



State Supported Living Centers Statewide Policy & Procedures

Policy Number: 045.1

Effective: 11/23/2015

Replaces: 045

Policy:

Rights

PURPOSE:

The purpose of this policy is to ensure individuals served at state centers receive training, assistance and support in a manner that actively supports and affirms their rights related to consent and authorization for treatment and services.

APPROVED BY:

Scott Schalchlin

Assistant Commissioner

State Supported Living Centers

APPLIES TO:

All state supported living centers and the intermediate care facility for individuals with an intellectual disability (ICF/IID) component of the Rio Grande State Center (collectively "state centers")

DISTRIBUTION:

The state center must ensure the policy and all of its attached exhibits and forms are distributed to applicable staff, contractors, and agents. The state center must also ensure the policy and all of its attached exhibits and forms are provided to any individual or legally authorized representative (LAR) who requests a copy.

CONTACT:

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EXHIBITS AND FORMS:

Exhibits:

Exhibit A – State Center Consent Guidance Sheet

Forms:

Note: Send requests for policy forms to eric.moorad@state.tx.us.

- SSLC 045A – Individual Capacity Assessment
- SSLC 045B – Rights Restriction Determination
- SSLC 045C– Consent for Rights Restriction
- SSLC 045D – Human Rights Committee Referral
- SSLC 045E – Emergency Restriction
- SSLC 045F – State Center Consumer Complaint (Spanish Version)
- SSLC 045G – Consent for Medical or Dental Care
- SSLC 045H – Consent to Implement a Behavioral Health Services Plan
- SSLC 045I – Consent for Dental Treatment with General Anesthesia
- SSLC 045J – Individual Rights Acknowledgement
- SSLC 045K – As Needed Consent, Spanish Version
- 052A form -- Informed Consent or Authorization for Administration of Psychotropic Medication
- DADS Form 4040 -- Protection of Individuals' Health and Safety by Detecting and Preventing Abuse, Neglect and Exploitation Through the Use of Video Cameras
- DADS Form 5401 -- Authorization to Photograph or Record a Resident of a State Supported Living Center (SSLC) (English and Spanish Versions)
- DADS Form 8502 --Authorization for Disclosure, Use or Receipt of Protected Health Information

REFERENCES:

- [40 Texas Administrative Code \(TAC\) §2.277 \(Moving From a State Facility To An Alternative Living Arrangement\)](#)
- [Chapter 4, Subchapter C - Rights of Individuals with an Intellectual Disability](#)
- Texas Health and Safety Code (THSC) Chapter 551 and Chapters 591-597.
- [Provider Letter 15-12 – Revisions to Appendix J \(Guidance to Surveyors\) \[PDF\]](#)
- [State Operations Manual, Appendix J \(42 Code of Federal Regulations \(CFR\), §§483.410\(c\)\(3\)-\(4\); 483.420; 483.440\(c\)\(6\)\(vi\) and \(f\)\(3\); 483.440\(f\)\(3\)-\(4\); and 483.450\(a\)\) \[PDF\]](#)
- [45 CFR §164.504\(e\)\(2\)\(ii\)\(D\)](#)
- Constitution of the United States and the Bill of Rights
- SSLC Policy 001 Use of Restraints
- SSLC Policy 004 Individual Support Plan Process
- SSLC Policy 018 Most Integrated Setting Practices
- SSLC Policy 021 Protection from Harm – Abuse, Neglect and Exploitation
- SSLC Policy 042 Video Surveillance (See DADS Operational Handbook, Part L (State Supported Living Centers), Section 4000 (Video Surveillance))
- SSLC Policy 052 Consent or Authorization for Administration of Psychotropic Medication

- DADS Operational Handbook, Part L (State Supported Living Centers), Section 8000 (Resident Trust Funds)

I. Types of Rights

Each individual has the same rights as all citizens of the United States and this state unless the individual's rights have been restricted in a manner described in the policy.

- A. Human Rights: Basic rights to which every person is entitled; human rights may not be modified or restricted under any circumstances.
- B. Constitutional Rights: Rights to which every citizen of the United States is entitled; these rights may not be denied, modified or restricted (e.g., discrimination, disability or a lack of knowledge) except by a court of competent jurisdiction.
- C. Special Rights: Additional rights afforded to individuals with intellectual and developmental disabilities and to individuals served in state centers through legislation, litigation and/or legal reviews. Special rights cannot be restricted without due process. Staff must promote the special rights of individuals. (These special rights, include, but are not limited to those rights enumerated in [40 TAC §4.107](#) and [40 TAC §4.109](#).)
- D. Privacy Rights, including Health Insurance Portability and Accountability Act of 1996 (HIPAA) Rights: HIPAA is a federal law that requires healthcare providers to protect the privacy of each individual's past, present and future health information.

HIPAA defines "health information" as "any information, including genetic information, whether oral or recorded in any form or medium, that (1) is created or received by a health care provider, health plan, public health authority, employer, life insurer, school or university, or health care clearinghouse; and (2) relates to the past, present or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual." Texas state laws and legislation strengthen the HIPAA protections to include an individual's sensitive personal information (SPI). Additional information may be found on the DADS web site:

<http://www.dads.state.tx.us/providers/hipaa/index.html>.

II. State Center Expectations

Each state center must ensure that it:

- A. Posts information on individuals' rights; how to file a complaint; and how to report allegations of abuse, neglect and exploitation (ANE) in a visibly accessible area at each home and program site. The information must include a brief and easily understood statement describing ANE and individuals' rights, including how to exercise such rights and how to report rights violations or ANE allegations to the director, human rights officer (HRO), DADS Consumer Rights and Services, the Office of Independent Ombudsman for State Supported Living Centers (OIO), and the Department of Family and Protective Services (DFPS).

- B. Maintains and provides a copy of “Your Rights in a State Supported Living Center” handbook to each individual, LAR, actively involved person (AIP) and advocate upon admission and annually; and to any person who requests a copy in accordance with rule [40 TAC §4.117](#) and applicable CMS regulations and guidelines. This handbook includes information about how to file a complaint, how to recognize and report signs of ANE of individuals, and Disability Rights Texas, Inc.
- C. Obtains a completed and signed Individual Rights Acknowledgement (Form SSLC 045K) from the individual, LAR and/or AIP upon admission and annually in accordance with rule [40 TAC §4.119](#) and applicable CMS regulations and guidelines.
- D. Investigates and takes the necessary and appropriate action to resolve issues that may constitute a violation of an individual’s rights, including notification from DFPS of a report that does not constitute ANE. The state center’s HRO must review the state center’s action to address the rights issue and determine if additional action should be taken.
- E. Assesses each individual’s capacity to provide informed consent as part of the initial individual support plan (ISP) meeting and as indicated by a change in status determined applicable by the IDT using the Individual Capacity Assessment, SSLC 045A; and reviews and, as appropriate, updates the Individual Capacity Assessment, SSLC 045A, annually during the ISP process.
- F. Provides all new employees with training on how to assist all individuals in reporting allegations of ANE and/or complaints.
- G. Provides direct contact staff with annual competency-based training and non-direct contact staff with competency-based training every two years on how to ensure that all individuals are afforded the opportunity to exercise their rights and assure compliance with the provisions of this policy.
- H. Creates an environment that promotes staff awareness of potential rights violations as staff visit homes, day program areas and anywhere else individuals meet or gather.
- I. Takes appropriate disciplinary action if an employee fails to report a complaint and/or initiate corrective action when necessary.
- J. Educates, encourages and supports all individuals to exercise their rights including participation in self-advocacy, citizenship, voting and community political activities.
- K. Restricts an individual’s rights only when ordered by a court of competent jurisdiction or in a manner described in this policy.
- L. Protects each individual’s personal health information (PHI) and sensitive personal information (SPI) in accordance with federal and state privacy laws, including federal HIPAA requirements and Texas statutes and rules; as well as with applicable HHSC, DADS and SSLC Division policies, including the statewide operational policy, SSLC 020 Recordkeeping.
- M. Note: In the event a disaster (e.g., hurricane, earthquake, flooding, contagious disease outbreak, etc.) occurs, consent to release PHI may be waived according to the “Katrina Act.”
- N. Prohibits the use of “house rules” or “group/blanket restrictions” to control a group of individuals without regard to individualized preferences and needs.

III. Informing Individuals of Their Rights and the Complaint Process

- A. Staff educates, assists and supports the individual, LAR, AIP and advocate -- in terms, language, form and manner each of them understands -- on how to help the individual exercise his or her rights and how to make the individual's complaints known to appropriate personnel, including the OIO. The OIO can be reached by calling 1-877-323-6466, or toll-free 7-1-1 or 1-800-RELAY TX (1-800-735-2989), if Relay Texas is needed. The OIO also can be reached by sending an email to: sslc.ombudsman@dads.state.tx.us or sending a confidential fax to 512-438-4085. Additional information is on the OIO website at: <http://www.dads.state.tx.us/SSLCombudsman/index.html>.
- B. A staff member who receives a complaint:
 - 1. Which is an allegation of ANE, follows the procedures in the statewide operational policy, SSLC 021 Protection from Harm - Abuse, Neglect and Exploitation; and
 - 2. Reports other complaints to the HRO or the state center assistant independent ombudsman (AIO) via secure e-mail or confidential telephone call.
- C. The HRO documents each complaint on the SSLC 045F form -- State Center Consumer Complaint (Spanish Version), and notifies the state center director.
- D. The HRO must speak with the individual and the complainant, if any, to review the complaint; assist to resolve the complaint; review the resolution; and document the resolution on the SSLC 045F Consumer Complaint.
- E. The HRO maintains a file containing all original, completed SSLC 045F Consumer Complaint forms.
- F. The HRO provides notice to the individual and the complainant, if any, regarding the resolution of the complaint.

IV. Consents

- A. Required Consents. Except as described in Section IV.E., a state center must obtain informed consent that is specific, separate and in writing. Each state center must obtain written, informed consent from an individual or the individual's LAR or written authorization from the state center director (follow Section VII. -- Director Authorization of this policy) on the appropriate state office standardized consent form to:
 - 1. Implement or continue a behavioral services plan, including a psychiatric support plan (PSP), counseling plan, or a positive behavioral support plan (PBSP) with or without restrictive elements (only a PBSP with restrictive elements must be reviewed by the HRC) (Use form SSLC 045H -- Consent to Implement a Behavioral Services Plan).
 - 2. Implement a Crisis Intervention Restraint Plan or a Protective Mechanical Restraint Plan for Self-Injurious Behavior (SIB) (Use form SSLC 045C -- Consent for Rights Restriction).
 - 3. Utilize "general anesthesia" for any kind of dental treatment (e.g., procedures and/or exams) (Use SSLC 045I -- Consent for Dental Treatment with General Anesthesia).
 - 4. Initiate medical or dental treatment that (i) is not covered under the SSLC 045I form; and (ii) either involves or does not involve a rights restriction (Use form SSLC 045G -- Consent for Medical or Dental Care).

5. Initiate a pre-treatment chemical restraint (PTCR) (Use form SSLCG -- Consent for Medical or Dental Care) (See SharePoint's 001 statewide Restraint Policy and policy definitions dictionary for the definition and use of PTCR.).
6. Implement a medical or dental restraint plan (Use form SSLCG -- Consent for Medical or Dental Care) (Refer to SharePoint's 001 statewide Restraint Policy).
7. Initiate an autopsy on behalf of the center SSLC 045K – As Needed Consent, Spanish Version (adapt for use) (Consent is not required if a justice of the peace or medical examiner orders an autopsy.).
8. Administer vaccinations. Immunization information and consent forms are found on the Department of State Health Services website at <http://www.dshs.state.tx.us/immunize/literature/litlist.shtm>
9. Administer all contraceptive medication for birth control, as needed (use form SSLC 045K – As Needed Consent, Spanish Version).
10. Allow an advocate to assist an individual (use SSLC 045K – As Needed Consent, Spanish Version).
11. Photograph, video record or audio record the individual (use DADS Form 5401 -- Authorization to Photograph or Record a Resident of a State Supported Living Center (SSLC); Spanish Version); (Refer to the statewide operational policy SSLC 021 Abuse, Neglect and Exploitation for exceptions regarding DFPS investigations).
12. Implement or continue a rights restriction not already explicitly listed in this policy or Exhibit A – State Center Consent Guidance Sheet (use SSLC 045C– Consent for Rights Restriction).
13. Establish a trust fund (See DADS Operational Handbook, Part L (State Supported Living Centers), Section 8000 (Resident Trust Funds)).
14. Initiate electronic monitoring in bedroom (Use SSLC 033B – Request for Electronic Monitoring and form SSLC 033C – Roommate Consent or Refusal of Electronic Monitoring).
15. Conduct video camera surveillance in state center common areas (use DADS Form 4040 Protection of Individuals' Health and Safety by Detecting and Preventing Abuse, Neglect and Exploitation Through the Use of Video Cameras, completed upon admission).
16. Share PHI or release document from an individual's record (use DADS Form 8502 -- Authorization for Disclosure, Use or Receipt of Protected Health Information). Note, if a request is received from the court or lawyer involving a criminal prosecution of the individual, a court order is required prior to release of records.
17. Sharing PHI information with American Printing House for the Blind (Habilitation Therapies)(Use form SSLC 045K – As Needed Consent, Spanish Version).
18. To use a protective device or a change in the type of protective device (Use form SSLC 045K – As Needed Consent, Spanish Version).
19. For an action not listed, Action not listed, consult with your state center and discipline coordinator for more information (Unless advised differently, use SSLC 045K -- As Needed Consent, Spanish Version).

Note: Refer to and use the statewide State Center Consent Guidance Sheet, Exhibit A, for additional information and state office guidelines on when consent or director authorization is needed and what standardized consent form to use. The statewide State Center Consent Guidance Sheet -- Exhibit A is located in SharePoint's operational policy folder for the 045 Rights Policy and in SharePoint's Rights Officer's folder.

- B. Informed Consent for and Refusal of Psychotropic Medications. For psychotropic medication, the state center must follow the consent, refusal, director authorization, medication-related emergency, and psychiatric emergency requirements described in statewide operational policies SSLC 007 Psychiatry Services and SSLC 052 Consent or Authorization for Administration of Psychotropic Medication and use the statewide standardized 052A form, Informed Consent or Authorization for Administration of Psychotropic Medication.
- C. Behavioral Emergencies. In a behavioral crisis, physicians or designees may administer restraints for which there is no crisis intervention plan, medication or treatments in compliance with relevant Texas or federal laws and SSLC division statewide operational policies, followed by the immediate notification to the director or designee.
- D. Time Limits. Consent or director authorization periods start on the date signed by the individual, LAR, or state center director, and expire in 365 days or as indicated on the consent/authorization form. The exceptions are consent for the use of a state center's video surveillance cameras in common areas, which the individual or the individual's LAR signs only upon the individual's admission to the state center and the DADS Form 5401 -- Authorization to Photograph or Record a Resident of a State Supported Living Center (SSLC); Spanish Version), which is valid for three years, unless otherwise indicated.
- E. Verbal Consents. In case of unanticipated events requiring immediate action, verbal consent may be obtained; however, it should be documented that verbal consent was obtained and authenticated in writing on the appropriate statewide standardized consent form as soon as reasonably possible. Both the person obtaining the verbal consent and an additional witness must sign and date the appropriate statewide standardized consent form.
- F. Revocation of Consent. An individual or an individual's LAR may revoke legally adequate consent at any time. Revocation of consent either verbally or in writing will not jeopardize the current or future care and services for the individual.

V. Refusal of Treatment

- A. Medication or treatment must not be administered to an individual who refuses treatment, regardless of whether the individual was voluntarily admitted or involuntarily committed to the state center, unless:
 - 1. the medication or treatment is authorized by a court of competent jurisdiction;
 - 2. the individual is experiencing an emergency psychiatric, medical/dental, or behavioral crisis requiring an emergency restriction (ER); or
 - 3. the individual's LAR has provided consent on behalf of the individual.=

- B. If the individual, regardless of capacity to consent, or LAR refuses to consent to administration of the psychotropic medication, the IDT refers to the statewide operational policy, SSLC 052A Informed Consent or Authorization for Administration of Psychotropic Medication for appropriate action.
- C. The refusal of treatment or medication will not prejudice the current or future provision of care and services to the individual.

VI. Emergency Restriction

- A. The ER process may be used in an unanticipated emergency situation when an individual needs:
 - 1. Psychotropic medication to be administered immediately and prior to IDT review, due to a psychiatric emergency or a behavioral crisis presenting imminent danger.
 - 2. A change in medication because the individual experiences adverse effects from the current medication.
 - 3. Psychotropic medication for unplanned medical/dental restraints.
 - 4. An increase of supervision as an immediate protection. The supervision level may fluctuate in response to the specific episode and IDT efforts to reduce restriction and promote independence.
 - 5. An immediate protection for an unanticipated event.
- B. State center staff initiates the ER process through the following actions and the ER remains in effect for no more than three business days:
 - 1. The staff member who initiated the ER completes the Emergency Restriction form (SSLC 045E) during his or her designated duty hours.
 - 2. The staff member completing the ER form immediately notifies the director or designee of any ER implementation, and documents the date and time of the notification on the ER form. No later than the next business day, this staff member obtains the director or designee's signature on the ER form.
 - 3. Pursuant to 40 TAC §3.604(c), as soon as possible but within 24 hours after initiation of an emergency mechanical restraint, the HRO or designee must review the ER form.
 - 4. The staff member who completes the ER form or his/her designee:
 - a. immediately notifies the LAR, AIP and/or advocate of the event prompting the use of ER; and
 - b. submits the ER form to the HRO as soon as possible but no later than the next business day.
 - 5. ER events are reviewed at the unit morning meeting within one business day and the unit director presents the ER events at the next incident management review team (IMRT) meeting.
 - 6. The IDT will meet within one business day to review the ER and determine if it remains appropriate.
 - 7. If the IDT determines a restriction needs to remain in place, the appropriate staff member submits the applicable Human Rights Committee Referral packet components on form SSLC 045D (See Section VIII.D.) to the HRO for review and approval by the HRC,

preferably by the next regularly scheduled HRC meeting, but in no event later than five business days.

8. In the event that a restriction needs to remain in effect for longer than three business days and the HRC has not approved the Human Rights Committee Referral packet information on form SSLC 045D, the IDT can request an ER extension for up to additional two business days.
9. The ER extension requires (as applicable):
 - a. the QIDP or QIDP's designee to present a status update to the IMRT that entails justification of the need for the continued ER while waiting for the HRC to review and approve Human Rights Committee Referral packet information on form SSLC 045D; and
 - b. Approval by the HRO and director, or director's designee.
10. ER extensions must be tracked and separated from ERs in all database systems and departmental tracking. Moreover, the use of ERs as well as ER extensions must be reviewed in QAQI to determine efforts to reduce the use of ERs and ER extensions, as well as identify efforts to assure timely review (thus reducing the need for extensions).
11. The HRC will review each ER form and HRC referral packet to ensure compliance with the provisions of this policy.

VII. Director Authorization

- A. Under THSC §592.054, the state center director must provide, without further consent, necessary care and treatment to each court-committed individual and make available necessary care and treatment to each voluntarily admitted individual.
- B. Under THSC §551.041 (the "three doctor rule"), the state center director must authorize medical or dental treatment or services when consent is considered necessary if the individual lacks capacity and has no LAR or a reply from the LAR is not obtained immediately by using the appropriate statewide standardized consent forms.
 1. The state center may provide significant medical treatment or procedures for the individual on the advice and consent of three physicians licensed by the Texas State Board of Medical Examiners, at least one of whom is primarily engaged in the private practice of medicine; or
 2. The state center may provide significant dental treatment or procedures for the individual on the advice and consent of a dentist licensed by the State Board of Dental Examiners and of two physicians licensed by the Texas State Board of Medical Examiners, at least one of whom is primarily engaged in the private practice of medicine.

VII. Due Process

Each state center must follow the principles below to ensure that each restriction of an individual's rights strictly adheres to due process and occurs solely based upon the individual's needs and capabilities:

- A. An individual's rights can only be restricted through:
 - 1. The Rights Restriction Determination -- Form SSLC 045B and/or the Human Rights Committee Referral -- Form SSLC 045D, which are both completed by the IDT and approved by the HRC, and only when:
 - a. Analysis of the individual's choices and opportunities to exercise the right and the resulting outcomes indicate there is the need for the right to be restricted;
 - b. Alternative, less restrictive strategies were attempted and proved ineffective and have been exhausted or are precluded by the risks associated with the reason for the rights restriction; and
 - c. The IDT determines that the risks to the individual or others outweighs the risk of the rights restriction;
 - 2. A court of competent jurisdiction, i.e. medication order;
 - 3. An LAR; or
 - 4. The ER process (see Section V, Emergency Restriction).

Note: At the initial ISP and each subsequent annual ISP, both the Rights Restriction Determination (SSLC 045B) and the Human Rights Committee Referral (SSLC 045D) must be completed by the IDT and approved by the HRC. To impose a rights restriction outside of the initial ISP and annual ISPs, only the HRC referral needs to be completed by the IDT and approved by the HRC.

- B. The IDT must assure the opportunity to exercise rights and develop strategies such as skill acquisition programs or service objectives, which may include, but are not limited to fading schedules and/or medication changes with the purpose of increasing the use of the right and lessening the rights restriction.
- C. The IDT must document within the Rights Restriction Determination all discussions related to restrictions; the plan for reinstating the individual's full ability to exercise his or her rights, regardless of physical or cognitive limitations; and any input or response about the rights restriction from the individual, LAR, AIP and/or advocate.
- D. Prior to implementation of a rights restriction(s), the HRC must review appropriate documentation and approve the restriction(s). The QIDP, or staff member requesting the restriction, submits the referral packet to the HRO.
 - 1. The packet may include (as applicable):
 - a. SSLC 045A – Individual Capacity Assessment;
 - b. SSLC 045B – Rights Restriction Determination;
 - c. SSLC 045C – Consent for Rights Restriction;
 - d. SSLC 045D – Human Rights Committee Referral; and
 - e. Annual ISP or ISPA addressing the restrictions.
 - f. SSLC 045E – Emergency Restriction;
 - g. SSLC 045G – Consent for Medical or Dental Care;
 - h. SSLC 045H – Consent to Implement a Behavioral Health Plan;
 - i. SSLC 045I – Consent for Dental Treatment with General Anesthesia;

- j. SSLC 045J – Individual Rights Acknowledgement;
 - k. SSLC 045K – As Needed Consent, Spanish Version; and
 - l. SSLC 052A – Informed Consent or Authorization for Administration of Psychotropic Medication.
2. The HRC will review the packet at the next regularly scheduled meeting or within fifteen (15) business days of the ISP or five (5) business days of an ISPA meeting in which the IDT imposes ER practices.
- E. All rights restrictions require the consent of the individual/LAR or the authorization of the state center director, prior to HRC review.
 - F. The HRC must review all psychotropic medications to ensure that due process was completed prior to administration, unless the psychotropic medication is initiated as part of an ER. For an ER, the director/designee must acknowledge the administration of the psychotropic medication and the HRO/designee must review the restriction to ensure the ER process was followed.
 - G. The HRC may modify the IDT’s recommended review date if the HRC determines more frequent reviews are needed. The review date may not exceed 365 calendar days from the date the HRC approved the rights restriction(s).
 - H. The QIDP or designee must inform the individual and/or LAR of their ability to participate in the HRC review of the rights restrictions. If the individual and/or LAR is unable to participate in person, the QIDP or designee must invite him or her to participate by conference call or determine a mutually agreeable date and time that all parties may be present
 - I. Regarding rights restrictions, the IDT should make every effort to reach consensus with an individual who has capacity or a LAR. If consensus cannot be reached:
 1. The subject matter expert (SME) in the area in dispute must be invited to participate in the IDT meeting to assist in resolving the lack of consensus and achieving consensus; and
 2. If, after assistance from the SME, there continues to be a lack of consensus, the IDT must refer the issue to the state center director for consideration and resolution.

IX. Human Rights Committee (HRC) Responsibilities

- A. Human Rights Committee. Each state center must have at least one HRC consisting of a minimum of three members which must include the following persons:
 - The HRO or a designee (designee must be knowledgeable of individual rights and the HRC process and must also have experience or training in behavioral management practices, e.g., designees may be current employees, former employees, or subject matter experts who work in the community);
 - An individual who has received intellectual disability services and who is not involved in the rights restriction that is being reviewed (if the individual does not have a legal guardian and can maintain confidentiality), or an individual’s parent or LAR; and
 - Persons with no ownership or controlling interest who serve as an impartial outsider, not employed by or under contract with DADS (e.g., former employees, subject matter experts who work in the community, etc.).

Note: To avoid a conflict of interest, a staff member who provides direct service to the individual(s) and is a member of the HRC may not participate in reviewing restrictions related to the individual(s) they serve.

1. Prospective members of the HRC, excluding current employees, must complete a Volunteer Application, Volunteer Agreement, Criminal History Records Check and all members must complete a Confidentiality Agreement.
 2. Members must complete initial and annual in-service training in the following areas:
 - a. Rights of people in SSLCs;
 - b. Roles and responsibilities of the HRC members;
 - c. Confidentiality;
 - d. PBSPs;
 - e. Psychotropic medications; and
 - f. Medical and dental pre-treatment chemical restraint.
 3. State center directors have final approval on committee membership and
 4. prospective committee members will receive a letter notifying them of their one-year appointment to serve as a member of the HRC.
 5. Face-to-face meetings generally occur at least once a week; however, meetings may occur through electronic conferencing or by telephone when necessary.
- B. HRC Responsibilities. The HRC's purpose is to ensure individuals' rights are protected through an impartial review. The HRC is responsible for reviewing the Rights Restriction Determination, as well as local policies and practices related to protecting rights to ensure consistency with state office policies and procedures.
1. When reviewing rights restrictions (including but not limited to those within the Rights Restriction Determination, crisis intervention plan, a medical or dental restraint plan or a protective mechanical restraint plan for self-injurious behavior, emergency rights restrictions), the HRC should consider whether the individual was given the opportunity to exercise the right, if robust training has occurred, less intrusive methods have been exhausted, if there is an adequate plan of alleviation and whether the severity of behavior justifies the restriction and outweighs the risks of the proposed program. The HRC is responsible for reviewing these elements at the next scheduled meeting, but within 15 business days after the ISP or ISPA. The HRC deliberates whether to approve or deny the restrictions (with or without recommendations for changes).
 - a. The HRC reviews and approves proposed programs prior to program implementation (Note: Initiation of the ER process allows designated staff to give preliminary approval for some restrictive program's [e.g., restraints, level of supervision, PBSPs] implementation pending the HRC's review).
 - b. The HRC obtains a copy of the Consent for Rights Restriction (SSLC 045C) or other required state office standardized consent form, indicating the individual/LAR or director provided informed consent prior to program implementation.

- c. The HRC regularly tracks restrictive programs, rights restrictions and risk analysis to determine if the programs or restrictions remain justified or the level of intrusiveness continues to be warranted (the IDT determines the frequency of tracking). The QIDP and HRO, or other designees, are responsible for tracking restrictive programs to ensure they are returned to the HRC for the scheduled review.
2. The HRC also will review, as applicable, research proposals involving individuals; mistreatment of individuals; individual grievances; visitation procedures; guardianship/advocacy issues; rights training programs; confidentiality issues; and advance directives, including OOH-DNR orders.
3. The HRO or designee is responsible for maintaining the following information:
 - a. Names of individuals and restrictions reviewed;
 - b. Deliberations by each HRC, including meeting dates and attendance;
 - c. Dissemination of the HRC findings; and
 - d. A copy of all Individual Capacity Assessments (as applicable).