

**Delaware Health and Social Services
Division of Developmental Disabilities Services
Dover, Delaware**

Title: Rights Complaint

Approved By:


Division Director

Written/

Original

Revised by: DDDS Policy Committee

Development Date: February 1986

Revision Date: March 2005

*** This policy replaces the Community Services policy entitled Family/Guardian/ or Personal Advocate Complaints

I. Purpose

To establish a procedure for processing and resolving complaints made by an individual.

II. Policy

Rights complaint shall be documented, investigated and resolved in a timely manner.

III. Application

All DDDS Staff and contractors.

IV. Definitions

- A. Rights Complaint: - An allegation that an individual's rights have been violated. Refer to the DDDS Statement of Rights and Responsibilities attached as Exhibit A.
- B. Personal Advocate - Any person who has been designated by an individual receiving services and/or has a vested interest in the individual's well being.
- C. Rights Complaint Designee - A DDDS staff member appointed by the Director to: (1) review Rights Complaints submitted to the Director's Office and (2) ensure the completion of Rights investigations and resolution of these complaints.
- D. Responsible Supervisor - The person with management authority over the service or issue involved in a rights complaint.
- E. Legal Guardian - A legal relationship in which a person is authorized to make decisions for another person who has been determined by a Court to be incompetent to manage his/her affairs and/or property.

V. Standards

- A. Individual Rights Complaint Forms shall be placed in prominent and accessible locations in all programs and administrative areas.
- B. Rights complaints may be made by an individual receiving services from the Division or by any concerned person acting on behalf of an individual receiving services.
- C. Individual rights complaints shall be reported to the Rights Complaint Designee for the Division. At no time should anyone who has reasonable cause to believe that a right has been violated, be prevented from filing a Rights Complaint. It is important, however, to distinguish between day-to-day issues/concerns/complaints and actual violations of rights.

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V. Standards (continued)

- D. Upon determination that an individual's rights have been violated, the supervisor of the involved service shall take immediate appropriate, prompt corrective and/or preventive action within the scope of his/her authority.
- E. The individual's social worker or case manager shall be responsible for notifying appropriate individuals (the individual receiving services and his/her family/guardian/advocate, as applicable) of substantiated rights violations and the corrective/preventive action taken.
- F. Information concerning the Rights Complaint shall not be shared with the individual's family/advocate if he/she expressly communicates that he/she do not want this information released.
- G. Rights complaints shall be resolved at the lowest possible management level and must be investigated and written response sent to the complainant within 60 working days of receipt of the complaint.
- H. Reporting a Rights violation shall not release a person from his/her responsibility to report abuse, neglect, mistreatment and/or misappropriation of funds according to all applicable state and federal abuse and neglect laws, regulations and policies.
- I. The DDDS Human Rights Committee shall review each Rights Complaint and DDDS findings to evaluate whether rights were violated and if appropriate action was taken.
- J. The Rights Complaint Designee shall maintain a confidential file on all Rights Complaints filed as well as the outcome.
- K. The Rights Complaint Designee shall evaluate complaints for trends and report any such trends to the Risk Management Committee.
- L. The identity of the person(s) filing a Rights Complaint shall remain confidential throughout the investigative and resolution process.

VI. Procedures

<u>Responsibility</u>	<u>Action</u>
Regional Program Managers (State Programs including Stockley Center) and Agency Directors	1. Assures that contracted provider agencies and DDDS offices maintain Rights Complaint forms in readily available area of residence and bulletin board at program sites.

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VI. Procedures (continued)

Complainant	<ol style="list-style-type: none"> 2. Completes Rights Complaint form Parts A and C. 3. Sends complaint to Rights Complaint Designee.
Rights Complaint Designee	<ol style="list-style-type: none"> 4. Assigns number to Complaint; removes Part C of complaint. 5. Sends Complaint to Executive Director of Stockley Center or Director of Community Services or Director of Adult Special Populations for response to the Individual Rights Complaint Designee within 30 working days.
Executive Director of Stockley Center Director of Community Services Director of Adult Special Populations	<ol style="list-style-type: none"> 6. Requests response from responsible supervisor.
Applicable Supervisor	<ol style="list-style-type: none"> 7. Investigates reported complaint. 8. Informs individual's social worker/case manager of complaints. 9. Provides opinion whether individual's rights have been violated. 10. Prepares written response to complaint to include corrective/preventive measures if rights were violated, or rationale for determination that rights were not. 11. Sends complaint and response to Executive Director of Stockley Center/Director of Community Services/Director of Special Populations for review and concurrence.
Executive Director of Stockley Center Director of Community Services Director of Adult Special Populations	<ol style="list-style-type: none"> 12. Evaluates and responds as appropriate. 13. Returns complaint and response to Rights Complaint Designee.
Rights Complaint Designee	<ol style="list-style-type: none"> 14. Reviews complaint and response with Division Director.

VI. Procedures (continued)

Division Director	<p>15. Initiates other investigation as necessary. 16. Makes final decision on disposition of case. 17. Notifies Rights Complaint Designee, Executive Director/Director of Community Services/Director of Special Populations of decision.</p>
Rights Complaint Designee	<p>18. Returns copy of original complaint and response to complainant (Parts A and B of Individual Rights Complaint). 19. Sends copy of complaint and response to individual's social worker/case manager and Human Rights Committee Chairperson.</p>
Human Rights Committee	<p>20. Reviews complaint and response and provides opinion of whether rights were violated and if appropriate action was taken. 21. Recommends additional action when appropriate. 22. Forwards response to Rights Complaint Designee</p>
Rights Complaint Designee	<p>23. Reviews Human Rights Committee response with Division Director. 24. Maintains records of rights complaints filed, response and Human Rights Committee review. 25. Advises the Chair of the Risk Management Committee of any trends identified in the received Rights Complaints.</p>
Division Director	<p>26. Forwards Human Rights committee response to Executive Director of Stockley or Director of Community Services or Director of Adult Special Populations to implement any further corrective actions as appropriate.</p>
Social Worker/Case Manager	<p>27. Notifies individual's family/guardian of substantiated rights complaints and resolution unless the individual is a non-adjudicated adult and expressly communicates that he/she want such information to remain confidential.</p>

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VII. References

- A. Accreditation Council for Services for Mentally Retarded and Other Developmentally Disabled Persons, Standards for Services for Developmentally Disabled Individuals, Chicago: Joint Commission on Accreditation of Hospitals, 1984 (R).

VIII. Exhibits

- A. Statement of Rights and Responsibilities
- B. Individual Rights Complaint Form
- C. Guidelines For Filing A Rights Complaint

Individual Rights Review
Statement of Rights and Responsibilities

The Division of Developmental Disabilities Services holds the philosophy that people with developmental disabilities are entitled to the same basic rights as other citizens of the State of Delaware. These rights include (but are not limited to):

Your Rights and Responsibilities Regarding Services and Supports

You Have the Right to:

- Receive considerate, respectful, and appropriate care, treatment, services and supports, regardless of race, creed, nationality, sexual orientation or level of disability
- Be informed of medical condition, developmental and behavioral status and risks of treatment and services provided
- Be free from unnecessary drugs or physical restraint and research that might cause psychological or physical harm.
- Be free from physical, verbal, sexual, psychological/emotional abuse and exploitation
- Voice grievances, file a complaint and recommend changes concerning the care, treatment, services and supports you receive

You Have the Responsibility to:

- Participate as much as you can in the planning of your services and supports
- Ask questions about your condition and status and the risks of treatment
- Report problems or concerns you have to someone on your team or your family or advocate so that they can be addressed

Your Rights and Responsibilities Regarding Privacy

You Have the Right to:

- Have time, space and opportunity for privacy.
- Meet privately with people of your choice.
- Privacy during treatment and care of personal needs.
- Review information that is kept concerning you.
- Determine who can review information that is kept concerning you.

You Have the Responsibility to:

- Exercise your right to privacy in a way that does not interfere with the rights of others
- Communicate your need for privacy to the members of your support team
- Provide enough information about yourself so that your support team can obtain appropriate services for you.

Individual Rights Review
Statement of Rights and Responsibilities (continued)

Your Rights and Responsibilities Regarding Choice

You Have the Right to:

- Give and/or withhold consent for treatment.
- The least restrictive and most appropriate living situation.
- Choose between a living in a Home and Community Based Service (HCBS) residential setting (apartment, neighborhood Home, shared living) or an ICF/MR facility.
- Choose your HCBS Residential Provider.
- Choose your HCBS Day Service Provider.
- Choose your HCBS Clinical Services Provider (RNs and/or BAs).
- Speak openly and freely.
- Have and use personal property and possessions and to have them safeguarded.
- Participate in the life of your community, including belonging to clubs, organizations, and attending functions or events of your choice.
- Participate in the political process.
- Make decisions that directly affects your life including managing your finances.
- Plan for your future.
- Religious expression.
- Have a personal advocate.
- Equal educational and work opportunities.
- Have meaningful relationships.

You Have the Responsibility to:

- Be informed about the consequences of the decisions you make
- Make choices that are not harmful to yourself or to other people
- Communicate your choices to your support team
- Manage yourself in a manner that is acceptable when you are participating in activities in your community
- Involve yourself in relationships of your choice in a way that does not harm yourself or other people

Signature of Individual Receiving Services

Date

Signature of Family/Advocate/Legal Guardian

Date

Signature of Case Manager/Support Coordinator

Date

**Delaware Health and Social Services
Division of Developmental Disabilities Services**

INDIVIDUAL RIGHTS COMPLAINT

Complaint Number: _____

Date Received: _____

A. COMPLAINT (fill in the blanks or attach additional report)

- 1. Individual whose rights are reported to be violated:**

- 2. What right(s) is being violated?**

- 3. Describe what happened when the right was violated. Include who violated the right, who was present, when and where this reported rights violation occurred.**

- 4. Has the appropriate supervisor, social worker and/or case manager been notified? If yes, who was notified and when?**

- 5. Are you aware of any action that was taken as a result of your notification? If yes, please explain.**

6. **Has the family and/or legal guardian been notified?
If yes, who was notified and when?**

7. **What is your suggestion for a fair resolution to this alleged rights violation?**

B. RESOLUTION (to be completed by Individual Rights Complaint Designee)

1. **Has this complaint been resolved to the satisfaction of the complainant/legal guardian and/or person whose rights have been violated?**

2. **Was this complaint substantiated or not substantiated?**

3. **If not successfully resolved, have all parties been informed of their right to appeal and how to do so?**

Confidential information provided below is to be detached before forwarding this complaint for investigation.

C. CONFIDENTIAL

1. **Provide the relationship of person filling out Complaint Form to person whose rights were alleged to be violated? (For example, staff person, family, advocate, self, guardian)**

2. **Please provide name, address, telephone number and signature of person making complaint.**

Name: _____

Address: _____

Telephone Number: _____

Date: _____

INSTRUCTIONS FOR COMPLETING RIGHTS COMPLAINT FORM

1. **Complete Sections A and C. (The identity of persons filing Rights Complaints shall be considered confidential.)**
2. **Mail to: Christine M. Long, Rights Complaint Designee**

**Office of the Director
Training and Professional Development
Stockley Center
26351 Patriot Way
Georgetown, Delaware 19947**
3. **You have the right to seek legal counsel at any point in the complaint process; you may request the Division's assistance in seeking legal counsel on the client's behalf.**
4. **You will receive a response to your complaint within 60 working days of receipt of your complaint by the Division office.**
5. **If you are not satisfied with the resolution of this complaint, you may file an appeal of the decision with the Division Director at the same address in #2.**

Exhibit C

Guidelines For Filing A Rights Complaint

The following scenerios are a non-inclusive list of reasons to file a Rights Complaint:

- A medical professional repeatedly does not explain to the individual about their health status;
- Staff use the kitchen table as their office and the individual has repeatedly asked them not to do so;
- An individual's choice for medical treatment is not respected and the individual has the capacity to make informed decision
- The individual wants to freely choose his/her own leisure activity and staff/provider tell him/her that they have no choice and that they will do whatever the staff/provider wants, this may be a violation of the individual's right to choose activities, to make decisions and to receive appropriate care and treatment.

The following scenerios are not rights violations:

- The individual has an increased team approved level of supervision for the purpose of protecting the individual's health and safety;
- The individual has an increased team approved level of supervision for the purpose of preventing the individual from hurting others;
- The individual wants to go to the mall and the staff cannot leave immediately, but rather wants to wait and leave in an hour, this is a situation that calls for discussion and compromise, however it does not rise to the level of a rights violation.