

Requirements and roles for
Vinfen's Human Rights Committees

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The material on the following pages was excerpted from the Massachusetts Department of Mental Retardation Web site (document 115 CMR, Chapter 3). The complete document can be found at www.mass.gov/EeoHhs2/docs/dmr/regs/reg_115cmr003.doc.

3.09: Protection of Human Rights/Human Rights Committees

- 1) The head of every provider of residential, day, or site-based respite services ("provider" in 115 CMR 3.09) and every specialized home care placement agency subject to 115 CMR 5.00 shall establish and empower a human rights committee in accordance with the requirements of 115 CMR 3.09.

(a) Human rights committees may be established jointly by the heads of more than one provider or placement agency, or to serve as the human rights committee for more than one location where services are delivered by the same provider or agency, provided that:

1. No human rights committee may serve locations or placement agencies in more than one region; and
2. The programmatic diversity of the services being provided are not so great so as to limit the effectiveness of the committee in meeting the requirements of 115 CMR 3.09.

(b) The general responsibility of the committee shall be to assist the provider to affirm, promote, and protect the human and civil rights of individuals served and to monitor and review the activities of the provider or agency with regard to the human and civil rights of those individuals, consistent with the requirements of 115 CMR 3.09. The committee shall take such action as it determines is required to protect such human and civil rights.

The committee shall have the following powers and duties:

1. To monitor and review (with authority to approve or disapprove based on compliance or noncompliance with the Department's regulations) the authorization and use of behavior modification interventions proposed for individuals served by the provider or agency in accordance with the regulations of the Department;
2. To monitor and review the authorization and use of all emergency restraints and other limitations on movement in accordance with 115 CMR 5.04 and 115 CMR 5.05;
3. To monitor the conduct of research at the provider's program sites to determine that the research has been reviewed and approved by the Department's Research Review Committee and that it is carried out in accordance with any conditions set by that body;
4. To monitor and review the means utilized by the provider or agency to:
 - a. Inform individuals, staff, guardians, and families of the individual's rights;
 - b. Train individuals served in the exercise of their rights;
 - c. Provide individuals with the opportunities to exercise their rights to the fullest extent of their capabilities and interests.
5. To review the policies and procedures of the provider or agency annually for compliance with the Department's regulations on human rights;
6. To make recommendations to the provider or agency and the Department to improve the degree to which the human and civil rights of the individuals served are affirmed, promoted, protected, and monitored;
7. To visit the location where services are provided while they are being provided, with or without prior notice.

(c) Each human rights committee shall be composed of a minimum of five members; regardless of the total number of members, at least three of the members shall be individuals receiving services or supports provided, purchased, or arranged by the Department, or parents or guardians of, or advocates for, such individuals; no member may have a direct or indirect financial interest or administrative interest in the provider; and, where the Department is not the provider, not more than one of the members shall have any direct or indirect financial or administrative interest in the Department.

1. The committee members shall have experience and knowledge relevant to duties of the committee; the committee shall include the following:
 - a. A physician or nurse;

- b. A psychologist or masters level practitioner with expertise in mental retardation and developmental disabilities, mental illness, or applied behavioral analysis; and
 - c. An attorney, law student, or paralegal with relevant expertise.
 - 2. The committee shall **appoint a chairperson** from among its membership, who shall not have any direct or indirect financial or administrative interest in the provider or placement agency.
 - 3. The committee shall develop such **operating rules and procedures** as it deems necessary to accomplish its purposes under 115 CMR 3.09.
 - 4. The committee may appoint sub-committees from among its membership to perform specific functions, provided that the sub-committee members have relevant expertise or experience for assigned tasks.
- (d) **The committee shall meet as often as necessary** upon call of the chairperson, or upon request of any two members, **but no less than quarterly**, and shall be familiar with the location where individuals live and spend their daytime hours. Minutes of the committee meetings shall be kept, and duplicates filed with the area office director and the assigned human rights specialist from the office for human rights.
- (2) The head of every provider and the head of every specialized home care placement agency subject to 115 CMR 5.00, shall designate and empower a person employed or affiliated with the provider or agency to serve as the **human rights coordinator** and to undertake the following **responsibilities** as a formal component of his or her job description for the provider or agency:
- (a) To coordinate the **scheduling** of meetings of the human rights committee(s);
 - (b) To attend the meetings of the human rights committee(s) and **take minutes** of the meetings;
 - (c) To **gather** for the provider or agency and for the human rights committee(s) **human rights information** relevant to the provider's or agency's ability to meet its obligations under the Department's regulations and to otherwise assist the provider or agency in the development of means to promote the human and civil rights of individuals served;
 - (d) To coordinate the provider's or agency's human rights officers in meeting their responsibilities; and
 - (e) To assume such other responsibilities as may be assigned by the human rights committee(s).
- (3) The head of every provider subject to 115 CMR 3.00 shall for each location where services are provided, and the head of every specialized home care placement agency subject to 115 CMR 5.00 shall designate and empower a person employed or affiliated with the provider or agency to serve as the provider's or agency's **human rights officer** and to undertake the following **responsibilities** as a formal component of his or her job description for the provider or agency:
- (a) To participate in **training programs** for human rights officers offered or approved by the Department; 3.09:
 - (b) Under the general direction of the human rights coordinator and with technical assistance of the Department, to develop and implement means:
 - 1. To **inform the staff**, individuals served, and their families of the **individuals' rights**, including making copies of 115 CMR 5.00 available for inspection at any time by each individual or other interested person;
 - 2. To **annually train individuals served** in the exercise of their human rights, to the maximum of their capabilities and interests (with such annual training to be documented in the individual's record), and to assist them to exercise those rights;
 - 3. To provide individuals served with opportunities to **exercise their rights** to the fullest extent of their capabilities and interests, including informing them of the grievance procedures and the right to go to the human rights committee on any issue involving human rights; and
 - 4. To otherwise assist the provider or agency in the development of means to **promote the human and civil rights** of individuals served.
 - (c) With the technical assistance of the Department, to **provide legal information** and referral service to individuals served and direct assistance in obtaining legal advice or representation through the Disability Law Center of Massachusetts, the Committee for Public Counsel, legal assistance agencies, lawyer cooperatives or clinics, lawyer referral programs of the Mass. Bar Association, or other county or local bar associations, or other available means.