

POLICY AND PROCEDURE CONCERNING DUE PROCESS COMMITTEE

I. PURPOSE

This policy and procedure is implemented in order to specify the composition and duties of the area program Due Process Committees, in compliance with regulations Title 175 Chap. 3 005.05 and 005.05A, Title 205 0012.03W, 13.03 - 13.05 including subheadings.

II. AUTHORITY

This policy and procedure is implemented with the approval of the Governing Board and/or its designee.

III. PROCEDURAL DIRECTIVES

Each Area Program will have a Due Process Committee.

A. At a minimum, the Due Process Committee will be comprised of the following:

- The Area Director or designee will serve as Chairperson for the Committee.
- At least one member will be a person receiving supports from the Area Program.
- At least one member will be a Direct Support Staff, (DSS).
- Other members may include staff, family members of persons supported by the area program, and community representatives. All members must be able to actively participate in the meeting.

A quorum must exist for a meeting to be conducted. A quorum shall be defined as at least one half of the membership as long as the Chairperson, DSS, and a person receiving supports are among the members in attendance.

A program author must not serve as a Due Process Committee member during the presentation of that program.

Members will be appointed by the Area Director for a term of one year. Members may serve unlimited consecutive terms.

B. Responsibilities of the Due Process Committee

The Due Process Committee is responsible for:

1. The initial and annual review of support programs authorized for the purpose of developing adaptive behavior (See *Policy and Procedure Concerning Plans to Develop Adaptive Behavior*).
2. The initial and annual review of intervention plans (See *Appendix A – Intervention Plans of the Policy and Procedure Concerning Plans for Developing Adaptive Behavior*).
3. The review of Incident Reports for each person receiving services on a quarterly basis (See *Policy and Procedure Concerning Incident Reports*).
4. The review of all allegations of abuse and neglect (See *Policy and Procedure Concerning Abuse and Neglect*).
5. The review of all psychotropic medication (medication prescribed for behavior modification, mental illness and/or depression).

The Due Process Committee will not review medication prescribed for people who meet the following four criterions:

- they do not live in an agency-operated setting
- the agency does not provide medical support
- agency staff does not assist in the administration of medication, and
- the symptoms/behaviors for which the medication is prescribed is not seen while the agency is providing support

NOTE: Psychotropic medication prescribed for people who meet the following four criterion will not be reviewed by the Human and Legal Rights Committee:

- The person does not live in an agency-operated setting
- The agency does not provide medical support
- The agency does not assist in the administration of medication, and
- The symptoms/behaviors for which the medication is prescribed are not seen while the agency is providing support

6. The review of rights restrictions, prior to implementation, and annually thereafter (See *Policy and Procedure Concerning Individual Rights*).

C. Mechanisms to Accomplish Responsibilities

The Due Process Committee will meet at least monthly. Meetings and activities will be documented as specified below.

1. Initial Review

- a. Within 30 days of the IPP Team authorization of a goal or intervention plan, the Committee will review the support program/ intervention plan in its completed form. Support programs must be in the current format, and accompanied by a Functional Assessment and appropriate supportive information such as baselines, environmental considerations and other approaches considered by the team.

NOTE: If final approval cannot be received within 30 days of the authorization, interim approval may be received from the Due Process Committee Chairperson.

- b. The Committee will take action on the support program/ intervention plan. Action includes:
 - approval as written
 - conditional approval
 - denial of approval
- c. Support Programs/intervention plans which are approved as written may be immediately implemented, unless approval is also required from the Human and Legal Rights Committee. All support programs/intervention plans which include restrictive procedures or psychotropic medication (prescribed for behavior modification, mental illness or depression) will be forwarded to the Human and Legal Rights Committee by the Due Process Chairperson or designee.

Support programs/intervention plans which receive conditional approval will be revised as stipulated and implemented unless it needs to be forwarded to the Human and Legal Rights Committee.

Support programs/intervention plans which are not approved will be returned to the IPP Team via the program author.

- d. Program authors are responsible for requesting team meetings or coordinating other activity necessary to meet the 30 day implementation regulations.
- e. The documentation of action taken will be recorded in meeting minutes and verified by the Chairperson on the *SP 7 – Support*

Program/Intervention Plan Signature Sheet which accompanies the support program.

2. Annual Review

- a. At least once each year the Committee will review all approved support programs/intervention plans including current and historical progress, current objective, and team comments on the continued effectiveness of the support program methodology, as well as any revisions proposed or implemented. This review may coincide with the Annual IPP Meeting. (*See Policy and Procedure Concerning Plans to Develop Adaptive Behavior.*)
- b. The Committee will take action on the continued support program/intervention plan. Action includes:
 - approval of continued implementation of the support program/ intervention plan as presented
 - conditional approval
 - request that the individual's IPP team meet to readdress specific items of concern, prior to submission of a revised support program/intervention plan for consideration; this may or may not include interim approval
 - denial of approval for continued implementation
- c. The support programs/intervention plans which are approved as written may be continued.

Support programs/intervention plans which receive conditional approval will be revised as stipulated.

Support programs/intervention plans which are not approved to continue will be returned to the IPP Team via the program author.
- d. Support programs/interventions which were originally reviewed by the Human and Legal Rights Committee will be forwarded to the Human and Legal Rights Committee, if it has been two years since the last review.
- e. Documentation of Committee action will be recorded in meeting minutes, and verified on the signature sheet.

3. Quarterly Review of Incident Reports

- a. The Due Process Committee will review Incident Reports concerning each individual on a quarterly basis. The reviews will be completed on the *Incident Report Review Form* (see form and instructions in *Appendix D* of the *Policy and Procedure*

Concerning Incident Reports) and may be divided so that they do not occur in the same month. The Due Process Committee Chairperson will determine the rotation to ensure that each person's Incident Reports are reviewed by the Due Process Committee every three months.

- b. After the Due Process Committee has reviewed all incident reports in the quarter, they will identify possible concerns, patterns and trends.
 - 1) The Due Process Committee will review each incident/group of incidents to determine if the follow up documented is appropriate and sufficient to address the issues noted on the reports. If the Due Process Committee determines additional follow up is warranted, recommendations will be documented on the Incident Report Review Form. If the Due Process Committee feels that follow up was sufficient, this will be documented on the form.
 - 2) If possible patterns are identified, the Due Process Committee will recommend or request follow-up from the IPP Team to address them. Patterns will be specific to the individual and may include but are not limited to the following:
 - Similar incidents of any nature (behavioral, health, changes in routine, etc.) which occur on 2 or more occasions
 - Different incidents which occur at a similar time of day over time (1 hygiene issue, 2 health issues, 1 aggression all different days between 4 and 6 p.m., etc.)
 - Incidents of any nature which occur with specific staff or others
 - Similar environments (3 incidents, all at the DSC or home, etc.)
 - Previously unseen issues of any nature which occur 2 or more times (behavioral issues, health concerns, difficulty sleeping, etc.)
 - Similar antecedents or consequences (repeated incidents occur prior to going to DSC, etc.
 - Two or more incidents which involve the *Policy and Procedure Concerning Imminent Physical Danger*.
 - 3) If possible trends are identified, the Due Process Committee will request plans of action from the management teams to address them. Trends will be

patterns which occur for more than one person and may include but are not limited to the following:

- Same environment with multiple incidents (DSC, house, work environment, etc.)
 - Same staff with multiple incidents
 - Similar antecedents for a variety of people (repeated incidents occur prior to going to DSC, job, etc.)
- c. The Due Process Committee will review each incident/group of incidents to determine if the follow up documented is appropriate and sufficient to address the issues noted on the reports. If the Due Process Committee determines additional follow up is warranted, recommendations will be documented on the Incident Report Review Form. If the Due Process Committee feels that follow up was sufficient, this will be documented on the form.
- d. The Chair of the Due Process Committee will be notified of any follow-up action taken by the IPP Team (i.e., addendum meeting of the IPP team, program revisions, environmental changes, medical evaluation, etc.). The follow-up action will be documented in the Due Process Committee meeting minutes.
- e. The original completed form(s) will serve as, and replace the Due Process Committee meeting minutes for that meeting or the portion of the meeting when reviews are completed. The completed original form(s) will be kept with the area program's Due Process Committee meeting minutes.
4. Review of Abuse and Neglect Allegations
- a. Each allegation of suspected abuse and neglect will be reviewed at the next scheduled Due Process Committee meeting. The Committee will review all pertinent information available, including the incident report, the investigation summary and determination/recommendations/comments from other sources (e.g. Protective Services, law enforcement, other reviews, etc.). The Due Process Committee may make any additional recommendations/comments.
- b. Reviews of abuse/neglect allegations will be documented in meeting minutes, maintaining confidentiality
- c. The pertinent information will be forwarded to the Human and Legal Rights Committee for review, at least 1 week prior to the next scheduled meeting.
5. Review of Medications

- a. Medication prescribed for behavior management, mental illness and/or depression is a restriction. As such, the Due Process Committee needs to review them.
 - b. The Due Process Committee may:
 - approve the use of the medication with no further follow-up
 - approve the use of the medication, while requesting additional follow-up
 - withhold approval and request additional follow-up of information, knowing that the medication must be administered as ordered by a licensed physician.
 - c. The Due Process Committee may recommend communication with the prescribing physician to provide additional information or to consider lesser restrictive intervention measures. The Committee **cannot** prevent the administration of an ordered medication without documented physician approval.
 - d. Medications are to be reviewed whenever the order changes other than a decrease, each time the corresponding support program/intervention plan is reviewed, or at least annually in conjunction with the annual support program/intervention plan review.
 - e. Documentation of the Due Process Committee action will be recorded in the meeting minutes and on the SP 7 – Support Program/Intervention Plan Signature Sheet.
 - f. The information will be forwarded to the Human and Legal Rights Committee for review, at least 1 week prior to the next scheduled meeting.
6. Review of Rights Restrictions
- a. The Due Process Committee will review all proposed restrictions of individual rights prior to implementation of the restriction.
 - b. Proposed restrictions may receive interim approval from the Chairperson of both the Due Process Committee and the Human and Legal Rights Committee for implementation immediately upon consent of the individual and/or guardian. Interim approval will be given **only** in emergency instances when such action is needed to protect the safety of the individual and others. The Interim Approval will be documented on the Rights Restriction Form (see *Appendix B* in the *Policy and Procedure Concerning Rights of Individuals Served*).

- c. Information to be considered during the review includes the reason for the proposed restriction, other options to address the issues which were discussed, reasons for rejecting other options, and plans to reinstate rights.
- d. The Committee will take action on the proposed restriction. Action includes:
- approval of proposed restriction and the plan to reinstate the right
 - approval of the restriction but recommend additional or alternate plan to reinstate the right
 - request of additional information prior to the final action
 - request that the team consider other options prior to approval
 - deny authorization based upon information submitted.
- e. Restrictions which are approved by the Committee will be forwarded to the Chairperson of the Human and Legal Rights Committee for final review and approval, after all requested information has been provided. Restrictions which are not approved will be returned to the team for future discussion and planning. These restrictions **will not** be implemented.
- f. The Committee will review all restrictions of individual rights annually as long as the restriction is in place.
- g. Actions concerning Rights Restrictions will be documented in meeting minutes and verified by the Chairperson's signature on the Rights Restriction Form.
- h. Information will be will be forwarded to the Human and Legal Rights Committee for review, at least 1 week prior to the next scheduled meeting.

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