



Division Directive Number
4.200
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Title: Human Rights Committee

Applies to: Department of Mental Health/ Division of Developmental Disabilities.

Purpose:

- Ensure individuals receiving services certified, licensed, funded and/or operated by DMH/DD exercise, or are assisted in exercising, all rights under the Constitution of the United States and those stated in federal and state rules.
- Ensure individuals have information on their rights and responsibilities.
- Ensure that individuals are involved in any process to limit their rights and are assisted through external advocacy efforts.
- Ensure individuals are entitled to due process when limitations are imposed.
- Ensure all Human Rights Committees operate as objective review committees in protecting the human civil rights for individuals with developmental disabilities.

Definitions:

Complaint: An informational report of dissatisfaction, grievance, and/or a suspicion/allegation of abuse and neglect requiring a response to Office of Constituent Services.

Contract Provider: An agency or an individual that enters into a contract with the Department of Mental Health-Division of Developmental Disabilities to provide direct or indirect services to individuals served by the Division.

Due Process: A Process in which individuals are involved with ANY restriction/limitation of their rights, that they have access to external advocacy if in disagreement, and steps and timelines which detail how the person's rights may be restored.

External Advocate: An individual with no financial affiliation with the Department of Mental Health who acts as a support to, or intercedes on behalf of, the individual and his/her situation being considered by the Human Rights Committee.

Reporting of Events: Rule and Directive prescribing procedures for documenting, reporting, analyzing and addressing certain events that affect individuals in residential facilities, day programs, or specialized services that are licensed, certified, or funded by the Department of Mental Health (9 CSR 10-5.206 Event Reporting/Community Services, or DOR 4.270 (State Operated Programs and Division Directive 4.070 Event Reporting Process).

Human Rights Facilitator: Person responsible for leading human rights committee meetings.

Informed Consent: To make a reasonable decision based upon relevant information, i.e., nature of proposed procedures, likelihood of success, extent, duration of positive impacts, harms or side effects, any alternative procedures available, and reason as to why the recommended procedure is the procedure of choice.

Provider Human Rights Committee: Human Rights Committee that has been approved by the Division and is operated by a contracted provider.

Regional Human Rights Committee: Human Rights Committee that is operated by the Department of Mental Health, Division of Developmental Disabilities and is available within each of the Division's 11 regions.

Restrictive Supports: Any restriction, limitation, or intervention that is preventing the person from fully participating in activities and community involvement (this can include medications). *Examples include, but are not limited to, the following; limiting communication with others, access to activities, access to money, increased supervision due to behaviors during times or places which would otherwise be considered private, (this does not include provision of supports or assistance with daily living skills), etc.*

Rights Restrictions: Limitation of any general liberties that are available to all citizens.

State Operated Programs Human Rights Committee: Refers to committees that serve individuals supported by the state operated waiver programs and habilitation center on-campus programs.

FUNCTIONS OF REGIONAL HUMAN RIGHTS COMMITTEE

- Ensure that individuals' rights are not unduly restricted.
- Ensure individual rights are being promoted.
- Ensure individuals are assisted in exercising their rights.
- Review of policies and procedures of all agencies which operate a human rights committee. Regional Human Rights Committees should have policies and procedures reviewed within 30 working days and provide feedback to the provider.
- Regional Human Rights Committee will identify trends and patterns of rights/limitations and restrictions annually and share with the Regional Office/SOP Administration.
- Delegate functions of Regional Human Rights Committee to qualified contracted provider.
- Offer training and technical assistance for contracted provider Human Rights Committees.
- Review of rights issues that were not resolved by provider Human Rights Committee.
- Refer unresolved issues discovered from HRC reviews to the appropriate DMH personnel. Issues may include, but are not limited to, lack of follow-up on recommendations, problems related to services being provided to an individual, etc. The Regional Office will enter the information into APTS for tracking purposes.
- Function as the Human Rights Committee for individuals who receive services from agencies who do not have a committee.
- Review situations where individual rights have been restricted or limited, or are being proposed to be restricted or limited.
- Ensure due process occurs for individuals with any rights that have been restricted (includes documentation with appropriate signatures, documentation of notifications regarding the restrictions, and documentation that persons are aware of the appeal process and that they are assisted in accessing external advocacy supports).

- Provide recommendations and resources regarding individual rights.
- Participate in contracted provider human rights committee meetings as necessary.
- Review and determine actions to resolve individual complaints related to rights violations.
- Provide impartial review process of alleged violations of individual rights.
- Ensure the basic assumptions that a restriction/limitation is:
 - Temporary in nature.
 - Defined with specific criteria (under what circumstances the rights restriction is to be used).
 - Paired with learning/training components to assist the person in eventual removal of restriction.
 - Removed upon reaching clearly-defined objectives.
 - Reviewed by the Human Rights Committee at least annually.

Access to the Human Rights Committee:

A written/verbal request is submitted by individual served/family member/guardian/committees/interdisciplinary teams where possible limitations or restrictions are being proposed or implemented.

FUNCTIONS OF STATE OPERATED PROGRAMS HUMAN RIGHTS COMMITTEES

- Review situations where individual rights have been restricted or limited or are being proposed to be restricted or limited.
- Ensure due process occurs for individuals with any rights that have been restricted (includes documentation with appropriate signatures, documentation of notifications regarding the restrictions, and documentation that persons are aware of the appeal process and that they are assisted in accessing external advocacy supports).
- Provide recommendations and resources regarding individual rights.
- Review and determine actions to resolve individual complaints related to rights violations.
- Provide impartial review process of alleged violations of individual rights.
- Identify trends and patterns of rights/limitations and restrictions and share at least annually with the SOP Administration.
- Ensure the basic assumptions that a restriction/limitation is:
 - Temporary in nature.
 - Defined with specific criteria (under what circumstances the rights restriction is to be used).
 - Paired with learning/training components to assist the person in eventual removal of restriction.
 - Removed upon reaching clearly-defined objectives.
 - Reviewed by the Human Rights Committee at least annually.

Note: For individuals supported in state operated waiver programs, they have the **option** to refer rights issues to **either** the related Regional Office Human Rights Committee or to the related State Operated Program Human Rights Committee. If the State Operated Program Human Rights Committee is utilized, the individual’s Service Coordinator and a representative from the related regional office is to participate in the committee for review of the rights issue for the person served in the state operated waiver program.

REFERRAL TO HUMAN RIGHTS COMMITTEE

Referral Process

For the DMH/DD Human Rights committees, a referral form will be completed by a Human Rights Committee representative when there is a request to review the use of restrictive supports or limitations. At the time of referral, Human Rights Committee will request documentation to demonstrate the need for the restrictive support or limitation and to ensure due process has occurred.

Time Frames for Completion of Reviews

Referrals to the Human Rights Committee will be reviewed within 30 working days from the acceptance of the referral by the committee. If the review goes beyond 30 working days there must be documentation explaining why it was extended. Referrals from individuals receiving services begin with the date of contact by the individual.

The Human Rights Committee will then review the restrictive support(s)/ limitation(s) to determine if:

- Due process has occurred
- Supports are being put in place to protect the person or others.
- There is a plan in place to remove the restrictive supports.

Review of Rights Restrictions in Emergency Situations (imminent danger):

- In an emergency where there is imminent danger or potential harm to an individual or other persons, qualified staff may limit or restrict rights to prevent harm to the individual or others. (Limitation/restriction of individual rights must follow the process of reporting as outlined in 9 CSR 10-5.206 (community services) or DOR 4.270 (state operated programs for Reporting of Events). This must be reported to supervisory personnel as soon as is practical following the event.
- Any continuation (two or more times) of the restriction must be reviewed and approved by the Regional Director/ SOP Superintendent/Contracted Direct Service Provider CEO/Director or designated staff while alternative strategies are being developed and reviewed by Human Rights Committee.

REGIONAL/STATE OPERATED PROGRAMS COMMITTEE MEMBERSHIP

The members of the committee will include, but not be limited to:

- Provider staff
- Community member(s) with no financial affiliation with DMH.
- Experts as needed (Behavior Analyst, Nurse, etc.)
- Self Advocate receiving services from the Division (not employed by DMH)
- DMH-DD Staff
- Family member or guardian of an individual receiving services from the Division
- Regional Office QE Human Rights Facilitator/State Operated Programs designated Human Rights facilitator

A minimum of 3 members must participate to constitute a quorum, with one of those being a community member.

Requirements of Regional/State Operated Program Committee Facilitator:

Complete Human Rights Committee training to include, but not be limited to:

- Abuse/Neglect
- Individual Rights
- Role of DMH Office of Constituent Services
- HIPAA Training
- Due Process
- Medication Awareness
- Overview of PBS
- Ongoing training/education as determined by the Division

Note: Facilitator has responsibility of training members as necessary.

Participating in the Human Rights Committee is bound by confidentiality and the members would be required to sign a form annually acknowledging their commitment.

Regional/State Operated Programs Human Rights Committee Meetings:

- It will be up to each Human Rights Committee facilitator to schedule the meetings.
- Typed minutes shall be taken of each meeting and shall reflect the date and time of the meeting, those Committee members present, and a record of decisions and recommendations in a manner that readily identifies the issues reviewed, the decisions reached, and the follow-up that is necessary. The minutes shall also reflect the names of additional meeting participants.
- Documentation:
 - A file must be maintained containing information from the meetings; this should be an electronic file in a Human Rights or Quality Enhancement shared folder or another designated location. Any information related to an individual will be placed in the individual’s record where their personal plan is maintained.
 - Human Rights Committee will provide written feedback to the person making the referral which includes conclusions, recommendations, etc.
 - Findings will be shared with the individual, guardian, or representative. Documentation can include case notes, referral form, etc.

Regional/ State Operated Programs Human Rights Committee Appeal Process:

If the individual or the guardian wants to appeal a decision by the Human Rights Committee then they will be referred to contact the Office of Constituent Services. Committee findings will include information on the appeals process.

<p>CONTRACTED PROVIDER HUMAN RIGHTS COMMITTEE AND REGIONAL OFFICE APPROVAL</p>

- The Regional Office may delegate responsibilities of the Human Rights Committee to contracted providers. The responsibilities are to ensure due process is occurring for any rights that have been restricted (includes approval with the appropriate signatures, documentation of notifications regarding the restrictions, and documentation that persons are aware of appeal process and that they are assisted in accessing external advocacy supports). Provide recommendations and resources regarding individual rights.

The Regional Office will assure that the provider has met the following requirements before delegating the responsibilities:

- A minimum of three members will be present at the HRC Reviews with at least one of those being an individual who is not affiliated with the contracted provider, (i.e., board members or employees), experts as needed (Behavior Analyst, Nurse, etc.), volunteers, individuals receiving services, family member/guardian of an individual receiving services, etc.
- Process for notifying the Regional Office of their Human Rights Committee meetings. (The provider should always notify the designated Regional Office staff of upcoming meetings, agendas, and minutes from previous meetings.)
- Have written policies and procedures that address the Human Rights process/functions which include:
 - How individuals' rights are not unduly restricted.
 - How individual rights will be promoted.
 - How individuals will be assisted in exercising their rights.
 - How the individual, family, and/or guardian are involved in any process to limit their rights and are assisted through external advocacy efforts.
 - How to make a referral to the committee.
 - What are the timelines for reviews (completion of a review should not exceed 30 days from acceptance of the referral by the committee, or 30 days from the date an individual receiving services makes a complaint. If the review goes beyond 30 working days there must be documentation explaining why it was extended.)
 - How they will ensure basic assumptions are monitored when there are limitations or restrictions:
 - a. Temporary in nature;
 - b. Defined with specific criteria (under what circumstances the rights restriction is to be used);
 - c. Paired with learning/training components to assist the person in eventual removal of restriction;
 - d. Removed upon reaching clearly-defined objectives;
 - e. Reviewed by the Human Rights Committee at least annually.
 - What the process is for appeal regarding Human Rights Committee findings.
 - How emergency restrictions will be addressed.
 - How they will determine if results/follow-up on action plans are achieved.
 - How maintenance of documentation and meeting minutes will be done.
 - What is the frequency of meetings for the Human Rights Committee?
 - What constitutes a quorum?
 - What is the process for notification of individual, family, guardian prior to meeting?
- Willingness to participate in reviews by Regional Quality Enhancement staff. Reviews include, but are not limited to, the Human Rights Committee decisions, membership, documentation, training, policies and meeting the established timelines on the operations and access to the committee.
- Provide Regional Office an annual summary of trends and patterns of rights/limitations and restrictions.
- Approval by Regional Office Quality Enhancement team of provider's Human Rights Facilitator training to include, but not be limited to:
 - Abuse/Neglect
 - Individual Rights
 - Referral to DMH Office of Constituent Services
 - HIPAA Training
 - Due Process / Medication Awareness
 - Ongoing training / education as determined by the Division
 - Overview of PBS

- There is an expectation that the facilitator acquires training for committee members as needed, and there is evidence that members are required to comply and have acknowledged their commitment to maintain confidentiality.
- Contracted provider will be notified in writing by the Regional Office that they have been delegated the Human Rights Committee responsibility.

Note: Regional Office and Quality Enhancement team may approve committees comprised of more than one provider.

Provider Human Rights Committees Unable to Maintain Requirements:

Suspension of provider Human Rights Committee can occur if patterns of issues are repeatedly occurring, if there is lack of follow-up on issues that have been identified, or if a provider is currently under a critical status plan. The Regional Office will follow the process outlined in Division Directive [4.080 - Integrating Quality Functions](#).

QUALITY ASSURANCE

The Regional Quality Enhancement Team will review information from the provider Human Rights Committees as part of the QE review process as outlined in Division Directive [3.100 Quality Enhancement Review - Basic Health and Safety](#). Any time issues are discovered with the provider Human Rights Committee, the Regional Quality Enhancement staff may request a review to determine what steps need to be taken to resolve issues that were discovered.

The State Quality Enhancement Team will review information from Regional/State Operated Programs Human Rights Committees as part of the process outlined in Division Directive [4.080 - Integrating Quality Functions](#).

Authority and Resources

9 CSR 10-5.206 Report of Events <http://www.sos.mo.gov/adrules/csr/current/9csr/9c10-5.pdf>

Department of Mental Health Department Operating Regulation (DOR) [4.145 - Use of Restraints and Time Out](#)

Department of Mental Health Department Operating Regulation (DOR) [4.270 - Reporting & Recording Unusual Incidents](#)

Division Directive [4.070 - Event Report Processing](#)

Individual Rights of Persons Receiving Services from the Division of Developmental Disabilities

<http://dmh.mo.gov/docs/dd/indrights.pdf>

RSMo 630.110 & RSMo 630.115 <http://moga.mo.gov/STATUTES/C630.HTM>

Link to DMH Office of Constituent services: <http://dmh.mo.gov/constituentservices/index.htm>