

## **Relations with People Supported:**

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## **RIGHTS OF PERSONS**

### **POLICY:**

The Agency ascribes to the belief that persons with disabilities have the same rights as all other citizens. Because of a disability some persons may need support in exercising those rights and having those rights protected. People with disabilities have the right and expectation to be treated with dignity and respect.

### **PRACTICE:**

1. Employees shall support a person to exercise his/her rights as expressed by the person and/or representative or as outlined in the support plan.
2. Employees shall focus on protecting and promoting the rights of persons supported.
3. Employees shall at all times demonstrate sensitivity and concern for the personal dignity and respect of people whom they support and with whom they come in contact.
4. People with disabilities will be treated with respect at all times and in all circumstances.
5. Employees shall support people with disabilities, not supervise, boss, or control them. Employees will listen to what people want and need, and then support them to achieve that end.
6. Employees will use positive approaches with people supported in all circumstances, activities and events. Negativity, punishment, withholding of personal items, or demeaning statements will not be tolerated.
7. People have a right to be safe in all buildings owned, operated or leased by the agency. Therefore, the agency will assure that they comply with all applicable fire and sanitation codes and are fully licensed as appropriate.
8. In order to help assure that the rights of individuals supported are protected, the agency will fully comply with Title VI of the Civil Rights Act of 1964.
  - a) All employees will be trained to ensure Title VI compliance during service provision.
  - b) All employees will be trained to ensure recognition of and appropriate response to Title VI violations.
  - c) The agency will support all Title VI complaint procedures and appeal rights.
  - d) Appropriate corrective action will be taken with any employee violating the Title VI rights of person(s) supported.
  - e) Limited English Proficiency (LEP) individuals will be provided language assistance.

9. If and when a person supported has a physician ordered Do Not Resuscitate Order (DNR), the agency shall continue to provide basic first aid, CPR, care and comfort as necessary for the individual except in the following situations:
  - a) The individual is under the care of a hospice provider;
  - b) The individual has had the DNR Order reviewed by the agency's Protection from Harm Committee and that committee has recommended that the DNR Order be followed.
  - c) In order to make a recommendation that the DNR Order be followed the Protection from Harm Committee will review the following issues:
    - i) The purpose of the Do Not Resuscitate Order;
    - ii) The age of the service recipient;
    - iii) The life expectancy of the service recipient;
    - iv) The quality of life expectancy of the service recipient;
    - v) Other factors, as deemed appropriate by the committee.
  - d) Following the review by the Protection from Harm Committee, the agency will develop specific staff instructions concerning how to implement or not implement the DNR Order.

## **ABUSE AND NEGLECT**

### **POLICY:**

It is the policy of the agency to strictly prohibit abuse, neglect or mistreatment of persons supported and to instigate an investigation in all alleged cases of neglect or abuse. Each employee has the obligation to report any incidents of abuse or neglect immediately.

### **DEFINITIONS:**

**Abuse:** [defined in T.C.A. § 33-2-402 (1)] the knowing infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish. DIDD recognizes three subcategories of abuse

**Physical Abuse:** actions including, but not limited to, any physical motion or action by which physical harm, pain or mental anguish is inflicted or caused. The use of any unauthorized restrictive or intrusive procedure to control behavior or punish. Corporal punishment, takedowns, prone and supine restraints are prohibited and considered abuse

**Sexual Abuse:** any type of sexual activity or contact with sexual intent or motivation between a person supported and anyone affiliated with DIDD as a staff person, employee or a contracted provider or volunteer. This includes but is not limited to actions by which a person is coerced into sexual activity (forced, tricked, induced or threatened) or exposed to sexually explicit material or language. Sexual battery by an authority figure as defined in T.C.A. § 39-13-527 is also considered sexual abuse. Sexual abuse occurs whether or not a person is able to give consent to such activities.

**Emotional/Psychological Abuse:** actions including but not limited to humiliation, harassment, threats of punishment or deprivation, intimidation or demeaning or derogatory communication (vocal, written, gestures) directed to or within eyesight or audible range of the person supported.

**Neglect:** [T.C.A. § 33-2-402 (9)] failure to provide goods or services necessary to avoid physical harm, mental anguish or mental illness, which results in injury or probable risk of serious harm.

**Exploitation:** [T.C.A. § 33-2-402 (8)] actions including but not limited to the deliberate misplacement, misappropriation or wrongful temporary or permanent use of belongings or money with or without the consent of a person using services. The illegal or improper use of a person's resources or status for another's benefit or advantage is considered exploitation.

## **PRACTICE:**

1. Any employee who observes any incident of abuse, neglect, or mistreatment of a person supported shall intercede on behalf of the person to provide whatever intervention is necessary, consistent with the well being of all involved.
2. All observed or discovered incidents of abuse, neglect, or mistreatment or serious injuries of unknown origin must be reported immediately by contacting the Agency Investigator or the State Investigator and by completion of an Incident Report Form.
3. All reports of incidents involving abuse, neglect, or mistreatment will be properly investigated according to current State standards.
4. Any person who is found to have committed abuse, neglect, and/or mistreatment as defined in this policy shall be subject to corrective action up to and including termination of employment, and where appropriate, criminal prosecution.
5. Any person who fails to report incidents as required, gives false, misleading or incomplete information, or who otherwise does not participate or cooperate in the incident management or investigations process as defined in this policy shall be subject to corrective action up to and including termination of employment, and where appropriate, criminal prosecution.
6. Any person who retaliates against another person for his/her involvement as a reporter, witness, or in any other capacity as part of the reporting of abuse, neglect, or mistreatment shall be subject to corrective action up to and including termination of employment, and where appropriate, criminal prosecution.
7. The names of persons reporting abuse, neglect, or mistreatment will be treated as confidential. Such information will be released only for investigation purposes, for judicial purposes or with authorization of the person reporting.
8. When injuries to a person supported are alleged or suspected of being the result of abuse, neglect, or mistreatment, the person should be examined by a physician or other appropriate medical personnel as soon as feasible.

## **APPEAL OF AGENCY ACTIONS**

### **POLICY:**

It is the policy of the agency to provide an appropriate process for any person supported, guardian/conservator, family member, or advocate to appeal certain agency decision(s) affecting that service participant.

### **PRACTICE:**

1. Whenever a person supported or such an individual's guardian/conservator, family member, or advocate feel that the agency has inappropriately modified or limited the individual's rights, denied or terminated services, or has need to register any other complaint, the following steps should be followed:
  - a) Contact the agency complaint contact person (Associate Executive Director) or the Executive Director.
  - b) If the Associate Executive Director or Executive Director cannot resolve the issue within thirty (30) days, then the complainant will be referred to the DIDD Regional Compliant Resolution Coordinator for assistance.
  - c) If the issue involves a discontinuance of service because a third party payer or state agency refuses to continue to fund the service or support, that decision is not subject to these procedures and should follow the appeals procedures of that third party payer.
2. Whenever appeals or grievance involve alleged Title VI violations - concerning discrimination because of race, color, or national origin, the following steps should be followed:
  - a) A complaint may be filed with the Local Title VI Coordinator (as identified on Title VI posters within the agency), the state Departmental level (Division Coordinator, DIDD), or the federal level (Regional Office for Civil Rights, U.S. Department of Health and Human Services). Complaints must be filed in writing, preferably on a Title VI complaint form (available through the Local Coordinator).
  - b) The Local Coordinator has the primary responsibility for receiving, acknowledging, and investigating complaints and for reporting the findings. The Local Coordinator shall notify the Division Coordinator when a complaint is filed.
  - c) Complaints, which are initially received in Nashville by Title VI Division Coordinators, will be remanded to the appropriate agency where the complaint originated for investigation and potential resolution.

- d) An appeal by a complainant regarding a finding made at the local level may be filed at the Departmental level (Division Coordinator), in Nashville.
  - e) A federal complaint must be filed no later than 180 calendar days after the alleged discrimination occurred. Local complaints should be filed earlier in order that there is sufficient time to investigate an allegation, to render a decision, and to allow the complainant an opportunity to appeal should he/she be dissatisfied with the decision.
  - f) When a complaint is received at the local level, the Local Coordinator (or designee) will conduct and complete a fact-finding investigation within thirty (30) calendar days of the receipt of the complaint and report the findings to the Executive Director. If the report includes a finding of violation of Title VI, the report shall also include any proposed remedial action. Within five (5) calendar days after this report, the written findings will be given to the complainant. Complainant's rights to appeal (including instructions for filing) will also be provided at this time.
  - g) When a finding is appealed from the local level to the Division Coordinator in Nashville, a copy of the complaint, the findings, the proposed action, and the request for appeal must be forwarded by the Local Coordinator to the Division Coordinator within ten (10) calendar days after the date of the appeal.
  - h) The Division Coordinator must conduct and complete fact-finding within thirty (30) calendar days after receipt of the appeal and convey the findings in writing, to the concerned parties. At this point, a complainant who wishes to pursue the complaint may choose to appeal the charges to the federal level. If a complaint is filed both within the Departmental level and the federal level during the same time, the federal complaint supersedes the Departmental complaint filing; accordingly, the local level or Departmental level complaint procedures will be suspended pending outcome of the federal complaint.
3. Whenever a person supported, guardian/conservator, or such an individual's family member appeals an agency action, they may wish to contact one of the following advocacy services for advice and assistance:
- a) The Arc of Tennessee (Telephone: 615-248-5878)
  - b) Disability Rights Tennessee (Telephone: 615-287-9636)
  - c) Tennessee Disability Coalition (Telephone: 615-383-9442)
  - d) DIDD Complaint Unit for Middle Tennessee (Telephone: 615-884-6083)

## **FINANCIAL RIGHTS OF PERSONS SUPPORTED**

### **POLICY:**

The agency adheres to the belief that persons with disabilities have the same rights to financial security and economic well being as do other citizens. Agency employees shall support individuals to exercise those rights to the greatest extent possible. The Agency recognizes its fiduciary relationship with individuals receiving supports and shall act in a responsible and lawful manner, ensuring that all monies held and dispersed on the individual's behalf are for the strict personal benefit of that individual.

### **PRACTICE:**

1. Designated agency employees shall assist the individual or family to assure that he/she is receiving or takes steps to receive all financial benefits for which he/she is eligible, such as: SSI, SSA, VA Benefits, Railroad Retirement, TennCare, Medicare, PASS, etc.
2. Designated agency employees shall assist each individual procure funding for the purchase and/or maintenance of needs or equipment, such as: legal advice, prosthetic devices, assistive devices, etc.
3. When requested by the person, his/her representative, and the support team, agency employees will support a person with the management of his/her funds. The need for continued support for funds management will be periodically reviewed with the person, his/her representative, and the support team. When available, alternatives to agency management of funds will be explored and offered to the person and/or representative.
4. For persons receiving supports through the agency and in the absence of other alternatives, the Executive Director may serve as representative/payee for the individual's SSI and/or SSA benefits.
5. When the Executive Director serves as representative/payee, the individual's SSI and/or SSA check shall be placed immediately in his/her personal checking or savings account, utilizing direct deposit.
6. Agency employees shall assist persons in setting up personal checking and savings accounts with an appropriate bank. Personal funds will not be commingled with those of other persons or with agency funds.



7. Agency employees shall follow all applicable laws, regulations, rules, and guidelines of funding (e.g., Social Security Administration) and regulatory (DIDD) organizations as they pertain to the management of funds on behalf of persons supported.
8. The agency shall provide a full written accounting of all financial transactions (including revenues and expenses) periodically or as requested for all persons for whom the agency has financial responsibility and to their families, conservators, or representatives, as appropriate.
9. Employees shall not hold or maintain sums of money for individuals involved in agency services.
10. Employees shall neither borrow from nor loan to service participants any money or other goods. Employees shall not encourage service participants to borrow from or loan to others.
11. Employees shall not sell, trade, or otherwise obligate a service recipient to pay for any services, products or wares without the prior written consent of the Executive Director.
12. An agency employee shall not write or sign a check to him/herself from an individual's personal account, nor reimburse him/herself through an individual's debit card. If expenses are incurred on behalf of an individual, the staff member shall present the bills(s) or receipt(s) to another employee authorized to write and sign checks for the individual.

## **ADVOCACY**

### **POLICY:**

The agency shall support persons with disabilities and their families to speak on their own behalf; but when a person needs and wants additional support, agency employees will advocate for that person or will assist the person in locating other advocacy resources.

### **PRACTICE:**

#### **SELF-ADVOCACY**

1. Self-advocacy (i.e., people speaking for themselves) is the preferred method for advocating. This self-advocacy shall be the preferred type of advocacy for the person.
2. Agency employees shall encourage individuals to speak for themselves. In addition, employees will provide the support that people want and need in order to advocate for themselves.
3. The agency will encourage and support individuals to participate in advocacy or self-advocacy organizations.

#### **FAMILY ADVOCACY**

1. For many people with disabilities family advocacy is the primary voice for and on behalf of the person. The significance of the family's role in advocacy must be recognized.
2. Agency employees shall encourage and actively listen to the family when advocating for the individual. In addition, employees will provide support as necessary for families to advocate for their family members.

#### **EMPLOYEES ADVOCACY**

1. Agency employees are encouraged to advocate for persons that they support by bringing forth issues and concerns at support team meetings, program reviews, or other meetings with agency employees. If employees encounter issues or concerns which cannot be resolved within the team, the issue or concern should be brought to the Associate Executive Director's attention.
2. Agency employees are encouraged to advocate for other people who they do not support, but who receive support from the agency. If issues or concerns are identified, they should be directed to the team providing support to the person. If not resolved, the issues or concerns should be brought to the Executive Director's attention.

3. Agency employees should feel free to bring forth issues or concerns without any fear of retribution. Any such information will be used to improve the lives of persons supported and will be welcome.
4. Agency employees and self-advocates are encouraged to advocate for all people with disabilities by becoming actively involved in formal and informal advocacy organizations and activities.

## **EXTERNAL ADVOCACY**

1. There are a variety of other types of advocacy that people with disabilities may access. These include:
  - a) Guardian or Conservator. An individual or organization appointed by a court of law to assist a person to manage certain of their affairs.
  - b) Trustee. An individual or organization appointed to oversee a trust set up for the benefit of the person.
  - c) Natural Supports. Advocacy provided by friends, neighbors, co-workers, or other people in the community who know the person.
  - d) Case Advocacy. An individual or organization that is usually under contract to provide specific advocacy services for the person.
  - e) Legal Advocacy. An individual or organization that advocates for the legal rights of a person or class of persons.
2. Agency staff will assist individuals and/or families to access external advocacy as necessary.
3. Agency employees will provide support as necessary to assist people in working with their advocates
4. Agency employees will cooperate with advocates to support the exercise and protection of the person's rights.

## **ADDRESSING PERSONS SUPPORTED**

### **POLICY:**

It is the policy of this agency to refer to people with disabilities as people first, as disability need not define one's identity. People should be addressed in a respectful and dignified manner.

### **PRACTICE:**

1. When talking about people:
  - a) We should say..." people with disabilities", instead of "the disabled or the handicapped".
  - b) We should say..." people with intellectual disabilities", instead of "the mentally retarded".
  - c) We should say..." people with cerebral palsy", instead of "cerebral palsy victims".
  - d) We should say..." people" or "people supported", instead of "patient", client", or "consumer".
2. When talking to people:
  - a) Address people as any other person would be addressed (i.e., if the person is known well, may address by first name, if less familiar with the person, then address as Mr. or Ms.)
  - b) People should be addressed by their name, using nicknames or slang terms only if the person or the person's family uses the term and if it is not derogatory or stigmatizing.
  - c) People should always be addressed in a respectful manner and in a way that affirms their dignity.
3. When introducing people:
  - a) When people are introduced to other people, the same names should be used for each party; i.e., if the first name is used to introduce one party, then it should be used for both; if terms like Mr. or Ms. is used for one party then it should be used for both.
  - b) People should be introduced whenever meeting new people or when visitors enter their home.

## **NATURAL SUPPORTS**

### **POLICY:**

The agency encourages and supports the involvement of family and friends in the lives of persons supported. The relationship between people supported and their natural supports in the community helps give people achieve and maintain independence.

### **PRACTICE:**

1. The agency will encourage and support, not supplant the ongoing relationships between people supported and their family members.
2. The development of relationships between people supported and other community members will be actively encouraged and supported.
3. The agency will supply information and skills training as necessary to provide safe and effective natural supports. The information and training may be based on the time that the natural support will be spending with the person.
4. Written consent must be obtained from the person supported or their legal representative before any personal information is shared.
5. Natural supports (including volunteers) may not supplant or be assigned job duties of trained and paid agency staff (e.g., administering medication to the person supported).
6. Agency staff will actively encourage natural supports at the job site for people who are employed in order to increase their inclusion in the workforce.