDS Rights Complaint Policy.

- 4.23 The HRC shall make determinations by a majority consensus. When unable to reach consensus, the rationale for the differing opinions shall be documented in the HRC comments section of the HRC Review Packet and forwarded to the Director of Community Services for input and a decision.
- 4.24 HRC may express organizational concerns or make recommendations to the DDDS HRC Liaison regarding Rights Restrictions or to the Office of Incident Resolution Administrator through the presenting investigator (or the Director of Community Services or designee when concerns are directly related to the HRC Liaison or Office of Incident Resolution).
- 4.25 The minutes of HRC meetings shall serve as the official record of all business transactions. The minutes shall be distributed to all attending members for approval, at each subsequent meeting. Copies of the minutes shall be forwarded to the Director of Community Services.

5. Procedures

CS PRO 200 - HRC Review of Rights Restrictions Contained in PROBIS-Approved Behavioral Support Plans

CS PRO 201 - HRC Review of Rights Restrictions as Submitted on Rights Review Request Form

CS PRO 202 - HRC Review of Formal Rights Complaints

6. References

- 6.1 Title 16 Del C. §1121-1123
- 6.2 DHSS Policy Memorandum #5 Client Confidentiality
- 6.3 DDDS Administrative Policy, Rights Complaints
- 6.4 DDDS Administrative Policy, HIPAA and Confidentiality
- 6.5 DDDS Administrative Policy, Volunteer Applicant Screening
- 6.6 DDDS Administrative Policy, Use of Restraints and Restrictive Procedures for Behavior Support

7. Appendix

- 7.1 Exhibit A – Human Rights Committee Member Conflict of Interest Policy and Disclosure Form
- 7.2 Exhibit B – HRC Confidentiality Statement
- 7.3 Exhibit C – DDDS HIPAA and Confidentiality Policy Acknowledgement

Exhibit A - HRC Conflict of Interest Policy and Disclosure Form

Human Rights Committee (HRC) Committee Member Conflict of Interest Policy and Disclosure Form

In the capacity as members of the Human Rights Committee, members must act at all times in the best interest of the Division of Developmental Disabilities Services (DDDS) service recipients. The purpose of this policy is to help inform committee members about what constitutes a conflict of interest, assist committee members in identifying and disclosing actual and potential conflicts, and help to ensure the avoidance of conflicts of interest where necessary.

Conflict of Interest Policy

1. Committee members have an ethical obligation to conduct themselves without conflict to the interests of the service recipient. In their capacity as committee members, they must set aside personal, individual business, third party, and other interests to the welfare and best interests of the service recipient.
2. A conflict of interest is a transaction or relationship which presents, or may present, a conflict between a committee member's obligation to the service recipient(s) and the committee member's personal, business, or other interest.
3. Full disclosure of all actual and potential conflicts should be made through the annual disclosure form and/or whenever a conflict arises. The DDDS Director of Community Services or designee (the "Director or designee") shall decide as to whether a conflict exists and what subsequent action is appropriate (if any). The Director or designee shall inform the committee members of such determination and/or action.
4. In the event of an actual conflict of interest, the interested committee member(s) must recuse themselves from participating in reviews, discussions, and voting on the matter(s) at hand when the conflict of interest is present.
5. On an annual basis, all committee members shall be provided with a copy of this policy and required to complete and sign the acknowledgement and disclosure form below. All completed forms shall be provided to and reviewed by the Director or designee.



*DELAWARE HEALTH
AND SOCIAL SERVICES*

DIVISION OF
DEVELOPMENTAL DISABILITIES SERVICES

COMMUNITY SERVICES

Acknowledgement and Disclosure Form

I have read the Human Rights Committee Conflict of Interest Policy and agree to fully comply with its terms and conditions at all times during my service as an HRC Committee Member. If at any time following the submission of this form, I become aware of any actual or potential conflicts of interest, or if the information provided below becomes inaccurate or incomplete, I will promptly notify the DDDS Director of Community Services or designee in writing.

I have no conflict of interest to report

I have the following conflict(s) of interest to report:

Disclosure of Actual or Potential Conflicts of Interest:

- 1.) _____
- 2.) _____
- 3.) _____
- 4.) _____
- 5.) _____

I hereby certify that the information set forth above is true and complete to the best of my knowledge.

Committee Member Signature: _____

Committee Member Printed Name: _____

Date: _____
(signature valid for one year from this date)

Exhibit B - HRC Confidentiality Statement

	<p><i>DELAWARE HEALTH AND SOCIAL SERVICES</i></p> <hr/> <p>DIVISION OF DEVELOPMENTAL DISABILITIES SERVICES</p>	<p>COMMUNITY SERVICES</p>
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Human Rights Committee Confidentiality Statement

I, _____, understand that all information discussed within the context of the Human Rights Committee (HRC) is confidential in nature. I further understand and agree that it is my personal responsibility to protect and safeguard against the disclosure of the said information outside the boundaries of HRC business.

I further understand that information that is disseminated for the purpose of HRC business shall not be duplicated in any form. HRC documents, with the exception of HRC meeting minutes, shall be returned to DDDS or securely destroyed upon completion of the meeting. I understand that HRC meeting minutes and agenda contain confidential and protected health information and I, as an HRC member, shall be responsible for ensuring the confidentiality and privacy of these documents in my possession. I understand that it is my responsibility to ensure the privacy of information shared and discussed when attending HRC meetings remotely.

Signature of HRC Member

Date of Signature
(signature valid for one year from this date)

Signature of HRC Liaison

Date of Signature
(signature valid for one year from this date)

Exhibit C - DDDS HIPAA and Confidentiality Policy Acknowledgement



DDDS HIPAA and Confidentiality Policy Acknowledgement

I have read the DDDS HIPAA and Confidentiality Policy and agree to fully comply with its terms and conditions at all times during my service as an HRC Committee Member.

Signature of HRC Member

Date of Signature
(signature valid for one year from this date)

Signature of HRC Liaison

Date of Signature
(signature valid for one year from this date)

