

RIGHTS (GENERIC)

I. POLICY

OHI shall comply with all applicable State and Federal Statutes and Regulations regarding rights of persons with disabilities. Further, OHI shall implement this policy with the philosophy that civil rights are a human entitlement and that OHI shall be a facilitator of that entitlement. OHI shall advocate for necessary financial, human, and other resources to ensure the rights of people it supports are protected as outlined within this policy.

Persons with disabilities shall have the right to humane treatment, practice of religion, communication, fair compensation for work, to vote unless under guardianship, to personal property, medical and dental care, nutrition, socialization and physical activity, privacy of records, quality behavioral treatment and to be free from sterilization, in keeping with Title 34-B of the Maine Statutes. OHI believes each person has the right to choose the providers from whom he/she receives services and supports and that homes/supports shall be integrated into the community.

A person with disabilities supported by OHI shall be provided supports without regard to race, age, national origin, religion, disability, sexual orientation, gender identity or sex. When a communication barrier exists, OHI shall ensure that each person and his/her guardian are accommodated in regard to fully understanding their rights. Each person with disabilities supported by OHI shall have the same rights exercised by every individual in the United States.

OHI shall not tolerate any incidents of or attempts to influence or retaliate against anyone in connection with reports of rights violations.

II. PROCEDURES

A. The Rights Policy of OHI shall be posted and/or available to persons supported, Guardians, family members, Correspondents, employees, volunteers, and other stakeholders. The Rights Policy shall be posted and/or available in at least the following ways:

1. OHI Policy Manual located on the OHI server (all employees are trained and have access).
2. Provided to persons supported, Guardians and others during the service initiation process and upon request.
3. A summary on the OHI website.
4. Posted in employee work areas.

B. Each person supported by OHI shall be afforded the same rights as others without disabilities. Rights of individuals shall not be limited or restricted without the approval of the Team. These restrictions shall be documented within the person's Plan.

C. Allegations of past rights violations made by the people OHI supports, must also be reported according to the following procedures.

D. As mandated reporters, employees are expected to report complaints of rights violations of children or adults with intellectual disabilities and/or mental illness to the Department of Health and Human Services (DHHS), regardless of whether the person is supported by OHI.

E. Confidentiality, Privacy and Dignity

1. Each person shall be treated with consideration, respect, and full recognition of his/her dignity and individuality. Information shall be protected in accordance with the HIPAA rules and OHI privacy policies.
 - a. Each person shall be given privacy in the care of personal needs.
 - b. Each Individual Record shall remain confidential.
 - c. Each person shall have access to records concerning themselves at reasonable times and in the presence of an employee unless clinically contraindicated.
 - d. Each person or his/her legally appointed representative has the right to give written consent before information is released from the Individual Record or about him/her, to someone not otherwise authorized by law to receive it.
 - e. Each person shall be given privacy during visits by anyone.
 - f. If a married couple or partners are residing in the same home, they shall be given a bedroom to share, upon their request and as is physically possible and in compliance with licensing standards and approved by the Team and/or guardian.
 - g. Each person shall have an unrestricted right to communicate, associate, and meet privately with individuals or companions of his/her choice, unless it infringes on the rights of other persons.
 - h. Each person shall have the right to a private bedroom.
2. Visits to homes and service areas shall be planned and conducted with respect for the person's right to privacy.
3. Confidentiality shall be exercised when speaking about a person. Staff-to-staff communication which concerns a person supported should never be conducted in the presence of anyone other than staff and the individual being discussed.
4. Staffing assignments shall, as much as possible, reflect personal preference and sensitivity to the dignity of the person.
5. When staff-to staff communication that concerns a person supported occurs in the presence of the person supported, the communication shall always include the person and fully acknowledge the person's presence regardless of the person's interest or ability to participate in the discussion.

F. Clothing and Personal Possessions

1. Each person shall have the right to retain and use his/her own clothing and personal possessions.
 - a. The Manager or designee may take emergency temporary custody of clothing and personal effects to protect the person or others from imminent injury. Emergency conditions of custody shall include protection of health and safety and protection of valuables. The person's possessions shall be returned as soon as possible and as determined by the Manager or his/her designee.
 - b. Each person shall be assisted in obtaining and, if necessary, be provided with clean, well-fitting, and seasonably appropriate clothing. Each person shall have sufficient clothing for the weather: rain, snow, heat, sun, extreme cold, and physical activity.
 - c. Where necessary, special, or adaptive clothing may be recommended by the person's Team.
 - d. Each person shall be involved, to the extent possible, in the selection of his/her clothing.
2. Personal possessions of each person shall not be used by others without the permission of the person or his/her guardian.

G. Freedom of Movement and Communication

1. OHI shall help each person on a regular basis in the exercise of their rights to vote, participate in social or political community groups and activities, and to religious freedom and practice.
2. Each person shall have the right to private communications:
 - a. Each person shall be ensured the right to receive and mail correspondence. Mail should not be delayed, censored, or opened, without the written consent of the person or his/her legally appointed representative.
 - b. Each person shall be helped in writing and mailing letters and in making telephone calls, e-mailing, and texting where assistance is needed.
 - c. Each person shall be afforded access to use the telephone.
3. Each person shall be encouraged to voice grievances and recommend changes in policies, procedures, and services to staff or to outside representatives of his/her choice. Restraint, interference, coercion, discrimination, or reprisal shall not occur as a result.
4. Each person shall have the right to associate and communicate with persons of their choice.
5. The person's Team shall identify persons who need or want personal advocates.
6. Each person has the right to regular freedom of movement on and off the premises including in the community.
 - a. Each person shall have unrestricted access within their home/service/community unless otherwise restricted by the Team for safety reasons.
 - b. Each person shall enjoy homes/services which do not limit the person's mobility or access.
7. Each person shall have the right to communication using his/her preferred language and communication modes.
8. Each person shall have the right to grant or refuse informed consent.

H. Financial Affairs and Consent

1. Each person has the right to have access to and manage his/her own funds and accounts unless prior written consent is received from the guardian, for OHI to assume financial management of the person's funds or if the person has a representative payee.
 - a. A person is not required to sign over his/her paycheck to OHI.
2. The rights of all persons regarding expectations of their labor shall be governed by the requirements of the Fair Labor Standards Act and the regulations promulgated there under and more specifically:
 - a. A person shall not be required to perform labor which involves the operation of OHI, or the regular care, treatment, or supervision of other persons supported. He/she may perform any other work available to him/her and shall be compensated.
 - b. If a person is working for OHI, he/she shall be paid wages which are commensurate with those paid to employees who do not have disabilities for essentially the same type, quality, and quantity of work.
 - c. Records of any hours worked, salary and benefits paid, and any other specifics thereof, shall be kept in the administrative records and a copy in the person's Individual Record when required for eligibility for funding, services or supports.
 - d. OHI shall follow all rules and regulations as it relates to the operation of the Clubhouse work-ordered day by members.
3. Each person shall consent to and direct any expenditures from his/her own resources.
4. Each person shall be permitted to receive and spend money in a normal manner Unless otherwise specified by the person's Team.

5. Each person shall receive training in performing cash and check transactions, according to their capabilities and as recommended by the Team.
6. When a person completes services with OHI or transfers, he/she has the right to receive a refund for any advance payments made for their service, equal to the prorated amount of the payment for the number of days the person was not receiving the service.
7. Each person or his/her guardian has the right to be fully informed of items or services which are included in the rate they pay for services. Persons supported by OHI shall not be charged for repair or replacement of items damaged by normal wear and tear.

I. Programmatic Services and Supports

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1. Each home/program rhythm of life shall follow practices generally prevalent in the community, e.g., adults shall not be expected to live according to the timetable of children.
2. Each person shall receive training in the rights and responsibilities of citizenship such as voting, social and employment activities, consumer affairs, law enforcement, paying taxes, and/or consulting an attorney, as recommended by the Team.
3. Each person shall receive training in recognizing and respecting the rights of others as reciprocal to their own, as recommended by Team.
4. Rights of individuals shall not be limited without the approval of the Team.
5. Each person shall have the right to a Plan and to active treatment, which shall maximize his/her ability to cope with the environment and create a reasonable expectation of progress toward established goals.
 - a. Each person is not required to adhere to a set activity schedule.
 - b. Each person shall have access to leisure activities and items such as a television.
 - c. Each person shall be provided with choice. His/her requests for services, needs and preferences shall be included in his/her Plan.
6. Each person who is a member of the Clubhouse shall establish goals as part of his/her supports, services, and Clubhouse membership.
7. Each person shall have the right to refuse to perform services for OHI.
8. Each person shall have the right to be provided options for making informed choices in education, employment, non-work activities in integrated community settings, program planning and implementation, leisure and social activities, and daily living routines.
9. Each person shall receive training in how to use the grievance process.
10. Each person shall have the right to choose when and what to eat, and who to eat with, if anyone. He/she can choose the time and place to eat, request alternative meals, have accessible snacks available anytime and is not required to wear bibs or use disposable cutlery, plates and cups unless otherwise restricted by the person's Team, guardian and/or health care provider.
11. Each person has the right to have an active role in the development of his/her Plan.

J. Service Initiation, Service Completion and Transfer

1. Each person shall have the right to the least restrictive living conditions necessary to achieve the purposes of habilitation. OHI shall make every attempt to assist people to move from more to less restrictive living, larger to smaller homes, group to individual living, segregated to integrated community living, dependent to independent living, as recommended by the Team.
2. Each person shall have the right and be provided with options for making informed choices in choice of service provider, place of residence and living arrangements, service completion and transfer.

3. Service initiation and/or completion shall not occur unless a determination has been made by the Team, that the person's service or program is the least restrictive environment for the person.
4. Services shall not be denied, and treatments withheld from persons who otherwise are eligible for them, solely on the basis of the presence or severity of a disability or co-occurring mental health, substance use and/or intellectual disability.
5. Each person and/or Guardian shall be given a copy of the Rights of Maine Citizens with Intellectual Disabilities and the Rights of Recipients of Mental Health Services, upon service initiation and it shall be reviewed with the person, when applicable.
6. The Rights of Maine Citizens with Intellectual Disabilities shall be reviewed with people supported in ID Services.
 - a. Annually, these shall be read and explained to the person in a manner understood in the fullest extent possible. He/she or his/her guardian shall receive a copy of each.
 - b. Documentation shall be kept in the Individual Record of whether or not the person understood the reading of his/her rights.
 - c. A witness shall sign that he/she observed the reading of each document and shall document the response(s) of the person.
7. Each person shall be protected from eviction and afforded appeal rights in the same manner as all persons who are not receiving services. Each person and/or his/her guardian shall have a legally enforceable agreement for the unit or home where the person lives. This may be a written rental agreement when landlord tenant rules do not apply.

K. Medical Services

1. Medication shall be administered to a person only upon written order of a health care provider.
 - a. The drugs of each person shall be reviewed at least every ninety (90) days by the health care provider, or as otherwise required.
 - b. Each person shall have the right to dental care.
 - c. Each person and/or his/her legally appointed representative shall give written consent prior to any surgery and/or emergency medical treatment.
2. Each person shall be informed, fully, by a health care provider, of his/her health and medical condition, unless medically contraindicated and as documented by the physician in the Individual Record. He/she shall be afforded the opportunity to participate in the planning of his/her total care and medical treatment and to the right to refuse treatment.
3. Each person shall have the right to not participate in experimental research.
4. Each person or his/her guardian has the right to choose his/her own physician, dentist, or any other service provider and has the right to a second opinion when requested. This request shall be made in writing including the date and reason for the request. The Manager must respond to the request and document actions taken. This shall be documented in the person's Individual Record.

L. Civil and Legal Rights

1. Each person shall be assisted in obtaining Advocates and lawyers if they need assistance from those persons to exercise their rights.
2. Each person receiving residential supports shall receive assistance in registering to vote or filing an absentee ballot, as appropriate.

M. Other Rights

1. Each person and/or guardian involved in residential services and supports shall have the right to be involved in the development of House Rules, to request revisions and ask questions about such.
2. Each person and/or his/her guardian has the right to review the findings of OHI's most recent licensing or accreditation survey.
3. Each person has the right to refuse treatment or services. If the person refuses necessary care or treatment, OHI shall consult with the person's Team and/or duly authorized licensed practitioner, caseworker, or other appropriate individual, to ensure the person receives necessary services. In no case may a person who does not have legal authorization to do so, order treatment which has not been consented to by a competent person supported.
4. Each person has the right to be free from abuse, neglect, mistreatment, exploitation, victimization, or the use of unauthorized or misused restraints.

N. Procedure for Reporting a Rights Violation

1. Allegations shall be reported to the Manager IMMEDIATELY. After business hours, the on-call manager shall be IMMEDIATELY notified.
2. The procedures for reporting, investigating, and following up on a rights violation are the same as for allegations of abuse, neglect, mistreatment, and exploitation. Refer to the Abuse, Neglect, Mistreatment and Exploitation Policy for further information and direction.
3. Allegations of violations of rights, abuse, neglect, mistreatment, and exploitation which have been made about a person with intellectual disabilities must be reported within one business day as outlined in the reporting procedures of OHI's Abuse, Neglect, Mistreatment and Exploitation Policy and the Reportable Events Policy.

O. Employee Expectations

1. Employees are expected to report all allegations of rights violations immediately. Failure to do so may result in performance improvement planning up to and including discharge from employment.
2. Employees are expected to be available for investigation meetings during regularly scheduled work hours. All time spent in investigation interviews shall be recorded by the employee on his/her timesheet.
3. Employees are encouraged to not discuss the investigation or allegation(s) with anyone other than the Investigator. Confidentiality and discretion are expected.

P. Confidentiality and Discretion

Confidentiality of the reporter and witnesses shall be maintained whenever possible. The investigation shall take place in a private location and shall be kept confidential by all those participating. Release of any information regarding the investigation shall be at the discretion of the Investigator. Only those individuals with a need to know about the investigation shall be informed.

Q. The Manager shall determine the need for counseling or other services for the person whose rights have been violated.

R. Reasonable Modifications and Accommodations

1. OHI shall provide reasonable modifications of existing premises, at the expense of the person with disabilities or another willing payer. When reasonable, the person with disabilities may return the home to the condition that existed before the modification, upon discharge of the person. OHI shall not make any modifications at its own expense, when it poses a financial burden.
2. OHI shall make reasonable accommodation in regulations, policies, practices, or services, unless it imposes an undue financial burden or results in a fundamental change in the program.

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