Individual Rights Promotion
And
Rights Protection

Statement of Policy

Concerning Rights of Individuals with Developmental Disabilities

Recognizing the need to ensure the human rights of individuals served by Special Care for Families and Children's Services, the following principles and policies are to be followed by staff:

A) Principles

1. Special needs individuals have the same rights as other human beings to the maximum degree feasible.
2. Special needs individuals have a right to proper medical care and to such education, training, rehabilitation, guidance, and counseling that will enable them to develop their ability and maximum potential regardless of level of functioning.
3. Special needs individuals have a right to perform productive work or to engage in any other meaningful work activity to the fullest extent of their capabilities.
4. Special needs individuals have a right to protection from exploitation, abuse, and degrading treatment.
5. Whenever special needs individuals are unable to exercise their rights in a meaningful way, or it becomes necessary to restrict or deny some or all of these rights, the procedure used for that restriction or denial of rights will contain proper administrative and legal safeguards against every form of abuse. Limitations of rights would be only on an individual basis and for clinical reasons only. This clinical justification and the specific time the limitation would remain in effect would be discussed at an IDT meeting, and clinical justification would be contained within the individual's file. (633.4) (a) (3)
6. Special needs individuals have a right to freedom of choice in the selection of services, within their own capacity to make decisions.
7. Special needs individuals have the right, when participating in research, to be safeguarded from violations of human dignity and to be protected from physical and psychological harm.

B) Policies

1. No physical punishment is to be used against any individual.
2. Personal service records and data will be available to the individual, his or her parent, guardian, or legal representative.
3. Intervention strategies which minimize the degree of infringement on the individual's rights without sacrificing the likelihood of positive outcomes (least restrictive alternative) have priority.
4. All services must be individually tailored to meet the needs of each particular individual.
5. Individuals receiving Waiver services and their personal or legal representative will be given full opportunity to participate in the development of programs and in their review.

C) Procedures

1. Professional staff, student trainees, and paraprofessional staff are required to service each participant in a manner consistent with the principles and policies outline in this section.
2. When professional staff, student trainees, and paraprofessional staff see that individuals receiving Waiver services are not being related to in a manner consistent with the principles and policies, then that person should respond in a conscientious manner to remedy the situation by formal or informal process.
3. A response should be made by reporting to a supervisor or director for appropriate administrative action in instances of further non-compliance.
4. Parents or other concerned individuals (e.g. visitors, client escorts, etc.) should also report to agency staff or administration.
5. Staff will be made aware of individual's rights through training and mentoring.
6. A major infringement of these rights by a staff member (such as striking an individual) will be grounds for immediate dismissal of staff member.
7. Staff will be encouraged to appraise individuals of their rights in situations where the individuals are questioning a staff or managerial decision.

Individual Rights

No individual will be deprived of any civil or legal right solely because of a diagnosis of developmental disability. All individuals will be given the respect and dignity that is extended to every person regardless of race, religion, national origin, creed, age, sex, ethnic background, sexual orientation or health condition, such as one tested for or diagnosed as having an HIV infection or handicap. 633.4 (a) (1) and (2).

Specifically, each individual and correspondent, upon his/her admission to Waiver Services, and periodically thereafter, will be informed of his/her rights, which include, but are not limited to:

- Freedom from physical or psychological abuse 633.4 (a) (4)(ii)
- Freedom from any use of mechanical restraints or seclusion (the presence of the individual in a room alone with a closed door which is not possible for him/her to open from the inside). 633.4 (a) (4) (iii)
- Freedom from unnecessary or excessive medication 633.4 (a) (4) (iv)
- Protection from commercial or other exploitation 633.4 (a) (4) (v)
- Confidentiality with regard to all information contained in the individual's record, and access to such information, subject to the provisions of Article 33 of the mental hygiene law and the commissioner's regulations. 633.4 (a) (4) (vi)
- A written plan of services for each individual, its goal being to answer his/her ability to cope with their environment, to foster socialization, recreation, contact with non-handicapped persons, and encouraging independent living to as great an extent as possible, which right also includes: 633.4 (a) (4) (vii) (a-c)
    a) The opportunity to participate in the development and modification of an individualized plan of services, unless limited by the individual's capabilities to do so.
    b) The opportunity to object to any individual plan of services, and the right to appeal any decision with which the individual disagrees.
    c) The provision for normal, meaningful, and productive activities within the individual's interest and capabilities.
- Services including assistance and guidance from trained staff, with full respect for individual's dignity and personal integrity. 633.4 (a) (4) (viii)
- Advocacy for appropriate and humane health care services and the opportunity for the individual, parent, guardian, or correspondent to participate in choice of physician or dentist, and the right to obtain a second medical opinion. 633.4(a)(4) (ix)

- Observance and participation in religion of his/her choice, through the means of his/her choice, including the choice not to participate. 633.4 (a) (4) (xi)
- The opportunity to register and vote, and the opportunity to participate in activities that educate him or her in civic responsibilities. 633.4 (a) (4) (xii)
- The receipt of information prior to or upon starting services regarding supplies and services provided by Waiver or for which additional charges will be made, and timely notification of any changes thereafter. 633.4 (a) (4) (xiv)
- The use of his/her personal money and property, and the right to be regularly informed of his/her financial status, and of assistance in the use of his/her resources as appropriate. 633.4 (a) (4) (xv)
- Individually owned clothing, properly fitting and maintained appropriate for age, season, and activity, and the opportunity to be involved in choice of such clothing. 633.4 (a) (4) (xvii)
- Adequate, individually owned grooming and personal hygiene supplies. 633.4 (a) (4) (xviii)
- A reasonable degree of privacy in sleeping, bathing, and toileting areas. 633.4 (a) (4) (xix)
- A reasonable amount of safe, individual, accessible storage space for clothing and personal belongings. 633.4 (a) (4) (xx)
- The opportunity to request alternate residential settings, such as change of room or residence, and involvement in decisions regarding such changes. 633.4 (a) (4) (xxi)
- The opportunity personally or through parents, guardians, or correspondent to express grievances, concerns, or suggestions without fear of reprisal, to the chief executive officer of the facility, commissioner of OPWDD, and the Commission of Quality of Care. (The manner of expressing grievances is included in Resident's Rights Packet, signed upon admission). 633.4 (a) (4) (xxii)

Implementation of many of the above rights may entail inherent risks to the individuals. To the extent foreseeable, Special Care will describe risk to individuals, parents, guardians, or correspondents. However, the individual will assume responsibility for risks usually associated with participation in normal activities, if their abilities permit such participation.

<u>Limitations:</u>

Special Care will not limit any of the above mentioned rights as punitive or disciplinary measures, or for convenience of staff.

SPECIAL CARE FOR FAMILIES AND CHILDREN'S SERVICES

INDIVIDUAL's RIGHTS AND RESPONSIBILITIES PACKET

(signed by individual and /or correspondent)

An individual receiving Special Care Waiver Services will be ensured the following rights:

1. The right to be free from physical or psychological abuse
2. The right to be free from any use of mechanical restraining devices
3. The right to be free from unnecessary or excessive medication
4. The right to be protected from commercial or other exploitation
5. The right to confidentiality with regard to all information contained in his/her record, and access to such information, subject to the provisions of Article 33 of the Mental Hygiene Law and the Commissioner's regulations
6. The right to an individual program of services which will maximize his/her abilities to cope with his/her environment, will foster social and vocational competence, and will enable him/her to live as independently as possible
7. The right to be given the opportunity to participate in the development and modification of his/her individual plan of services unless constrained by his/her ability to do so
8. The right to object to any provision within his/her individualized plan of services, or to any form of care or treatment, and to appeal decisions with which he/she disagrees
9. The right to meaningful and productive activities, within his/her capacity, although some risk may be involved, and which take into account his/her interests
10. The right to receive services, assistance, and guidance from staff who are competent and of sufficient number to provide such services

11. The right to appropriate and humane medical and dental care and the right, either personally or through parents or guardians, to participate in the choice of physician and dentist, and the opportunity to obtain second medical opinions

12. The right to participate in the religion of his/her choice, through the means of his/her choice, including the right of choice not to participate
13. The right to vote, and the right to participate in activities that educate the person in civic responsibilities
14. The right to be treated in a way which acknowledges and respects his/her cultural identity
15. The right to receive information, on admission, in his/her primary language regarding the supplies and services Special Care will provide or for which additional changes will be made, and timely notification of any changes thereafter
16. The right to the use of his/her personal money and property
17. The right to be informed regularly of his/her financial status and to be provided assistance in the use of his/her resources, as appropriate
18. The right to a balanced and nutritious diet, which is not altered or denied for behavior management or disciplinary purposes
19. The right to individually owned clothing appropriate for age and season, and the right to be involved in the selection
20. The right to individually owned grooming and personal hygiene supplies
21. The right to a reasonable degree of privacy in sleeping, bathing, and toileting areas
22. The right to a reasonable amount of safe, individual, accessible storage space for clothing and other personal belongings used on a day-to-day basis
23. The right of the individuals, their parents or guardians to express grievances, concerns, and suggestions without fear of reprisal

24. The right of individuals, their parents, or correspondents to be informed of the individual's rights under law and regulation, and the guarantee that such rights will not be abridged
25. The right to participate with staff in the establishment of house rules
26. Each individual has the right to refuse participation in any training activity which is not an integral part of that individual's service plan
27. The right to refuse participation in any activity

28. The right to access meaningful recreation and community programs, and the right to participate in the planning of such activities
29. The right to a maximum amount of privacy consistent with the effective delivery of services. This includes, but is not restricted to, privacy of person, of personal belongings, and of communication.
30. The right to object to any form of care and treatment, and the right to appeal decisions with which he/she disagrees. Exception: Emergency treatment.
31. The right not to be human subjects involved in research if it interferes with regular daily activities in any way. Research which is purely statistical or observational may be allowed with the following conditions:
    a. The person conducting the research is known to the director of Special Care as a person who is conscientious and caring of the dignity and rights of developmentally disabled persons.
    b. The individuals are not subject to any kind of physical, emotional, or psychological stresses for the purpose of the research.
    c. Informed consent of individual and/or correspondent
    d. Permission of the director of Special Care
32. The right to object to Special Care Waiver Services that are not directly related to care and treatment by following the general procedures for objections and appeal set forth

33. The right to be informed by staff, to a reasonable extent, of inherent risks involved in the implementation of many of the above rights. However, individuals assume responsibility for those risks typically associated with participation in normal activities, to the extent of the individual's abilities permit such participation
34. The right not to have any of the foregoing rights limited for disciplinary purposes, retribution, or for the convenience of staff

Complaints and Grievance Process:

If an individual or other interested person objects to the application of or denial of previously stated rights or decisions made on the individual's behalf, a meeting will be set up between the individual and/or correspondent with the care manager of the program planning team to resolve said issues.

In the event of continued dissatisfaction of individual, he/she will be informed of his/her right to appeal to OPWDD and the Bureau of Quality Assurance at the following addresses:

Sheryl Minter-Brooks
Director BDDRO
888 Fountain Avenue
Brooklyn, NY 11208
718 642-6000

Mental Health Legal Services
888 Fountain Avenue
Brooklyn, NY 11208
718 277-5324

Doctor's Visit: The Prevention Checkup, What To Expect as well as your Rights & Choices

Depending on your age, sex, and family medical history, a checkup with your doctor may include:

- Blood, urine, vision, and hearing tests to evaluate your overall health
- Assessments of your blood pressure, cholesterol level, and weight
- A discussion about your diet and exercise habits and any tobacco, drug, and alcohol use
- Immunizations and booster shots
- Screenings to assess your risk of developing certain diseases, including diabetes (if you already have high blood pressure or high cholesterol) and cancer
- Depending on your age and sexual lifestyle, testing for STDs and possibly HIV
- Starting at age 50, or younger if you have a family history, a screening test for colorectal cancer
- A discussion about depression and stress to evaluate your mental health

Doctor's Visit: Concerns for Men

For men, in addition to checking weight, high blood pressure, and other basics, your doctor's visit may specifically include:

- Starting at age 50, or younger if you have a family history, a rectal exam to check for abnormal bumps in the prostate and a prostate specific antigen (PSA) blood test to screen for prostate cancer
- Between the ages of 65 and 75 if you have ever smoked cigarettes, an abdominal exam to check for an enlargement in your aorta; an abdominal aortic aneurysm, a weakness in the lining of the aorta (a large blood vessel in your chest and abdomen), can develop with age and become a life-threatening problem.

Doctor's Visit: Concerns for Women

For women, in addition to checking weight, high blood pressure, and other basics, your doctor's visit may specifically include:

- A test for cervical cancer, called a Pap smear, every one to three years
- A clinical breast exam to check for any unusual lumps or bumps in your breasts
- Starting at age 40 (or younger if you have a strong family history for breast cancer), a breast cancer screening with a mammogram every one to two years
- Starting at age 65, a referral for a bone density test to screen for osteoporosis, the disease that causes brittle, fragile bones and typically affects older women; women with more than one risk factor for osteoporosis may start earlier

Doctor's Visit: Preparation

It's important for you to play an active role to get the most out of your doctor's visit. Before your exam, review and update your family health history, be prepared to ask if you're due for any

general screenings or vaccinations, and come up with a list of questions if you have particular health concerns.

During your actual doctor's visit, don't be shy about getting your questions answered. Also, if your doctor gives you advice about specific health issues, don't hesitate to take notes. Time is often limited during these exams, but by coming prepared you're sure to get the most out of your checkup.

Rights & Choices

As a sovereign, independent individual, you are not bound by the original doctor you chose to consult, nor the doctor's diagnoses or treatment suggestion(s). Doctors should respect the patient's right to seek a second opinion. A healthcare professional will rarely refuse to refer you for one. It's important that you don't suffer in silence. If you know something isn't right – and no one knows your body better than you – then you should feel empowered to pursue the correct treatment. Even if you feel you could get better care elsewhere you're allowed to switch doctors.

If you would like a second opinion (or even a third) or are unhappy in any way in which the doctor is treating you, his bedside manner, or any other reason at all,

You have every right to:

a. Choose another doctor
b. Right to seek another opinion

Voting: What is it all about and how to do it

1. **Determine your eligibility to vote.** Your eligibility is determined both by state and federal laws. Federal law requires that you be a US citizen, by birth or by naturalization, and 18 years old at the time the election is held.
2. **Use the US Government's registration site to register in any state.** Some states even let you register completely online. If not, you can print these simple forms out online and mail them in to register without leaving your home. You'll need basic information with you, like an ID card (with ID number) and your social security number, but the forms are self-explanatory. You can also drop your registration off at a polling place or city hall. **Alternatively, register to vote at your local DMV.** To do so, you'll need 1-2 valid forms of ID (depends on state) and a few hours to wait in line. You will be given a simple form to fill out and your ID will be checked to make sure you're who you say you are. That is it!
3. **Think about the sorts of policies you support in a president.** While a person's personality and temperament are important to consider, you need to think about each candidate not just as a person but as a set of positions. This is your representative from America to the rest of the country and the world, so you need to vote with a clear idea of the sorts of ideas and policies they will implement. Some early considerations must include:

   Social Policy: Do you want a candidate who enforces a traditional social order, attempting to ground America where it is, or a candidate who wants to keep the government from interfering in social practices?

   Economic Policy: Do you believe taxes should be used to improve communal government infrastructure and services, or cut low, leaving these services to private businesses?

   Foreign Policy: What would it take a candidate to send American troops overseas? Do you want someone who willingly uses force or someone who prefers diplomacy?

   Domestic Policy: A big, big topic, this covers everything from immigration, renewable energy, gun rights, and more. Domestic policy varies even within the two major parties.

4. **Double check your voter registration a month or so before the election to prevent issues on Election Day.**
5. **Look up your local polling places ahead of time, as well as their open hours.**
6. **Bring a valid federal or state ID with you to the polling place.**

7. **Know how to differentiate, and work, the different types of voting when you step in the booth.** Voting can be done by paper and pencil, mechanically or electronically. The most common ways to vote are:

   Paper ballot. You simply mark your choices with a pencil (the ballot looks similar to the type of school test you used to take by filling in answer circles). You place your marked ballot in a locked box or put it through a scanner (someone will help you with this if you aren't comfortable doing it yourself) before you leave the polling room.

   Mechanical voting machines. Many localities still use mechanical voting machines. You step inside the "box" and the curtain automatically closes behind you so that you may vote in private. The candidates and issues are listed on the left side of the machine. Depress the small lever next to each name or ballot question—either "yes" or "no." When you have cast all your votes, you will slide a large lever (located at the base of the machine) all the way to the right. Your votes are registered in the machine and the lever opens the privacy curtains so that you can exit.

   Electronic voting systems. Even though most voters are computer savvy these days, each state that uses electronic voting provides an instructional tutorial to voters before they vote. If you can navigate your way around a computer or a smart phone, then voting electronically will pose no challenge to you. You simply look at the screen, make your selections (touch point screen) and when you have cast all your votes, you touch the "Cast my Vote" button that is located at the bottom of the screen.

Education About Rights

A) Principles

1. Special needs individuals have the same rights as other human beings to the maximum degree feasible.

2. Special needs individuals have a right to proper medical care and to such education, training, rehabilitation, guidance, and counseling that will enable them to develop their ability and maximum potential regardless of level of functioning.

3. Special needs individuals have a right to perform productive work or to engage in any other meaningful work activity to the fullest extent of their capabilities.

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7. Special needs individuals have the right, when participating in research, to be safeguarded from violations of human dignity and to be protected from physical and psychological harm.

Special needs individuals have :

1. The right to be free from physical or psychological abuse

2. The right to be free from any use of mechanical restraining devices

3. The right to be free from unnecessary or excessive medication

4. The right to be protected from commercial or other exploitation

5. The right to confidentiality with regard to all information contained in his/her record, and access to such information, subject to the provisions

of Article 33 of the Mental Hygiene Law and the Commissioner's regulations

6. The right to an individual program of services which will maximize his/her abilities to cope with his/her environment, will foster social and vocational competence, and will enable him/her to live as independently as possible

7. The right to meaningful and productive activities, within his/her capacity, although some risk may be involved, and which take into account his/her interests

8. The right to appropriate and humane medical and dental care and the right, either personally or through parents or guardians, to participate in the choice of physician and dentist, and the opportunity to obtain second medical opinions

9. The right to participate in the religion of his/her choice, through the means of his/her choice, including the right of choice not to participate

10. The right to vote, and the right to participate in activities that educate the person in civic responsibilities

11. The right to be treated in a way which acknowledges and respects his/her cultural identity

12. The right of the individuals, their parents or guardians to express grievances, concerns, and suggestions without fear of reprisal