

# POLICIES AND PROCEDURES MANUAL

KEYSTONE COMMUNITY RESOURCES, INC.

KEYSTONE INDEPENDENT LIVING, INC.

**Policy Title:**

HUMAN RIGHTS COMMITTEE

**Chapter:**

03 – Safety & Quality Improvement

**Effective Date:**

01-19-2009

**Revision Date:****Policy Number:**

03-400-001

**Executive Director**

## SCOPE:

All Keystone Programs and Services

## INTRODUCTION:

Keystone's Human Rights Committee (HRC) is an objective review board responsible for protecting the human and civil rights of individuals with developmental disabilities. The committee also advises the Executive team on issues directly or indirectly affecting the rights of individuals served.

The committee is comprised of affiliated and non-affiliated professionals, individuals served, advocates and/or interested persons from the community at large. At least two members are impartial outsiders, in that they would not have an interest represented by any other of the required members or Keystone itself.

## DISCUSSION:

### Rights of individuals with developmental disabilities

Individuals with developmental disabilities are entitled to exercise the same human and civil rights enjoyed by other citizens. These rights shall not be limited or modified unless the individual's disability limits the exercise of these rights. Staff shall make efforts to assure that the human and civil rights of individuals with developmental disabilities are protected and exercised.

Individuals receiving services from Keystone, Keystone staff, other provider agency staff, parents, guardians, or other advocates for individuals may make referrals to the HRC through the HRC Chairperson.

Restrictions of an individual's rights shall be documented in the client record.

All staff and contract providers shall advocate for and protect the rights of individuals with developmental disabilities in programs for which they are responsible. Staff and contract service

providers shall utilize the structured form of the HRC as an assist in protecting the rights of individuals with developmental disabilities.

### **Appointment of members**

The CEO shall appoint the members of the HRC for a two-year term. The term may be renewable.

There shall be no more than one-third common membership of the Behavior Support Committee and the HRC of any service component, facility or agency.

The HRC shall consist of a minimum of five and a maximum of 15 members, at least one-third of whom shall not be employed by the component, facility or agency.

The HRC membership may be drawn from the following representative groups:

1. Individuals with developmental disabilities, including individuals served;
2. Family members and/or guardians of individuals with developmental disabilities;
3. Persons who have experience and background with rights issues such as those in the legal profession, members of the clergy, ethicists, social workers;
4. Persons who have prior experience serving on Human Rights Committees;
5. Interested citizens from the local community; and
6. Employees familiar with programs and services for individuals with developmental disabilities.

Members of the HRC who are not Keystone employees will be required to sign a written statement that they will agree to protect individual information in accordance with Federal and State laws and Division rules. Persons who violate this subsection will no longer serve as a member of the HRC.

Reviewing agencies may assign an observer who is not a voting member of the committee, if authorized by circular, bulletin or regulation. The observer shall be familiar with the agency or facility, its manual and the general committee functions. Should the observer have concerns about Keystone, he or she shall bring these concerns to the CEO and State authorities as required by circular, bulletin and regulation.

Regularly assigned members and the Chairperson and the Vice-Chairperson shall have voting rights.

### **Appointment of chairperson and vice-chairperson**

The CEO will appoint the Chairperson.

The chairperson and vice-chairperson may be staff members or individuals from outside Keystone.

The chairperson and vice-chairperson shall serve a two-year term to which they may be re-elected.

The vice-chairperson shall assume the responsibilities of the chairperson in his or her absence.

### **Filling vacancies created by un-expired terms**

Any HRC member who cannot complete his or her term shall communicate this in writing through the Chairperson to the CEO at least two weeks before the date of resignation.

If the Chairperson cannot complete the term of his or her office, the Vice-Chairperson shall become the Chairperson for the remainder of the Chairperson's term. The CEO will appoint a replacement for the Vice-Chairperson, as soon as possible.

The CEO shall appoint a replacement within 30 days of the creation of a vacancy on the HRC.

### **Removal of human rights committee members**

A committee member may be removed by the CEO, for a good cause, based upon a two-thirds majority vote of the full committee. The member who may be removed shall not vote on the action.

### **Orientation to the Human Rights Committee**

Individuals who are appointed to the HRC shall receive informational and instructional material relevant to the services provided by the HRC.

### **Role of the Human Rights Committee**

The HRC shall exercise an advisory role to the CEO.

The CEO shall make the final decision on any issue regarding the rights of an individual receiving services, and when proceeding against the advice and recommendations of the HRC, shall document the substantive reasons for proceeding against the advice and recommendations of the HRC in the client record.

The orientation of the HRC shall be proactive and preventative. The committee shall recommend procedures and programs that safeguard the rights of the individual.

### **Meetings of the human rights committee**

The HRC shall meet at least every two months, and preferably every month. The agencies shall provide a schedule of the agency HRC meetings to the State authority and shall notify the State immediately of any emergency meetings as required by circular, bulletin or regulation.

The Chairperson shall have the authority to call special and emergency meetings as necessary.

The decision making process of the HRC will be based on consensus.

A simple majority of the members of the HRC shall constitute a quorum. A quorum is necessary for all issues requiring consensus.

Any HRC member involved in the development or implementation of a proposed restriction will abstain from participation in the consensus process for that agenda item.

It is essential that the CEO shall ensure that each committee be afforded a private meeting area and an atmosphere respectful of its independence and objectivity as a review group.

The CEO will provide support staff to the Chairperson for completing tasks necessary for the HRC to function. These would include tasks related to material preparation, communication, and some aspects of information management.

### **General committee functions**

The functions of an HRC shall include, but not be limited to, the following:

To advise the CEO with regard to issues concerning the human and civil rights of individuals, bringing to his or her attention existing or potential infringements upon, or impediments to the free exercise of individuals' rights including recommendations for action;

To contribute to the development of revision of policies and procedures directly relating to individuals rights;

To review alleged or suspected violations of the rights of individuals or groups of individuals brought to the attention of the HRC and to recommend investigation of violations, as deemed appropriate by the Committee;

To review behavior support plans which employ the use of procedures not prohibited by law or rule that may present an element of risk and/or restriction to an individual's rights; and

To review the proposed involvement of individuals participating in research projects.

The HRC shall have available to it all information that is necessary to perform its functions. The Committee shall have the right to observe programs and/or activities and conduct interviews in order to clarify a problem. Confidentiality of all information obtained shall be observed by the committee members, pursuant to regulation.

The HRC shall have the right to request expert advice from outside the committee, as the committee deems appropriate.

## **HRC procedures**

The Chairperson will determine if the issues addressed in the referrals constitute an actual or potential infringement upon the free exercise of an individual's rights. If the Chairperson determines that the referral should not be reviewed by the committee, he or she shall draft an explanation for the next committee minutes and will review with the full committee, which will be the final arbitrator of any concerns regarding the relevancy of referral issues. If the request for HRC review was initiated by the individual or his or her legal guardian, the Chairperson shall provide a written explanation why the referral should not be reviewed by the HRC.

The HRC Chairperson will immediately review emergency referrals with the CEO. Such referrals will be reviewed expeditiously during emergency meetings of the committee. Routine referrals will be addressed during the next scheduled committee meeting. The CEO or guardians serving individuals may approve necessary emergency treatments. Such issues shall be reviewed by the HRC at a subsequent meeting.

To the extent practicable, an agenda shall be developed based upon referrals received and issues to be discussed and distributed in advance to all HRC members and guests.

The individuals with potential rights restrictions and their guardians will be invited to attend the meeting.

The individuals listed on the agenda will have their client records made available for the meeting, if necessary.

Chairpersons of any sub-committees shall present a summary of their agenda items for review.

The HRC members shall carefully review each issue and the data presented to analyze risk, evaluating alternatives and assuring rights are not recommended for restriction due to staff convenience. They will provide a consensus based upon this discussion. If necessary, the HRC will include recommendations for further actions to the respective CEO.

The HRC will provide, in writing, to the CEO, a copy of all recommendations within 10 working days of the meeting. The HRC Chairperson may provide a verbal recommendation to the CEO if immediate implementation is deemed necessary.

The CEO, or designee, will respond in writing to the HRC Chairperson, as well as the individual or his or her legal guardian, within 10 working days on routine referrals, or immediately on emergency referrals, regarding the acceptance, qualified acceptance, or non-acceptance of the recommendations. The CEO will explain the basis for the HRC review and the rationale for his or her decisions.

The Chairperson will incorporate the CEO's decisions and comments into the minutes of the meeting, which will be distributed to the committee members as the first agenda item of each meeting. The committee will review the CEO's responses and implementation plan. The

Chairperson will then outline the CEO's decisions to the person or persons who presented the referral to the HRC.

A copy of the notification of the decision to the individual or his or her legal guardian, as indicated in (i) above, is to be maintained in the client record.

The HRC may request progress reports on the review recommendations through the CEO.

Where disagreement exists between members, an effort shall be made to reach consensus. Where that is not possible, the HRC may vote on its recommendations and submit the results and positions reflected to the CEO. The results of the vote shall be indicated in the meeting minutes.

### **Conflict of interest**

If any matter that arises in the Committee's deliberations should constitute a conflict of interest for a member of the Committee, that member shall abstain from voting on that issue.

A conflict of interest shall be determined to exist if the HRC member in question is the person who submitted the referral for review by the HRC, that is, case manager; the person is a member of the BSC and it is a recommendation of the BSC that is the matter before the HRC; or the HRC member is any way is directly involved in the matter before the HRC. A final determination of conflict of interest will be the decision of the Chairperson.

Representatives of legal services, such as Protection and Advocacy, Inc., or other agencies, who may represent future individual interests, shall not be appointed members of an HRC as defined in this chapter. Their role and authority exist independent of this advisory body.

### **Dispute resolution**

Where the individual, guardian or advocate disagrees with the decision of the CEO, the individual, guardian or advocate may submit a written statement of disagreement. This statement of disagreement shall be sent, prior to the next HRC meeting, to the CEO for reconsideration and resolution. The CEO shall notify the Chairperson of the HRC, in writing, of any disagreements and resolutions. This statement will be maintained in the client record.

If the individual, or his or her guardian or advocate, continues to disagree with the decision of the CEO, the individual, or his or her guardian or advocate, may appeal the decision in accordance with regulation.

### **RESPONSIBILITIES OF HRC CHAIRPERSON**

The chairperson of the Committee shall be responsible for the following:

Presiding at meetings and performing all duties relevant to the office of Chairperson. The Chairperson shall also appoint sub-committee Chairpersons. The Chairperson shall have the power to call emergency HRC meetings;

Ensuring the development and distribution of the agenda for each meeting;

Assuring the review of any previously requested progress reports;

Arranging for recording and transcription of minutes and that minutes are distributed and maintained;

Requesting consultation from outside the committee based upon a decision of the committee;

Ensuring the relevant, necessary meetings and reviews precede referrals to the HRC. The Chairperson may refer issues back to appropriate review panels, for example, Unusual Incident Review Committee; and

Educating the HRC members on their responsibilities.

### **Minutes of the meeting**

The Committee chairperson shall forward the meeting minutes to the respective CEOs, within 10 working days. In emergency situations, the recommendations shall be conveyed to the CEOs immediately, in person or by telephone. Minutes of the meeting shall be retained on file in the office of the respective CEO and shall be available to surveying agencies, as required by circular, bulletin or upon request.

Copies of the minutes shall be provided to the members of the Committee.

The HRC minutes shall be marked as “Confidential Client Information” when individual information is present.

Documentation of the results of the HRC meeting, and all related documents that are specific to an individual, shall be placed in that individual’s client record.

Minutes of the HRC are considered agency records. All individual identifying information contained in the HRC minutes shall be redacted prior to disclosure to the public.

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**DIVISION CIRCULAR #5  
(N.J.A.C. 10:41A)**

**DEPARTMENT OF HUMAN SERVICES  
DIVISION OF DEVELOPMENTAL DISABILITIES**

**EFFECTIVE DATE:** August 16, 2004

**DATE ISSUED:** August 16, 2004

(Rescinds DC #5, "Human Rights Committee", issued September 10, 1999.)

- I. **TITLE:** Human Rights Committees
- II. **PURPOSE:** The purpose of this chapter is to establish standards for the composition and operation of the Division of Developmental Disabilities' Human Rights Committees (HRC), as well as those in agencies under contract with or regulated by the Division, within the State of New Jersey and to ensure that HRCs operate as objective review boards in protecting the human and civil rights of individuals with developmental disabilities.
- III. **SCOPE:** The rules in this chapter establish the composition and operation of the Human Rights Committees in developmental centers, regions of the Office of Community Services, and in the provider agencies and facilities under contract with or regulated by the Division.
- IV. **GENERAL STANDARDS:**

**NOTE:** The remainder of this circular is the Human Rights Committee as it appears at N.J.A.C. 10:41A.

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Carol Grant  
Acting Director