

BEHAVIORAL SUPPORT STRATEGIES AND THE HUMAN RIGHTS COMMITTEE POLICY

This policy is based on Ohio Administrative Code: 5123:2-2-06 and 5123:2-3-04. The policy is to ensure that Behavior Support Strategies promotes healing, recovery and emotional well-being and based on understanding and consideration of the individual's history of traumatic experience as a means to gain insight into origins and patterns of the individual's actions. This policy sets forth requirements for the development and implementation of behavioral support strategies that include restrictive measures.

This policy is developed in collaboration with the Clearwater Council of Governments (COG) as two regionalized (North and South) Human Rights Committees within the COG counties have been established.

The Superintendent in collaboration with the Clearwater Council of Governments (COG) shall establish, revise and keep current the procedures to be utilized in the implementation of this policy. The Superintendent / designee shall ensure compliance with these procedures. All revisions or changes will be shared with the Board when made.

Superintendent Signature: *Carri Boier* Date: 12/21/17

Implemented: 12/04

Board Approval: 12/04, 9/17/15, 12/21/17

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Cross Reference: OAC 5123:2-2-06, 5123:2-3-04

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I. PHILOSOPHY

A behavioral support strategy that includes restrictive measures shall be designed in a manner that promotes healing, recovery, and emotional wellbeing and based on understanding and consideration of the individual's history of traumatic experience as a means to gain insight into origins and patterns of the individual's actions.

II. PURPOSE

This policy sets forth requirements for the development and implementation of behavioral support strategies that include restrictive measures to ensure that:

- A. Restrictive measures are used only when necessary to keep people safe;
- B. Individuals with developmental disabilities are supported in a caring and responsive manner that promotes dignity, respect, and trust and with recognition that they are equal citizens with the same rights and personal freedoms granted to Ohioans without developmental disabilities;
- C. Services and supports are based on an understanding of the individual and the reasons for his or her actions;
- D. Effort is directed at creating opportunities for individuals to exercise choice in matters affecting their everyday lives and supporting individuals to make choices that yield positive outcomes.

III. SCOPE

- A. This policy applies to persons and entities that provide specialized services regardless of source of payment, including but not limited to County Boards; licensed residential facilities including Intermediate care facilities; providers of supported living services; and providers of services funded by Medicaid home and community based service waivers administered by the Department of Developmental Disabilities.
- B. Individuals receiving services in a setting governed by Ohio Department of Education shall be supported in accordance with administrative rules and policies of the Ohio Department of Education.

IV. PROHIBITED INTERVENTIONS

These interventions are never to be used or approved by a local Human Rights Committee.

- A. Prone restraint: a method of intervention where an individual's face and/or frontal part of his or her body is placed in a downward position touching any surface for any amount of time.
- B. Use of a manual restraint or mechanical restraint that has the potential to inhibit or restrict an individual's ability to breathe or that is medically contraindicated. Use of manual restraint or mechanical restraint that causes pain or harm to an individual.
- C. Disabling an individual's communication device.
- D. Denial of breakfast, lunch, dinner, snacks, or beverages.
- E. Placing an individual in a room with no light.
- F. Subjecting an individual to damaging or painful sound.
- G. Application of electric shock to an individual's body.
- H. Subjecting an individual to any humiliating or derogatory treatment.
- I. Squirting an individual with any substance as an inducement or consequence for behavior.
- J. Using any restrictive measure for punishment, retaliation, instruction or teaching, convenience of providers, or as a substitute for specialized services.

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V. RESTRICTIVE MEASURES

These measures may be used but only as a means of last resort when necessary to keep people safe and with prior approval by the human rights committee.

A. Manual Restraint:

1. Use of a hands-on method, but never in a prone restraint, to control an identified action by restricting the movement or function of an individual's head, neck, torso, one or more limbs, or entire body, using sufficient force to cause the possibility of injury;
2. Includes holding or disabling an individual's wheelchair or other mobility device.
3. An individual in a manual restraint shall be under constant visual supervision by staff.
4. Manual restraint shall cease immediately once risk of harm has passed.
5. Manual restraint does not include a method that is routinely used during a medical procedure for patients without developmental disabilities.

B. Mechanical Restraint:

1. Use of a device, but never in a prone restraint, to control an identified action by restricting an individual's movement or function.
2. Mechanical restraint shall cease immediately once risk of harm has passed.
3. Mechanical restraint does not include:
 - a) A seatbelt of a type found in an ordinary passenger vehicle or an age-appropriate child safety seat;
 - b) A medically necessary device (such as a wheelchair seatbelt or a gait belt) used for supporting or position an individual's body;
 - c) A device that is routinely used during a medical procedure for patients without developmental disabilities.

C. Time-Out:

1. Confining an individual in a room or area and preventing the individual from leaving the room or area by applying physical force or by closing a door or constructing another barrier including placement in such a room or area when a staff person remains in the room or area.
 - a) Time-out shall not exceed 30 minutes for any one incident or one hour in any 24-hour period.
 - b) A time-out room or area shall not be key-locked, but the door may be held shut by a staff person or by a mechanism that requires constant physical pressure from a staff person to keep the mechanism engaged.
 - c) A time-out room or area shall be adequately lighted and ventilated and provide a safe environment for the individual.
 - d) An individual in a time-out room or area shall be protected from hazardous conditions including but not limited to sharp corners and objects, uncovered light fixtures, or unprotected electrical outlets.
 - e) An individual in a time-out room or area shall be under constant visual supervision by staff.
 - f) Time-out shall cease immediately once risk of harm has passed or if the individual engages in self-abuse, becomes incontinent, or shows other signs of illness.
 - g) Time-out does not include periods when an individual, for a limited and specified time, is separated from others in an unblocked room or area for the purpose of self-regulating and controlling his or her own behavior and is not physically restrained or prevented from leaving the room or area by physical barrier.

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- D. Chemical Restraint:
 - 1. Medication prescribed for the purpose of modifying, diminishing, controlling or altering a specific behavior.
 - 2. Chemical restraint does not include medications prescribed for the treatment of a diagnosed disorder identified in the "Diagnostic and Statistical Manual of Mental Disorders" (fifth edition) or medications prescribed for treatment of a seizure disorder.
 - 3. Chemical restraint does not include a medication that is routinely prescribed in conjunction with a medical procedure for patients without developmental disabilities.
- E. Rights Restrictions:

As enumerated in section of 5123.62 of the Revised Code.

VI. DEVELOPMENT OF BEHAVIORAL SUPPORT STRATEGIES

- A. The focus of a behavioral support strategy shall be creation of supportive environments that enhance the individual's quality of life. Effort is directed at:
 - 1. Mitigating risk of harm or likelihood of legal sanction;
 - 2. Reducing and ultimately eliminating the need for restrictive measures;
 - 3. Ensuring individuals are in environments where they have access to preferred activities and are less likely to engage in unsafe actions due to boredom, frustration, lack of effective communication or unrecognized health problems.
- B. A behavioral support strategy that includes restrictive measures shall:
 - 1. Be designed in a manner that promotes healing, recovery, and emotional well-being;
 - 2. Be based on understanding and consideration of the individual's history of traumatic experience as a means to gain insight into origins and patterns of the individual's actions.

VII. RECOGNIZE THE ROLE ENVIRONMENT PLAYS IN BEHAVIOR

- A. Persons conducting assessments and developing behavior support strategies that include restrictive measures must:
 - 1. Hold professional license or certification issued by the Ohio Board of Psychology; the State Medical Board of Ohio; or the Ohio Counselor, Social Worker, and Marriage and Family Therapist Board;
 - 2. Hold a certificate to practice as a certified Ohio behavior analyst pursuant to section 4783.04 of the Revised Code;
 - 3. Hold a bachelor's or graduate-level degree from an accredited college or university and have at least 3 years of paid, full-time (or equivalent part time) experience in developing and/or implementing behavioral support and/or risk reduction strategies or plans.
- B. A behavioral support strategy may include manual restraint, mechanical restraint, time-out or chemical restraint only when the individual's actions pose a risk of harm.
 - 1. Risk of harm means there exists a direct and serious risk of physical harm to the individual or another person.
 - 2. For risk of harm, the individual must be capable of causing physical harm to self or others and the individual must be causing physical harm or very likely to being causing physical harm.

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- C. A behavioral support strategy may include restriction of an individual's rights only when the individual's actions pose a risk of harm or are very likely to result in the individual being the subject of a legal sanction such as eviction, arrest or incarceration. Absent risk of harm or likelihood of legal sanction, an individual's rights shall not be restricted (i.e., imposition of arbitrary schedules or limitation on consumption of food, beverages or tobacco products).

VIII. REQUIRED ELEMENTS OF A BEHAVIOR SUPPORT STRATEGY

Required elements of a behavior support strategy include:

- A. Documentation that demonstrates that positive and non-restrictive measures have been employed and have been determined ineffective;
- B. An assessment conducted within the past 12 months that clearly describes:
 - 1. The behavior that poses risk of harm or likelihood of legal sanction;
 - 2. The level of harm or type of legal sanction that could reasonably be expected to occur with the behavior;
 - 3. When the behavior is likely to occur;
 - 4. The individual's interpersonal, environmental, medical, mental health and emotional needs and other motivational factors that may be contributing to the behavior.
- C. A data driven process with the goal of improving outcomes for the individual over time and describing behaviors to be increased or decreased in terms of baseline data about behaviors to be increased or decreased.
- D. Capitalizing on the individual's strengths to meet challenges and needs.
- E. Delineating measures to be implemented and identify those who are responsible for implementation.
- F. Specifying steps to be taken to ensure the safety of the individual and others;
- G. As applicable, identify needed services and supports to assist the individual in meeting court-ordered community controls such as mandated sex offender registration, drug-testing, or participating in mental health treatment; this would include reviewing court ordered restrictions.
- H. As applicable, outline necessary coordination with other entities (courts, prisons, hospitals, and law enforcement) charged with the individual's care, confinement, or reentry to the community.

IX. RESPONSIBILITIES

- A. Service and Support Administrator:
 - 1. Ensure the strategy is developed in accordance with the principles of person-centered planning and incorporated as an integral part of the individual service plan.
 - 2. Submit to the human rights committee documentation based upon the assessment that clearly indicates risk of harm or likelihood of legal sanction described in observable and measurable terms and ensure the strategy is reviewed and approved by the human rights committee in accordance with this policy and prior to implementation and whenever the behavioral support strategy is revised to add restrictive measures, but no less than once per year.
 - 3. Secure informed consent of the individual or the individual's guardian, as applicable. Informed consent includes:

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- a) Documented written agreement to allow a proposed action, treatment, or service after full disclosure provided in a manner the individual or his or her guardian understands, of the relevant facts necessary to make the decisions.
 - b) Risks and benefits of the action, treatment or service.
 - c) The risks and benefits of the alternatives to the action, treatment, or service.
 - d) The right to refuse the action, treatment or service.
 - e) The individual or his or her guardian, as applicable, may revoke informed consent at any time.
4. Provide an individual or the individual's guardian, as applicable with written notification and explanation of the individual's or guardian's right to seek administrative resolution if he or she is dissatisfied with the strategy or the process used for its development.
 5. Ensure the strategy is reviewed by the individual and the team at least every 90 days to determine and document the effectiveness of the strategy and whether the strategy should be continued, discontinued, or revised. A decision to continue the strategy shall be based upon review of up-to-date information which indicates risk of harm or likelihood of legal sanction is still present. These reviews will be submitted to the Human Rights Committee.
- B. Human Rights Committee:
1. Composition:
 - a) Comprised of at least 4 persons;
 - b) Includes at least one individual who receives or is eligible to receive specialized services;
 - c) Includes a qualified person who has either experience or training in contemporary practices for behavioral support; and
 - d) Reflects a balance of representatives from both individuals or family members of individuals who receive or are eligible to receive specialized services; and county boards or providers.
 2. Balanced representation:
 - a) Balanced representation will not only include numbers of people in each required category but will also include how the members are participating in the process. It is not enough to just have people with disabilities or families at the table if they cannot participate. All efforts will be made to assist committee members with understanding the strategies they are approving and their role as a committee member.
 - b) Each county will continually seek interested potential members should vacancies occur. If a committee member is chronically absent from the meeting (more than 2 times in a year), the chair or designee will have a conversation about their desire to continue to serve. If necessary, they may share their position with an alternate. This conversation will allow the committee to maintain an overall balance.
 - c) Given unavoidable circumstances (sickness, etc.), there will not be an expectation of equal balance at each individual meeting.
 3. Confidentiality: All information and documents provided to the human rights committee and all discussions of the committee shall be confidential and shall not be shared or discussed with anyone other than the individual and his or her guardian and the individual's team.

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4. The will be a monthly committee meeting, with the two committees meeting on alternate months, in an effort to create ample opportunities to get strategies approved in a timely manner.
 5. A quorum (at least half of the members) must be present in order to approve or deny restrictive measures.
 6. Review, approve or reject, monitor, and reauthorize strategies that include restrictive measures.
 - a) Ensure the planning process outlined in this policy has been followed and that the individual or their guardian, as applicable, has provided informed consent and been afforded due process.
 - b) Ensure that the proposed restrictive measures are necessary to reduce risk of harm or likelihood of legal sanction;
 - c) Ensure that the overall outcome of the behavior support strategy promotes the physical, emotional, and psychological wellbeing of the individual while reducing risk of harm or likelihood of legal sanction;
 - d) Ensure that the restrictive measure is temporary in nature and occurs only in specifically defined situations based on risk of harm or likelihood of legal sanction;
 - e) Verify that any behavioral support strategy that includes restrictive measures also incorporates actions designed to enable the individual to feel safe, respected, and valued while emphasizing choice, self-determination and an improved quality of life;
 - f) Review legal sanctions that may be restrictive and document review on the Restrictive Measure Notification form; and
 - g) Communicate the committee's determination in writing to the service and support administrator submitting the request for approval.
 7. Members of the human rights committee shall receive department-approved training within 3 months of appointment to the committee in: rights of individuals as enumerated in section 5123.62 of the Revised Code; person-centered planning; informed consent; confidentiality; and the requirements of this rule.
 8. Members of the human rights committee shall annually receive department-approved training in relative topics which may include but are not limited to: self-advocacy and self-determination; role of guardians and section 5126.043 of the Revised Code; effect of traumatic experiences on behavior; and court-ordered community controls and the role of the court, the county board, and the human rights committee.
- C. Provider of Service:
1. Use of a restrictive measure including use of a restrictive measure in a crisis situation (i.e., to prevent an individual from running into traffic), without prior approval by the human rights committee shall be reported as "unapproved behavior support" in accordance with rule 5123: 2-17-02 of the Administrative Code.
 2. Nothing in this policy shall be construed to prohibit or prevent any person from intervening in a crisis situation as necessary to ensure a person's immediate health and safety.
 3. Providers shall maintain a record of the date, time, duration, and antecedent factors regarding each use of a restrictive measure other than a restrictive measure that is not based on antecedent factors (i.e., bed alarm or locked cabinet). The provider shall share the record with the individual and the individual's team whenever the individual's behavioral support strategy is being reviewed or reconsidered.

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- D. County Boards/Intermediate Care Facility:
1. Data shall be compiled and analyzed regarding behavioral support strategies that include restrictive measures and furnished to the human rights committee. Data compiled and analyzed shall include but are not limited to:
 - a) Nature and frequency of risk of harm or likelihood of legal sanction that triggered development of strategies that include restrictive measures;
 - b) Nature and number of strategies reviewed, approved, rejected, and reauthorized by the human rights committee;
 - c) Nature and number of restrictive measures implemented;
 - d) Duration of strategies that include restrictive measures implemented; and
 - e) Effectiveness of strategies that include restrictive measures in terms of increasing or decreasing behaviors as intended.
 2. Data and analyses will be made available to the department upon request.
- E. Department of Developmental Disabilities:
1. The department will take immediate action as necessary to protect the health and welfare of individuals which may include but is not limited to: suspension of a behavioral support strategy not developed, implemented, documented, or monitored in accordance with this policy or where trends and patterns of data suggest the need for further review; provision of technical assistance in development or redevelopment of a behavior support strategy; and referral to other state agencies or licensing bodies as indicated.
 2. Compile and analyze data regarding behavioral support strategies for purposes of determining methods for enhancing risk reduction efforts and outcomes, reducing the frequency of restrictive measures, and identifying technical assistance and training needs.
 3. May periodically select a sample of behavioral support strategies for review.
 4. Shall conduct reviews of county boards and providers as necessary to ensure the health and welfare of individual and compliance with rules and regulations.
- F. Interim Approvals
1. In order to ensure the health and safety of individuals in need of restrictive measures, Human Rights Committee will utilize an interim approval process in cases of emergency. Such situations could include but would not be limited to, significant changes in natural supports, transitioning from one waiver to another, and significant changes in health and safety.
 2. Ensure the strategy is developed in accordance with the principles of person-centered planning and incorporated as an integral part of the individual service plan.
 3. Submit to the human rights committee documentation based upon the assessment that clearly indicates risk of harm or likelihood of legal sanction described in observable and measurable terms and ensure the strategy is reviewed and approved by the human rights committee in accordance with this policy and prior to implementation and whenever the behavioral support strategy is revised to add restrictive measures, but no less than once per year.
 4. Secure informed consent of the individual or the individual's guardian, as applicable. Informed consent includes:
 - a) Documented written agreement to allow a proposed action, treatment, or service after full disclosure provided in a manner the individual or his or her guardian understands, of the relevant facts necessary to make the decisions.
 - b) Risks and benefits of the action, treatment or service.

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- c) The risks and benefits of the alternatives to the action, treatment, or service.
- d) The right to refuse the action, treatment or service.
- 5. The individual or his or her guardian, as applicable, may revoke informed consent at any time. Provide an individual or the individual's guardian, as applicable, with written notification and explanation of the individual's or guardian's right to seek administrative resolution if he or she is dissatisfied with the strategy or the process used for its development.
- 6. The strategy will be submitted to the Human Rights Committee via email with an electronic vote within 24 hours of submission. The approval will be considered initial and limited to the next regularly scheduled Human Rights Committee meeting in the region. The committee will utilize the Restrictive Measure Notification form to ensure the completion of an assessment, strategy requested, informed consent, and training before implementation.

Policy Adopted by the Clearwater COG

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