

<b>Department of Health Developmental Disabilities Supports Division</b>  <p style="text-align: center;"><b>POLICY</b></p>	<b>Policy Number:</b> <b>Supersedes:</b> Human Rights Committee Requirements Policy 2-11-10; Human Rights Committee Requirements Policy 05-15-03; Policy Governing Behavior Support Service Planning 1/19/96
<b>Policy Title:</b> Human Rights Committee Requirements Policy	
<b>Effective Date:</b> April 19, 2010	
<b>Approved:</b> Signature on File	<b>Date:</b> April 19, 2010

## I. PURPOSE

The intent of this policy is to specify the purpose of a Human Rights Committee of a provider agency with regard to individuals served through the DD Waiver Program.

## II. APPLICABILITY

This policy applies to all individuals with developmental disabilities in services funded through any of the following programs:

1. Community Living Support Services of the Developmental Disabilities Waiver
2. Intermediate Care Facilities for the Mentally Retarded with members of the Jackson Class Action Lawsuit.

## III. DEFINITIONS

**AVERSIVE INTERVENTION:** Any device or intervention, consequence or procedure intended to cause pain or unpleasant sensations. Examples are not limited to but include: electric shock, isolation, mechanical restraint, forced exercise; withholding of food, water or sleep, humiliation, and water mist; over-correction, and other cost responses.

**BEHAVIOR SUPPORT PLAN:** A document written by an authorized DD Waiver behavior therapist that details the strategies and interventions to be used in interacting with the individual on a daily basis in all relevant life settings. The Behavior Support Plan contains information about the person, his/her behavioral challenges, and details of prevention and intervention strategies, substitute skill development, teaching strategies, and desired long-term changes affecting quality of life. The Behavior Support Plan describes monitoring and data collection procedures enabling evaluation of client progress and plan effectiveness.

**BEHAVIOR THERAPIST:** A licensed practitioner or qualifying intern with at least a Master's degree in a mental health allied field. All behavior therapists must be

authorized by the Developmental Disabilities Supports Division to provide Behavior Therapy services as an independent contractor or as a subcontractor or employee of an approved provider.

**COMMUNITY:** A group of people with a common characteristic or interest living within a larger society.

**CRISIS PLAN:** When an individual's behavior has escalated to severity levels posing great risk of harm to the individual or others a Crisis Prevention/Intervention Plan may be necessary, as determined by the Interdisciplinary Team. Any use of physical intervention must only be recommended with a Crisis Plan and may never appear as a recommendation within a Behavior Support Plan. See also DDSD *Policy on Crisis Prevention/Intervention Plans*.

**EMERGENCY:** A circumstance in which the health or safety of the individual client or other person is in imminent risk of harm and immediate action is necessary to prevent the harm.

**FORCED EXERCISE:** The use of physical force to require a person to engage in strenuous physical activity.

**OVER-CORRECTION:** A procedure which provides for restoration of the environment to better than original condition following an incident of undesired behavior, e.g., requiring an individual to clean all the tables in the dining room after spilling milk on one table.

**PHYSICAL RESTRAINT:** The use of manual methods, other than physical guidance and prompting techniques of brief duration, to restrict the movement or normal functioning of a portion of an individual's body.

**PROTECTIVE DEVICES:** Helmets, safety goggles or glasses, guards, mitts, gloves, pads, and other common safety devices that are normally used or recommended for use by persons without disabilities while engaged in a sport, occupation, or during transportation.

**RESPONSE COST:** Procedures in which a specified amount of available reinforcers are contingently withdrawn following a response. Response cost may include restricting an individual's access to: their possessions, participation in outings, or association with friends, relatives or other significant people, or payment of a "fine".

**RESTITUTION:** The act of making good or compensating for loss, damage, or injury. A return to or restoration of a previous state, e.g., replacing something broken.

**SECLUSION:** Placing a person in a locked or barricaded area that prevents contact with others usually for a specified period of time.

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#### **IV. POLICY STATEMENT**

Human Rights Committees are required for residential service provider agencies. The purpose of these committees with respect to the provision of Behavior Supports is to review and monitor the implementation of certain Behavior Support Plans.

Human Rights Committees may not approve any of the interventions specifically prohibited in the following policies:

- Aversive Intervention Prohibitions
- Psychotropic Medications Use
- Behavioral Support Service Provision.

A Human Rights Committee may also serve other agency functions as appropriate, such as the review of internal policies on sexuality and incident management follow-up.

##### **A. HUMAN RIGHTS COMMITTEE ROLE IN BEHAVIOR SUPPORTS**

1. Behavior Support Plans containing any aversive interventions are to be submitted to the Human Rights Committee in advance of a meeting, except in emergency situations. The committee will review the plan along with the following additional information as available:
  - a. Baseline or base rate data.
  - b. Review of the individual's current situation and environment.
  - c. Client history, including previous interventions and results.
  - d. Relationship of the Behavior Support Plan to the Individual Service Plan.
  - e. The possible adverse effects, if any, of the proposed Behavior Support Plan.
  - f. Success and failure criteria for discontinuing the proposed aversive intervention.
  - g. Written evaluation by the qualified behavior therapist or equivalent mental health or other specialized therapist.

An invitation to participate in the review will be extended to the individual, a guardian, or family member, and the behavior therapist. A written or oral presentation will be made to the committee by the Behavior Support Plan author, designated staff and/or case manager. The stated preferences of the individual and/or guardian are brought to the meeting by the individual or their representative.

The results of the Human Rights Committee review is reported to the behavior therapist, mental health or other specialized therapy provider, guardian and case manager within three working days.

Only those Behavior Support Plans with an aversive intervention included as part of the plan or associated Crisis Intervention Plan need to be reviewed prior to implementation. Plans not containing aversive interventions do not require Human Rights Committee review or approval.

2. The Human Rights Committee will determine and adopt a written policy stating the frequency and purpose of meetings. Behavior Support Plans approved by the Human Rights Committee will be reviewed at least quarterly.
3. Records, including minutes of all meetings, will be retained at the agency with primary responsibility for implementation for at least five years from the completion of each individual's Individual Service Plan.

#### B. INTERVENTIONS REQUIRING REVIEW AND APPROVAL

1. Behavior Support Plans or Crisis Plans designed to assist individuals in changing or adapting behavior that include any of the following characteristics must be reviewed by the Human Rights Committee prior to implementation.

- a. Over correction.
- b. Forced physical guidance.
- c. Response cost.
- d. Restitution.
- e. Physical restraint.
- f. Use of law enforcement as part of a crisis plan.
- g. Use of emergency hospitalization procedures as part of a crisis plan.
- h. Use of intense, highly structured and specialized treatment strategies, including level systems with response cost or failure to earn components.
- i. Use of PRN psychotropic medication.
- j. Use of protective devices.

#### C. HUMAN RIGHTS COMMITTEE MEMBERS

1. Committee members must abide by DOH and agency policies on confidentiality. Committee members should be representative of people with developmental disabilities, the ethnic and cultural diversity of the community. Representatives from the community are encouraged to promote an unbiased position.

2. Committee members will receive training on this policy and DDS policies described by reference.

#### V. REFERENCE

This policy is consistent with regulations for *Service Plans for Individuals with DD Living in the Community* [7 NMAC Chap. 26 Part 5 Eff. 1/15/97] and *Rights of Individuals with DD Living in the Community* [7 NMAC Chap. 26 Part 3, Eff. 1/15/97] and NM Laws [Section 30-47, NMSA 1978 (being Laws 1990, Chap. 55, Sec. 3) *The Resident Abuse and Neglect Act*.

See also: DDSD Policy on *Crisis Prevention/Intervention Plans* (Eff. 3/1/03), DDSD Policy on *Aversive Intervention Prohibition* (Eff. 3/1/03); Policy on *Psychotropic Medication Use* (3/1/03); and Policy on *Behavioral Support Service Provisions* (Eff. 3/1/03).