

**DEVELOPMENTAL CENTER
PLACEMENT PROCEDURES**

JANUARY 1992

**New York State
Office of Mental Retardation and
Developmental Disabilities**

**Elin M. Howe
Commissioner**

LIST OF DOCUMENTS

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	Topic	Team Meeting(s) to Plan Placement						

DEFINITIONS

Capable Adult - A person (see definition below) who is 18 years of age or older who is able to understand the nature and implication of various issues such as program planning, treatment, or placement. The assessment of capability in relation to each issue as it arises will be made by the person's Interdisciplinary Team (I.T.). This will be done with notice to the Mental Hygiene Legal Service. Capability, as stipulated by the definition, does not mean legal competency; nor does it necessarily relate to a person's capacity to independently handle his or her own financial affairs; nor does it relate to the person's capacity to understand appropriate disclosures regarding proposed professional medical treatment, which must be evaluated independently. Thus a person may be capable of participation in planning for his or her services and programs but still require assistance in the management of financial or other matters. Whenever there is doubt on the part of any other party interested in the welfare of the person as to that person's ability to make decisions, as ascertained by the Interdisciplinary Team, a determination of capability is to be made by an external capability review board designated by the Commissioner. A capable adult person cannot override the authority of a guardian appointed in accordance with the Surrogate Court Procedure Act, or of a conservator, or of a committee.

Correspondent - Someone (not on the staff of the facility) who assists a person in obtaining necessary services, participates in the person's program planning process as a member of the person's program planning team, and who receives notification of certain significant events in the life of that person. The fact that a correspondent is providing advocacy for a person as a correspondent does not endow that party with any legal authority over the person's affairs.

1. In the first instance, a correspondent would be the parent, legal guardian or committee listed in the person's Individual Program Plan. If parents are deceased or their whereabouts cannot, with due diligence be ascertained, or they have failed to designate an appropriate representative, and there is no guardian or committee, then, for other than Willowbrook Class members, the correspondent may be defined as the relative or other party, if any, in closest relationship with the person who has, at least once within the previous year, manifested interest in the person by communication with the facility regarding the person, or by visiting that person.
2. If none of the above can be located, or if such party or parties refuse to participate in the program planning process for the person, the chief executive officer is to designate another party to be the person's correspondent, unless the person is a Willowbrook Class member. For Willowbrook Class members, regardless of present location, the correspondent in this instance will be a member of the Consumer Advisory Board established by the Willowbrook Consent Judgment.

Mental Hygiene Legal Service (MHLS) - An agency of the appellate division of the State Supreme Court established pursuant to Article 47 of the Mental Hygiene Law, and which provides protective legal services, advice, and assistance to developmentally disabled persons.

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Non-Correspondent Status - There is no correspondent acting on behalf of a person as established by an annual determination. Additionally, for a Willowbrook Class member, non-correspondent status shall mean that the correspondent has failed to respond to a notice of proposed placement forwarded pursuant to procedures; or that the correspondent has indicated that he or she does not wish to participate in placement planning. Members of the Willowbrook Class who are considered to be on non-correspondent status will be represented by the Consumer Advisory Board for the Willowbrook Class members.

Person/Persons - For the purposes of this and other policies related to placement, a child or adult with a diagnosis of developmental disability, who is being served by a state, private, or voluntary facility operated/certified by OMRDD.

Placement - In relation to developmental center policies, the relocation (change of address) of a person from an OMRDD operated developmental center to another residential setting as proposed and planned by the person's Interdisciplinary Team (e.g., to an OMRDD operated or certified ICF/DD, community residence, or family care home; to a nursing home; to an independent living situation; to live with family; to another developmental center); or relocation to another OMRDD operated or certified residential location as requested by a capable adult or someone acting on behalf of a person.

- "Placement," as used in this and other developmental center policies related to placement, does not include the **admission** of someone residing in a non-OMRDD operated or certified residential setting to a **developmental center** (e.g., someone is admitted to a developmental center from the parent's home).
- Nor does it include the termination of services in a developmental center (e.g., when the person or the person's correspondent chooses to terminate such services; the person will reside out-of-state; the person chooses to live independently; a determination is made by the facility that it will no longer provide services). In such instances the person shall be discharged (see Policy 2.5.1, **Process for Discharge or Conditional Release From a Developmental Center**). However, when the facility has made the determination to terminate services, the person has the right to object to and appeal such a determination in conformance with Policy 7.3.4, **Procedures when there are Objections to an Individual Program Plan (IPP), Proposed Changes Thereto, or Facility Initiated Discharge**.
- Time limited moves are not placements (see Policies 2.4.5, **Obtaining Psychiatric Services Outside of the Developmental Center** and 2.4.19, **Emergency and Transitional Moves**).
- Hospital stays, vacations at camps, and visits with families are neither time-limited moves or placements and are to be handled in a routine manner.
- For **statistical reporting purposes** this definition of placement has no bearing.

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POLICY

As a rule, the placement of a person is not a precipitous event--rather, it is the culmination of planning that takes place during Interdisciplinary Team meetings over a period of time. When a person's Interdisciplinary Team recognizes that the person is ready to move out of the developmental center, the Team should begin discussions relative to placement, and the facility should ensure involvement of the person (and the recognition of his or her preferences, if any), the correspondent, and other interested parties (such as MHLS or, for Willowbrook Class members, the Office of the Special Master and the plaintiffs' attorney) to the maximum extent practicable.

Discussions to plan placement should ideally coincide with, and be held as part of regularly scheduled Interdisciplinary Team meetings to which the person and the correspondent have been invited, unless a capable adult objects to the correspondent's participation. A person's ability to understand the issues involved in placement is to be discussed at this time. Any objection to the determination of the Interdisciplinary Team with relation to this issue is to be taken up at this time, pursuant to Policy 2.6.1, **Review Board to Assess Capability of Persons with Developmental Disabilities Residing in Developmental Centers**. All meetings are to be scheduled at least ten (10) days after the mailing date of the notice of the meeting to enable other parties to make arrangements to attend. If, at any time, the person or a correspondent who desires to participate in the placement planning process cannot attend a meeting, an appropriate staff member (e.g., the coordinator of the person's program plan) should, subsequent to that meeting, contact and/or meet with him or her to discuss the placement plans and answer any questions.

Concurrence for placement should occur among all interested parties during the team meetings to plan placement. The involvement of other interested parties, outside of the interdisciplinary team, concerned with the placement should take place prior to the time that the placement notification letter is sent to the person or correspondent. When and where practicable, the person and the person's correspondent should be invited to inspect the proposed placement location prior to sending the placement notification.

Placement is to provide a person with opportunities to lead a life more closely approximating that of others who do not have disabilities but are of the same age and sex and meet the psycho-social, medical, vocational, and educational needs of the person. The placement of a person is based on the following goals, to the extent practicable:

1. Providing better services to the person.
2. Providing an opportunity for personal development.
3. Providing a more suitable living environment than is available in the person's present setting.
4. Providing the least restrictive and most normal setting available and appropriate to the person's needs.
5. Locating the person closer to family and relatives; or friends, in lieu of family.

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This policy applies when a person's Interdisciplinary Team recognizes that the person is ready to move and begins discussion relative to the placement of the person who is residing in a developmental center to any other living arrangement, whether in the same or another service area; or when such a person or someone acting on his or her behalf requests a change to another OMRDD operated or certified residential setting (also see Policy 2.6.4, Request to Move to Another Setting or the Leave the Developmental Center).

In planning for placement, consideration is to be given to the following, and is to be documented in a person's record:

Living Arrangements - Describe the type of residential setting best suited for the person. If the person has a physical disability which must be considered in making a placement, include information regarding the type of structural requirements that must be available. For example, entrance access by ramp, hand-rail, elevator, etc.

Health Services - Describe those health services which will need to be provided to the person on a routine or specialized basis.

Educational/Vocational - Describe the type of educational, habilitative, pre-vocational or vocational programming best suited for the person. Be as descriptive or specific as possible. If special problems or requirements of any kind exist, specify (e.g., problems with vision, hearing, speech, equipment needs). If appropriate, indicate the type of work opportunities best suited for that person, as well as information regarding vocational skills and proficiency.

Family Resources - Provide a description of family support to be expected when the person is placed. Indicate location of involved family members that could influence placement plans. Include the date of the last substantial contact.

Other topics to be considered are:

Recreational Service - Describe the types of recreational activities, both organized and on one's own, in which the person is capable of participating in and enjoys.

Transportation - Describe the type of transportation and/or services which the person requires to attend a day program or work, take advantage of recreational activities, and have access to the community.

Evacuation Capacity - Include a description of the person's currently assessed capacity for self-preservation; identify expectations for improvement and note where training emphasis needs to be focused (e.g., decrease use of physical prompts, increase speed, etc.).

Time-Limited Services - This is a projection of the person's possible need for short-term intensive programming (on or off site, as appropriate). Include reasons why such service(s) may be needed.

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Legal Services, Including Guardianship - Describe any type of service which may be required by this person (e.g., services concerning financial matters or legal advocacy in terms of rights). Include information regarding needs and/or problems relating to guardianship.

Family Planning - Describe the types of family planning services which should be provided (e.g., sex education, counseling regarding and/or provision of birth control supplies).

Religion - Provide information pertinent to religious preference or background which needs to be considered for appropriate placement. For example, it should be noted, based on knowledge of the person and/or the person's family, if he or she attends church regularly, observes religious dietary practices, etc.

For Willowbrook Class members, there is to be documentation that the availability of Willowbrook entitlements have been considered.

To facilitate the planning process, Form IPP 70, **Living Arrangement Referral** (see Page 6), or equivalent, may be used. However, the aforementioned considerations and the documentation of such in the person's record should not be done so far in advance of the actual placement planning to be ineffectual and/or no longer pertinent when a placement is proposed.

Once a determination has been made as to the most appropriate placement, an IPP 71, **Community Services Plan**, or equivalent, is to be developed (see page 7 and Developmental Center Policy 7.5.3, **Community Services Plan (IPP 71)**). However, when a person moves from one developmental center to another developmental center, it is not necessary to prepare a Community Services Plan; nevertheless, it is necessary to prepare a plan of services (see Policy 7.5.3, **Community Services Plan**). The completion of a **Community Services Plan**, or a plan of services, means that the placement process is far enough along for the actual planning for a move to take place, and notifications need to be made to interested parties (see Policy 6.4.18, **Notification of Residential Placement**).

When a capable adult or someone acting on behalf of a person has requested a change to another OMRDD operated or certified residential setting, the Interdisciplinary Team is to meet as expediently as possible to discuss the request, and if it concurs, proceed in conformance with this and other placement policies. However, if the Interdisciplinary Team determines that such placement is not in the best interest of the person, the capable adult or the party acting on behalf of the person is to be notified of the Interdisciplinary Team's determination and of the fact that he or she can object to the Interdisciplinary Team's determination in conformance with Policy 2.6.2, **Procedures When There Is An Objection to Placement**.

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NAME (LAST)	(FIRST)	(MI)	C-NUMBER/DDIS NUMBER	DATE OF BIRTH	GENDER
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1. INDICATE CURRENT 'LEVEL OF FUNCTIONING'	<input type="checkbox"/> DDIS ABILITY PROFILE ATTACHED <input type="checkbox"/> DDIS SERVICES PROFILE ATTACHED
2. LIVING ARRANGEMENTS REQUIRED (Specify type and include access/barrier requirements)	
3. HEALTH SERVICES (Routine or specialized; include sex education, dietary, etc)	
4. EDUCATION/VOCATION	
5. FAMILY RESOURCES (Includes referral supports)	
Date of last contact _____	
6. OTHER (Includes transportation, recreation, etc)	
7. ACTIONS/OBJECTIVES	
Expected date for completion of living arrangement change _____	
Date of Referral _____	Name _____ Signature/Title _____

FACILITY/AGENCY	NYS OMRDD	IPP 70
	LIVING ARRANGEMENT REFERRALS	
3-81		

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NAME (LAST)		(FIRST)	(MI)	C-NUMBER/DDIS NUMBER	DATE OF BIRTH	GENDER
DATE OF PLAN	SOCIAL SECURITY NO.	OTHER IDENTIFICATION NUMBERS				
REFERRED BY:				CASE MANAGER (Person to be contacted when there are problems)		
AGENCY				NAME		
LIAISON				ADDRESS		
PHONE				PHONE		
SERVICE/ACTIVITY				PROVIDER (NAME/ADDRESS/PHONE)		
1. LIVING ARRANGEMENTS						
2. HEALTH						
3. FINANCIAL						
4. DAY PROGRAM						
5. SOCIAL/RECREATION						
FACILITY/AGENCY		NYS OMRDD			IPP 71	
		COMMUNITY SERVICES PLAN				
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This policy has been deleted.

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DEFINITION

Psychiatric Emergency - A sudden and acute psychotic episode, or other such behavior which constitutes imminent danger of serious physical harm to a person or others, and requires immediate treatment for no more than 60 days in a place providing psychiatric services.

POLICY

In a psychiatric emergency, a person can be immediately taken to a psychiatric unit at a local hospital or other similar facility in the community, or to a State psychiatric center. The provision of time-limited psychiatric services elsewhere should not exceed 30 days unless an extension of no more than an additional 30 days is approved by the B/DDSO director. It is incumbent upon the sending facility to notify the person's correspondent, and MHLS of the move immediately, if possible, and in writing within 24 hours (unless the person is a capable adult and objects to such notifications being made). For Willowbrook Class members, notification is to be made to the Special Master's Office and the plaintiff's attorney.

If a person receives emergency psychiatric services in the community and is away from the developmental center for more than a 24 hour period but no more than 60 days, he or she is to be placed on therapeutic leave.

If a person must go to a State psychiatric center for emergency psychiatric services for more than a 24 hour period, he or she must be discharged from the developmental center and admitted to the psychiatric center. A person is always discharged from the sending developmental center and treated as an admission at the receiving State psychiatric center. Such placement is to be made only after all other possible alternatives have been exhausted, and arrangements have been made by the B/DDSO director and appropriate parties in the Office of Mental Health to ensure availability of space.

When relocation for a psychiatric emergency has taken place, the following policies and procedures are to be followed as soon as possible after the relocation:

- Policy 2.4.18 Notification of Residential Placement;
- Policy 2.5.1 Process for Discharge or Conditional Release (if applicable);
- Policy 2.6.2 Procedures When There Is An Objection to Placement.

As proposed and planned by a person's Interdisciplinary Team, he or she may be moved for long term treatment from a developmental center to a State psychiatric center (i.e., treatment will take more than 60 days). Such movement must also comply with the above listed policies, except that they would be initiated prior to relocation.

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RESPONSIBILITYPROCEDURE**FOR NON-EMERGENCY PLACEMENT IN A STATE PSYCHIATRIC CENTER:**

- | | | |
|----------------------------------|----|---|
| Coordinator | 1. | Ensures that there is documentation in the person's Individual Program Plan that appropriate services are not available, for specified reasons, from a community agency or provider in the area of the developmental center. |
| | 2. | Ensures that there are no court proceedings pending that would prevent movement. |
| | 3. | Ensures, based on results of Interdisciplinary Team meeting (see Policy 2.4.1, Team Meeting to Plan Placement), that a request for movement to a psychiatric center is submitted to the B/DDSO Director (or designee). |
| B/DDSO Director
(or Designee) | 4. | Reviews request and, if approved, negotiates arrangements for relocation. If person reviewing request is other than the B/DDSO Director, forwards request to him or her, with recommendations, requesting that arrangements for relocation be negotiated. |
| Coordinator | 5. | Notifies appropriate parties of proposed move (see Policy 2.4.18, Notification of Residential Placement). |
| | 6. | Ensures that appropriate procedures are observed in conformance with Policy 2.6.2, Procedures When There is an Objection to Placement . |

FOR MOVEMENT TO A STATE PSYCHIATRIC CENTER FOR MORE THAN 24 HOURS DUE TO A PSYCHIATRIC EMERGENCY:

- | | | |
|-----------------------------------|----|--|
| Designated Staff | 1. | Arranges for examination by a psychiatrist when circumstances indicate need for emergency movement of a person to a psychiatric center. |
| Psychiatrist
(Board Certified) | 2. | Examines the person and notifies B/DDSO Director (or designee) of sending facility of need for relocation, with documentation, in writing, of: <ul style="list-style-type: none"> a. Person's danger to himself, herself, and/or others. b. Requirement for immediate treatment in a psychiatric center. |

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B/DDSO Director
(or designee after
consultation with
Director)

3. Notifies B/DDSO Director where receiving facility is located to arrange discharge from developmental center and admission to psychiatric center.
4. Notifies the person's correspondent and MHLS of move immediately, if possible, and in writing within 24 hours unless the person objects to such notification being made.

Facility Staff

5. As soon as possible after discharge, follows procedures set forth in Policies 2.4.18, **Notification of Residential Placement**, and 2.6.2, **Procedures When There Are Objections to Placement**.

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DEFINITIONS

Capable Adult - A person (see definition below) who is 18 years of age or older who is able to understand the nature and implication of various issues such as program planning, treatment, or placement. The assessment of capability in relation to each issue as it arises will be made by the person's Interdisciplinary Team (I.T.). This will be done with notice to the Mental Hygiene Legal Service. Capability, as stipulated by the definition, does not mean legal competency; nor does it necessarily relate to a person's capacity to independently handle his or her own financial affairs; nor does it relate to the person's capacity to understand appropriate disclosures regarding proposed professional medical treatment, which must be evaluated independently. Thus a person may be capable of participation in planning for his or her services and programs but still require assistance in the management of financial or other matters. Whenever there is doubt on the part of any other party interested in the welfare of the person as to that person's ability to make decisions, as ascertained by the Interdisciplinary Team, a determination of capability is to be made by an external capability review board designated by the Commissioner. A capable adult person cannot override the authority of a guardian appointed in accordance with the Surrogate Court Procedure Act, or of a conservator, or of a committee.

Consent Judgment/Decree - A Court Order of April 30, 1975, in NYSARC and Parisi v. Carey, as related to the Willowbrook Developmental Center, and any subsequent amendments.

Consumer Advisory Board Willowbrook Class (CAB) - A seven member board established in conformance with the requirements of the Consent Judgment and composed of parents or relatives of persons with developmental disabilities admitted to OMRDD operated or certified facilities, community leaders, and those with developmental disabilities currently or formerly admitted to OMRDD operated or certified facilities. Its responsibilities include acting *in loco parentis* for members of the Willowbrook Class who have been designated as having no correspondent (non-correspondent).

Days - Calendar Days. In computing "days" as used in this policy, the day that the notice is received is to be included. If the last day of a designated period ends on a Saturday, Sunday or legal holiday, the next business day shall be identified as the last day of the period. For purposes of this policy, legal holidays are as follows:

- | | |
|----------------------------------|---------------------|
| 1. New Year's Day | 6. Labor Day |
| 2. Martin Luther King's Birthday | 7. Columbus Day |
| 3. Washington's Birthday | 8. Veteran's Day |
| 4. Memorial Day | 9. Thanksgiving Day |
| 5. Independence Day | 10. Christmas Day |

Mental Hygiene Legal Service (MHLS) - An agency of the appellate division of the State Supreme Court established pursuant to Article 47 of the Mental Hygiene Law, and which provides protective legal services, advice, and assistance to developmentally disabled persons.

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Person/Persons - For the purposes of this and other policies related to placement, a child or adult with a diagnosis of developmental disability, who is being served by a state, private, or voluntary facility operated/certified by OMRDD.

Placement - In relation to developmental center policies, the relocation (change of address) of a person from an OMRDD operated developmental center to another residential setting as proposed and planned by the person's Interdisciplinary Team (e.g., to an OMRDD operated or certified ICF/DD, community residence, or family care home; to a nursing home; to an independent living situation; to live with family; to another developmental center); or relocation to another OMRDD operated or certified residential location as requested by a capable adult or someone acting on behalf of a person.

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- Nor does it include the termination of services in a developmental center (e.g., when the person or the person's correspondent chooses to terminate such services; the person will reside out-of-state; the person chooses to live independently; a determination is made by the facility that it will no longer provide services). In such instances the person shall be discharged (see Policy 2.5.1, **Process for Discharge or Conditional Release From a Developmental Center**). However, when the facility has made the determination to terminate services, the person has the right to object to and appeal such a determination in conformance with Policy 7.3.4, **Procedures when there are Objections to an Individual Program Plan (IPP), Proposed Changes Thereto, or Facility Initiated Discharge**.
- Time limited moves are not placements (see Policies 2.4.5, **Obtaining Psychiatric Services Outside of the Developmental Center** and 2.4.19, **Emergency and Transitional Moves**).
- Hospital stays, vacations at camps, and visits with families are neither time-limited moves or placements and are to be handled in a routine manner.
- For **statistical reporting purposes** this definition of placement has no bearing.

Willowbrook Class Members - All persons who had been admitted to the Willowbrook Developmental Center and who were on resident or leave status as of March 17, 1972.

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POLICY

Prior to the proposed placement of a person residing in a developmental center, it is the responsibility of designated staff at the developmental center to provide written notice (see Pages 6 and 8) of the pending placement to various interested parties. At a minimum, these parties include: the person whose placement is being considered, that person's correspondent, and MHLS (unless the person is a capable adult and objects to such notice being made); and, for the Willowbrook Class only, the Special Master's Office and the plaintiffs' attorney.

The purpose of the notice is to provide the person or the correspondent with sufficient information about the proposed placement, including the expected date of the move (which is to be as realistic as possible, given the circumstances at the time the notice is sent) and a known location, thereby allowing him or her to express agreement or lack of agreement with the planned move. It is necessary that the person or correspondent receive the notice so as to allow him or her adequate time from the date of receipt to provide the sending facility with his or her opinion relative to the move. A form to facilitate this should be included with the notice (see Page 10, **Proposed Placement Response** form). The response must be received by the sending facility within 30 days after the person or correspondent received the notice of proposed placement.

Such notice must be based on a realistic projection of bed availability or opening of a residential site. Notification procedures must be repeated when a planned move does not take place and a new location is identified; or the move to the originally specified location is to take place, but more than six months have elapsed since the notification of placement was made, even if there were no objections.

If the person is a capable adult, the notification to his or her correspondent, MHLS, the Special Master's Office, and the plaintiffs' attorney may be in the form of a copy of the notification letter sent to that person.

If the person is not a capable adult, the notification to the person, MHLS, the Special Master's Office, and the plaintiff's attorney may be in the form of a copy of the notification letter sent to the correspondent. In such situations, all parties receiving notification can object to the proposed placement.

If a **Community Services Plan** (IPP 71), or equivalent, is not included with the proposed placement notification letter because it has not been prepared, every effort is to be made to make it available within the notification period. When the **Community Services Plan**, or equivalent, is provided after the notification letter, the reviewer is to be provided an additional five (5) days to review the document and respond to the proposed placement. Please note that while placement in another developmental center does not require the development of a **Community Services Plan**, a plan of proposed services is necessary, and would cover the same general categories of information (see Policy 7.5.3, **Community Services Plan**).

If, within the 30 day response period, a formal written request for additional data is received from a notification recipient, the time within which a response to the proposed placement is to be made is extended for a maximum of ten (10) days following the reply to the request by the developmental center.

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All good faith efforts should be made to comply with the request. However, unresolved disputes between the parties relative to a request for additional data can be dealt with at a subsequent hearing before a hearing officer.

In addition to the notification, any person for whom placement is proposed must be personally afforded an appropriate explanation of the proposed placement and his or her right to object to such a placement, and to request a hearing, if so desired. It is, therefore, necessary to make such a presentation to the person in terms and in a manner that will most easily facilitate understanding by that person (e.g., a language other than English, Braille, communications board, computer assisted technology, sign language).

In conformance with the Willowbrook Consent Judgment, the notification to the designated correspondent of a Willowbrook Class member must include a statement that failure on the correspondent's part to respond to the proposed placement within 30 days of the receipt of the notice will result in the designation of the Consumer Advisory Board as the advocate for the person. The Consumer Advisory Board will then review the proposed placement and make recommendations. The Consumer Advisory Board is to be advised that it has fifteen (15) days in which to respond; it also is to be advised that the previously designated correspondent was notified and in that notification told that there was a 30 day time period for responding, and that no response was received.

When a capable adult agrees to the proposed placement, placement may be effected prior to the end of the 30 day notification period. In such an instance, the correspondent and MHLS (as long as that capable adult does not object), and the Special Master's Office and the plaintiff's attorney (in the case of a Willowbrook Class member only), are to be advised of the agreement to the placement, and the expected date of the move.

Documentation, with dates, of all notifications sent and responses received is to be kept in the person's record. The placement notification letter to a correspondent, MHLS, and the Consumer Advisory Board must be sent by certified mail, return receipt requested.

The developmental center is responsible for complying with these policies and procedures to ensure implementation of the notification process. The developmental center may develop policies and procedures to designate the staff responsible for ensuring that appropriate correspondence and documents are sent to the required parties. A person's coordinator or the social worker on the person's interdisciplinary team are considered to be the preferable designees. The policies and procedures must also identify a mechanism whereby the local Reimbursement Agent is notified of the proposed placement (which may be a copy of the placement notification letter, and that the required OMRDD forms, or equivalent, are completed).

When, due to an emergency placement (see Policies 2.4.5, **Obtaining Psychiatric Services Outside the Developmental Center** and 2.4.19, **Emergency and Transitional Moves**) the notification process cannot be completed in advance, it must be done retroactively.

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At a minimum, the notification of residential placement is to include:

1. Advice to the person or correspondent that a response must be received within 30 days of the date he or she received the notice.
2. The nature and location of the proposed placement, including certified bed capacity of both the sending and receiving facility. (NOTE: bed capacities need not be included in developmental center to developmental center placements.)
3. The date on which placement is scheduled or expected to take effect.
4. Specific information on how the placement offers the person:
 - a. Opportunities for personal development.
 - b. The least restrictive environment available and appropriate to his or her needs.
 - c. A more suitable living environment than the sending facility.
 - d. Better services.
5. Additional information, if any, as to why the proposed placement is in the best interest of the person.
6. The name, business address and telephone number of a staff contact at both the sending and receiving facilities and at the day program(s).
7. Advice that arrangement will be made, upon request, to visit the site of the proposed placement or day program and to meet the staff or other appropriate parties.
8. Advice that the procedures to be followed if the recipient disagrees with the proposed placement are enclosed.
9. Advice that either a **Community Services Plan** (IPP 71), or equivalent, is enclosed, or can be made available on request.

Any additional policies/procedures addressing placement that are developed by a B/DDSO are to reflect compliance with this and other OMRDD placement related policies.

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SAMPLE - PLACEMENT NOTIFICATION LETTER TO CAPABLE ADULT RESIDENT

This letter is to be adapted to suite the recipient and the situation,
but it must include all the information herein.

Date _____

Dear _____ (Resident) _____:

As was discussed by you and your Interdisciplinary Team, you will be moving from _____ (with a certified bed capacity of _____) to a _____ (specify: ICF/DD, CR, Family Care Home, DC, or any other placement) _____ operated by _____ and located at _____ (with a certified bed capacity of _____) on or about _____.

The move has been planned because it has been determined that the proposed placement will offer you better services, opportunities for personal development, and a more suitable living environment.

We have considered whether the proposed placement complies with statutory, regulatory and other legal requirements and whether it is the least restrictive and most normal setting available and appropriate to your needs. Since we believe this proposed move meets these conditions and is in your best interest, and as you understand the implications and nature of the proposed placement, we are proceeding with plans for you to make the move.

If you have not already done so, you are invited to visit both the residential placement site and proposed day program site. If you wish to do so, please contact me so I can make the arrangements.

Please indicate whether you agree or disagree with the proposed plan for placement by signing the attached form. If you have any questions about the move or how to fill out this form, please discuss them with me. If, for any reason, you have reconsidered the move and object to it, you have 30 days from the receipt of this notice in which to make this objection. You also have the right to present your objection at a hearing (see attached "Summary of Procedures for Responding to Placement.") If we do not hear from you within 30 days of your receipt of this notice, we will proceed to make the placement.

If you have any questions, please contact me at _____ (phone number) _____.

Sincerely yours,

(Continued on next page)

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SAMPLE - PLACEMENT NOTIFICATION LETTER TO CORRESPONDENT

This letter is to be adapted to suit the recipient and situation,
but must contain all the information herein

Date _____

Dear _____ (correspondent) _____:

We are planning to move _____ from _____ (with a certified capacity of ___) to a _____ (specify ICF/DD, CR, Family Care Home, DC, or any other placement) operated by _____ and located at _____ (with a certified bed capacity of ___) on _____ or about _____.

This move has been planned because it has been determined that the proposed placement would offer him/her better services, a greater opportunity for personal development, and a more suitable living environment.

The Office of Mental Retardation and Developmental Disabilities has considered whether the proposed placement complies with statutory, regulatory and other legal requirements and whether it is the least restrictive and most normal setting available and appropriate to _____'s needs. Since we believe this proposed move meets these conditions and is in _____'s best interest, we are requesting your agreement. Although we are including a copy of the Community Services Plan, you are invited to inspect the complete record on which the proposed placement is based.

You are also invited to visit both the residential placement site and proposed day program site. If you wish to do so, please contact me so I can make the arrangements, or you may contact the following parties directly:

(Name of Residential Placement Site Contact
 Address
 Telephone Number)

(Name of Day Program Contact
 Address
 Telephone Number)

Please indicate on the enclosed form as to whether you agree or disagree with the proposed placement. If you do not agree, you have the right to request a hearing at which you may present your objections (see attached "Summary of Procedures for Responding to Placement")

If you, as correspondent, do not complete and return the enclosed "Proposed Placement Response" form within 30 days of receipt of this notice, and no other timely objection is received, we will proceed to make the placement. (Or, use the following for a Willowbrook Class member: "If you, as correspondent, do not complete and return the enclosed "Proposed Placement Response" form within 30 days of receipt of this notice, the Consumer Advisory Board for the Willowbrook Class will be designated to advocate for the Class member, to review the proposed placement, and to make recommendations.

(continued on next page)

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If you have any questions, including how to complete the attached "Proposed Placement Response" form, please contact me at _____ (Phone number) _____.

Sincerely yours,

Attachments: Proposed Placement Response Form
 Summary of Procedures for Objecting to Placement Proposals
 Summary of Willowbrook Consent Judgment (for Willowbrook
 Class members only)
 Community Services Plan (IPP-70)(or equivalent)

cc: Person for whom Placement is Proposed
 Mental Hygiene Legal Service (MHLS)
 Special Master's Office (for Willowbrook Class members only)
 Plaintiffs' Attorney (for Willowbrook Class members only)
 Receiving Facility (send to staff member named as contact)
 Day Program (send to staff member named as contact)

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(SAMPLE)

PROPOSED PLACEMENT RESPONSE

(To be returned within 30 days of receipt)

Re: _____
 (Person's Name)

Proposed Placement Location:

(Provide Name and Address of Proposed Placement Here)

Please check the appropriate box below:

- I agree to the placement of the above named person at the above stated placement location.
- I do not agree to the placement of the above named person and request that a hearing be scheduled.
- I do not agree to the placement at this time and I would like to discuss the placement further. Please contact me.

Name _____

Address _____

Telephone _____

Signature _____

Date _____

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NAME (LAST)		(FIRST)	(MI)	C-NUMBER/DDIS NUMBER	DATE OF BIRTH	GENDER
DATE OF PLAN	SOCIAL SECURITY NO.	OTHER IDENTIFICATION NUMBERS				
REFERRED BY:				CASE MANAGER (Person to be contacted when there are problems)		
AGENCY	LIAISON		PHONE	NAME	ADDRESS	PHONE
SERVICE/ACTIVITY					PROVIDER (NAME/ADDRESS/PHONE)	
1. LIVING ARRANGEMENTS						
2. HEALTH						
3. FINANCIAL						
4. DAY PROGRAM						
5. SOCIAL/RECREATION						
FACILITY/AGENCY			<p style="text-align: center;">NYS OMRDD IPP 71</p> <p style="text-align: center;">COMMUNITY SERVICES PLAN</p>			
3-81						

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SUMMARY OF PROCEDURES FOR RESPONDING TO PLACEMENT PROPOSALS

Before you received notice of placement, you should have been invited to participate in one or more Interdisciplinary Team meetings to discuss, among other things, possible community placement or other placement alternatives. You should have been included in all planning leading to the proposed placement. The only exception to this requirement would occur when a person who is residing in an Office of Mental Retardation and Developmental Disabilities (OMRDD) facility, who is at least 18 years of age and is considered to be capable of making a decision related to his or her placement, specifically requests that a correspondent not be involved in such meetings or plans. A person's Interdisciplinary Team makes the determination as to whether or not he or she is capable of making such a determination; however, you do have the right to object to and appeal this determination at that time.

If you agree to the proposed placement by indicating this on the "Proposed Placement Response" form, the move will take place (unless there is an objection by the Mental Hygiene Legal Services). Persons who are at least 18 years of age, who are considered capable to do so, may agree to a proposed move on their own.

If you do not agree to the proposed placement, you should note your objection on the "Proposed Placement Response" form and return it to the sender within 30 days of receipt of the notice.

If you do not respond within 30 days of receipt of the notice and no other timely objection is received, we will proceed with the proposed placement. If you are the correspondent for a member of the Willowbrook Class, and you do not respond within 30 days, the Willowbrook Consumer Advisory Board will be authorized to act in your place in connection with the proposed placement.

If you disagree with the proposed placement and formally object in writing, and OMRDD wishes to proceed with the proposed placement, within five days of receipt of your formal written objection, OMRDD will act upon your request for a hearing before a hearing officer. You will be given notice at least ten days in advance of the date on which this hearing will take place.

At this hearing, you have the right:

- To be assisted by a lawyer or any other representative you choose.
- To make any statement, or refer the hearing officer to any document, evidence, or other information in support of your objection to the proposed placement.
- To ask questions of OMRDD representatives at the hearing, and to request the presence of other OMRDD employees who can provide necessary information.
- To object to the consideration of documents, evidence, or other information offered at the hearing.

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Within fourteen days of completion of the hearing, the hearing officer must decide, in writing, whether it has been shown that the proposed placement will offer the person better services, opportunities for personal development, and more suitable living environment than at his or her present setting; that the new placement is the least restrictive and the most appropriate alternative available; whether the proposed placement and program comply with statutory, regulatory, and any other legal requirements; and whether any other considerations advanced by the objecting party or parties renders the placement one which is not in the best interest of the person.

Your objection to the proposed placement will be sustained if the documents, evidence and other information supports a finding that the reasons advanced by you as to why the proposed placement is not in the person's best interest outweigh the benefits the proposed placement will offer the person.

If you do not agree with the decision of the hearing officer, you may, within ten days of receipt of the decision, ask the Commissioner of OMRDD to review the documents, evidence, and other information and render a written decision on your appeal.

The Commissioner will decide on your appeal within fourteen days of your request. The person may not be moved until all administrative proceedings have been completed, unless an emergency move is necessary. In certain emergencies, the placement procedures must be followed after the move is made, and you still have the opportunity to agree with or object to the move.

You may obtain a copy of the detailed official policies and procedures related to placement by writing or calling the staff member named as your contact in the notice of placement.

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DEFINITIONS

Emergency Move - The immediate and unplanned change of residence of a person due to a sudden and acute medical or psychotic episode, behavior constituting an imminent danger of serious harm to the resident or others, or any other circumstance necessitating the immediate change of residence of a person.

Placement - In relation to developmental center policies, the relocation (change of address) of a person from an OMRDD operated developmental center to another residential setting as proposed and planned by the person's Interdisciplinary Team (e.g., to an OMRDD operated or certified ICF/DD, community residence, or family care home; to a nursing home; to an independent living situation; to live with family; to another developmental center); or relocation to another OMRDD operated or certified residential location as requested by a capable adult or someone acting on behalf of a person.

- "Placement," as used in this and other developmental center policies related to placement, does not include the **admission** of someone residing in a non-OMRDD operated or certified residential setting to a **developmental center** (e.g., someone is admitted to a developmental center from the parent's home).
- Nor does it include the termination of services in a developmental center (e.g., when the person or the person's correspondent chooses to terminate such services; the person will reside out-of-state; the person chooses to live independently; a determination is made by the facility that it will no longer provide services). In such instances the person shall be discharged (see Policy 2.5.1, **Process for Discharge or Conditional Release From a Developmental Center**). However, when the facility has made the determination to terminate services, the person has the right to object to and appeal such a determination in conformance with Policy 7.3.4, **Procedures when there are Objections to an Individual Program Plan (IPP), Proposed Changes Thereto, or Facility Initiated Discharge**.
- Time limited moves are not placements (see Polices 2.4.5, **Obtaining Psychiatric Services Outside of the Developmental Center** and 2.4.19, **Emergency and Transitional Moves**).
- Hospital stays, vacations at camps, and visits with families are neither time-limited moves or placements and are to be handled in a routine manner.
- For **statistical reporting purposes** this definition of placement has no bearing.

POLICY

Emergency Move - Permanent:

An emergency move can be made whereby a person is relocated, for permanent placement, to a new residential setting prior to completion of placement procedures. As soon as possible after the move is made, it is necessary to follow placement procedures as set forth in Policy 2.4.18, **Notification of**

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Residential Placement; and, if applicable, Policy 2.6.2, **Procedures When There Is An Objection to Placement.** If an emergency move is necessary while a planned proposed placement is undergoing the administrative review process because of a formal written objection, the move can only be made with the Commissioner's approval, based on documentation that such a move is required. For a move due to a psychiatric emergency, see Policy 2.4.5, **Obtaining Psychiatric Services Outside of the Developmental Center.**

Emergency Move - Transitional:

When an emergency move is made to provide a **transitional** place of residence until a permanent placement can be effected (e.g., waiting for the actual opening of a new facility to which placement is already scheduled; due to unexpected closing of a residence because of fire, flooding, or hazardous conditions, a temporary residence is needed while a permanent placement is sought), the policies and procedures pertinent to placement do not have to be followed relative to that emergency move. However, if a person is still at the transitional location after 60 days, and permanent placement to another setting has not been proposed pursuant to Policy 2.4.18, **Notification of Residential Placement**, placement procedures for the transitional location have to be implemented. Nevertheless, a person does not have the right to remain at a transitional place of residence just because he or she objects to a proposed permanent placement.

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DEFINITIONS

Community Status - As used in statistical reporting, this term refers to the reporting category of a person who is on conditional release status, but who is not in Family Care. Typically, a person on "community status" may be receiving services in a community residence, or in a community based ICF/DD.

Conditional Release - As used in this specific policy and in relation to Article 29 of the Mental Hygiene Law for persons legally admitted to a developmental center, the act of ending a person's period of residential service in the developmental center yet maintaining close supervision of the person through the B/DDSO. A person who has been placed on conditional release from a developmental center ordinarily continues to receive services from a facility certified or operated by OMRDD, as arranged for by the B/DDSO. For statistical reporting purpose, a person who has been placed on conditional release will be classified as on community status or family care, as appropriate.

Discharge - As used in this specific policy and in relation to Article 29 of the Mental Hygiene Law for persons legally admitted to a developmental center, "discharge" means the termination of a person's inpatient status in a developmental center. Discharge does not prevent the continuation of appropriate services by OMRDD or any facility certified by OMRDD; nor does it prevent the resumption of appropriate services at any time subsequent to discharge. At the termination of a conditional release period, a person is discharged. A person who moves to another state is discharged, as are those persons whose parent(s) or guardian have exercised their legal right to remove a person from the service system. The term, "discharge," as used in this policy, does not imply "discharge" from the Willowbrook Class.

Facility - Any place operated or certified by OMRDD in which either residential or non-residential services are provided to persons with developmental disabilities. A developmental center is a facility.

Family Care - As used in statistical reporting procedures, this term refers to the placement of a person in a home certified by OMRDD as a Family Care Home.

Willowbrook Class Members - All persons who had been admitted to the Willowbrook Developmental Center and who were on resident or leave status as of March 17, 1972.

POLICY

OMRDD will make every practicable effort to ensure provision and coordination of appropriate and available services to any person who has been discharged to the community or placed on conditional release as long as that person is a resident of New York State, requires such services, and is willing to accept such services. All discharges or conditional releases shall be conducted in conformance with the Mental Hygiene Law §29.15 and OMRDD policies and procedures.

A person may be discharged to the community by the B/DDSO director when, in the opinion of the person's Interdisciplinary Team, the person does not require continued residential care and treatment in the developmental center and is not in need of the supervision provided through conditional release. Persons will also be discharged when:

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1. A capable person, guardian, or parent of a child requests the discharge and the person is not appropriate for involuntary retention; or
2. When the person moves out of state.

A person may be placed on conditional release by the B/DDSO director rather than be discharged when, in the opinion of the Interdisciplinary Team, the person does not require continued residential care and treatment in a developmental center, yet needs continued close supervision by B/DDSO staff. The continuation of a person on conditional release beyond 12 months only takes place in those situations where it is clinically or programmatically required and when neither the person or his or her correspondent object.

1. A person on voluntary or non-objecting inpatient status may be conditionally released provided that:
 - a. A person under sixteen years of age may be conditionally released only after consultation with the parents, next of kin or guardian.
 - b. A person over sixteen and under eighteen may be conditionally released only with his or her consent or with the consent of the parent, next of kin or guardian.
 - c. A person eighteen years or older may be conditionally released only with his or her consent.

A person on involuntary inpatient status may be conditionally released only for the remainder of the authorized retention period.

If a person on voluntary or non-objecting admission status or someone acting on the person's behalf gives notice in writing to the facility requesting that he or she be allowed to leave the developmental center, the person is to be promptly released. If, however, there are reasonable grounds for belief that the person may be in need of involuntary care and treatment, the B/DDSO director (or designee) may detain the person for a period not to exceed 72 hours from receipt of the notice. Before the expiration of the 72 hours, the person is to be released or the B/DDSO director is to apply to a court of record in the county where the developmental center is located for an order authorizing the involuntary retention of the person.

RESPONSIBILITY

PROCEDURE

- | | |
|------------------------|---|
| Interdisciplinary Team | 1. Recommends discharge or conditional release of person to designated administrator. |
| Administrator | 2. Submits request to B/DDSO director. |
| B/DDSO Director | 3. Reviews and evaluates request. |

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- a. If agrees, informs requesting staff.
- b. If disagrees, action on discharge or release is stopped.

Coordinator

4. When B/DDSO director agrees to discharge or conditionally release a person, determines if person is eligible for referral to Department of Social Services and/or local mental hygiene service. See Policy 2.5.2, **Referral to Department of Social Services** and/or Policy 2.5.3, **Referral to Local Mental Hygiene Services**.
5. Informs the person's correspondent and MHLS 30 days in advance of impending discharge or conditional release.
6. Arranges for the preparation and development of the person's Community Services Plan by convening a meeting of the Interdisciplinary Team including the person, the person's correspondent and, as appropriate, staff of Social Services, staff of Community Mental Retardation Service, and other concerned agencies. See Policies: 7.5.3, **Community Service Plan**; 7.5.4, **Participation in Development of the Community Service Plan**.
7. Ensures that a medical examination is completed. See Policy: 2.4.5, **Medical Examination Prior to Discharge or Conditional Release**.
8. Completes Form AHR 116, **Disposition Report**, and forwards it to the Medical Records Office on the day the person is released or discharged; one copy is sent to the facility Revenue and Reimbursement office and one copy is placed in the person's clinical record.

Medical Records
Administrator

- a. If referral is to the Department of Social Services (DSS), forwards a copy of Form AHR 116 to DSS liaison staff within two days of discharge or conditional release.
- b. If referral is to local mental hygiene services, forwards copy of Form AHR 116 to liaison staff of the Community Mental Retardation Board of the county to which the person is referred within two days of discharge or conditional release.

Supervisor of Living Unit

9. Reports discharge or conditional release to Medical Records Clerk.

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Medical Records Clerk

10.

Reports status at computer terminal as appropriate:

- a. Discharge
- b. Family Care
- c. Community Status

References: Mental Hygiene Law, Section 1.03 and 29.15; 14 NYCRR Part 36.

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	Topic	Review Board to Assess Capability of Persons with Developmental Disabilities Residing in Developmental Centers								

DEFINITIONS

Capable Adult - A person (see definition below) who is 18 years of age or older who is able to understand the nature and implication of various issues such as program planning, treatment, or placement. The assessment of capability in relation to each issue as it arises will be made by the person's Interdisciplinary Team (I.T.). This will be done with notice to the Mental Hygiene Legal Service. Capability, as stipulated by the definition, does not mean legal competency; nor does it necessarily relate to a person's capacity to independently handle his or her own financial affairs; nor does it relate to the person's capacity to understand appropriate disclosures regarding proposed professional medical treatment, which must be evaluated independently. Thus, a person may be capable of participation in planning for his or her services and programs but still require assistance in the management of financial or other matters. Whenever there is doubt on the part of any other party interested in the welfare of the person as to that person's ability to make decisions, as ascertained by the Interdisciplinary Team, a determination of capability is to be made by an external capability review board designated by the Commissioner. A capable adult person cannot override the authority of a guardian appointed in accordance with the Surrogate Court Procedure Act, or of a conservator, or of a committee.

Person/Persons - For the purposes of this and other policies related to placement, a child or adult with a diagnosis of developmental disability, who is being served by a state, private, or voluntary facility operated/certified by OMRDD.

POLICY

It is the responsibility of a person's Interdisciplinary Team to determine on a situation specific basis whether a person is a capable adult who is able to understand the nature and implication of various issues such as program planning, treatment, and movement. If there is any question as to the determination of the Interdisciplinary Team with relation to such issues, a Capability Review Board is to review the situation and make a determination. MHLS is to be notified and consulted when this review takes place.

To facilitate placement of persons, the B/DDSO director is to contact the Commissioner to request the establishment of a Capability Review Board to assess the ability of an adult residing the developmental center to understand the nature and implications of movement when the determination of the Interdisciplinary Team has been disputed. This Capability Review Board is to be composed of representatives of clinical and legal professions and is to have at least three members. One members is to be either a psychiatrist or psychologist certified by the New York State Department of Education. No member of the board is to be on the staff of the facility currently providing services to the person, or of a facility which proposes to provide service.

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DEFINITIONS

Capable Adult - A person (see definition below) who is 18 years of age or older who is able to understand the nature and implication of various issues such as program planning, treatment, or placement. The assessment of capability in relation to each issue as it arises will be made by the person's Interdisciplinary Team (I.T.). This will be done with notice to the Mental Hygiene Legal Service. Capability, as stipulated by the definition, does not mean legal competency; nor does it necessarily relate to a person's capacity to independently handle his or her own financial affairs; nor does it relate to the person's capacity to understand appropriate disclosures regarding proposed professional medical treatment, which must be evaluated independently. Thus, a person may be capable of participation in planning for his or her services and programs but still require assistance in the management of financial or other matters. Whenever there is doubt on the part of any other party interested in the welfare of the person as to that person's ability to make decisions, as ascertained by the Interdisciplinary Team, a determination of capability is to be made by an external capability review board designated by the Commissioner. A capable adult person cannot override the authority of a guardian appointed in accordance with the Surrogate Court Procedure Act, or of a conservator, or of a committee.

Days - Calendar Days. In computing "days" as used in this policy, the day that the notice is received is to be included. If the last day of a designated period ends on a Saturday, Sunday or legal holiday, the next business day shall be identified as the last day of the period. For purposes of this policy, legal holidays are as follows:

- | | |
|----------------------------------|---------------------|
| 1. New Year's Day | 6. Labor Day |
| 2. Martin Luther King's Birthday | 7. Columbus Day |
| 3. Washington's Birthday | 8. Veteran's Day |
| 4. Memorial Day | 9. Thanksgiving Day |
| 5. Independence Day | 10. Christmas Day |

Emergency Move - The immediate and unplanned change of residence of a person due to a sudden and acute medical or psychotic episode, behavior constituting an imminent danger of serious harm to the resident or others, or any other circumstance necessitating the immediate change of residence of a person.

Person/Persons - For the purposes of this and other policies related to placement, a child or adult with a diagnosis of developmental disability, who is being served by a state, private, or voluntary facility operated/certified by OMRDD.

Placement - In relation to developmental center policies, the relocation (change of address) of a person from an OMRDD operated developmental center to another residential setting as proposed and planned by the person's Interdisciplinary Team (e.g., to an OMRDD operated or certified ICF/DD, community residence, or family care home; to a nursing home; to an independent living situation; to live with family; to another developmental center); or relocation to another OMRDD operated or certified residential location as requested by a capable adult or someone acting on behalf of a person.

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- "Placement," as used in this and other developmental center policies related to placement, does not include the **admission** of someone residing in a non-OMRDD operated or certified residential setting to a **developmental center** (e.g., someone is admitted to a developmental center from the parent's home).
- Nor does it include the termination of services in a developmental center (e.g., when the person or the person's correspondent chooses to terminate such services; the person will reside out-of-state; the person chooses to live independently; a determination is made by the facility that it will no longer provide services). In such instances the person shall be discharged (see Policy 2.5.1, **Process for Discharge or Conditional Release From a Developmental Center**). However, when the facility has made the determination to terminate services, the person has the right to object to and appeal such a determination in conformance with Policy 7.3.4, **Procedures when there are Objections to an Individual Program Plan (IPP), Proposed Changes Thereto, or Facility Initiated Discharge**.
- Time limited moves are not placements (see Policies 2.4.5, **Obtaining Psychiatric Services Outside of the Developmental Center** and 2.4.19, **Emergency and Transitional Moves**).
- Hospital stays, vacations at camps, and visits with families are neither time-limited moves or placements and are to be handled in a routine manner.
- For **statistical reporting purposes** this definition of placement has no bearing.

POLICY

All objections to placement are to be made pursuant to Section 633.12 of 14 NYCRR, as set forth in this and other applicable OMRDD policies/procedures. Except where a person is a capable adult and agrees to a placement, objections by any party required to be notified of a proposed placement requires a hearing as set forth below. Where a capable adult agrees to a proposed placement, placement may take place without delay, and all parties are to be notified.

When a party objects to a placement, but has not requested a hearing, the chief executive officer or designee is to attempt to resolve this objection on an informal basis within fourteen days of the facility being made aware of the objection. If no resolution can be reached, and the objecting party desires a hearing, a formal written objection requesting a hearing is to be submitted. If such written objection is not forthcoming within five days, the placement process is to continue.

When a timely objection to placement is made, the placement cannot be made pending the completion of the administrative proceedings set forth herein. However, the Commissioner may move a person prior to, or during the proceedings, if proper documentation, presented by staff at the facility designated to do so, shows that an emergency move is required. In this case, retroactive notice of the move is given to those parties designated in Policy 2.4.18, **Notification of Residential Placement**.

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If an objection is not received within 30 days of the receipt of the placement notification or within any authorized extension of time, the placement may be completed as planned.

Should a formal written objection be made and a hearing be necessary, it will be held before a hearing officer, designated by the Commissioner of OMRDD, who has experience with people with developmental disabilities, but who is not employed at either the sending or proposed receiving facility.

Transcripts or recordings are to be made of all hearings and kept on file at the sending facility for twelve (12) months.

RESPONSIBILITY

PROCEDURE

- | | | |
|--|----|---|
| Objecting Party | 1. | Conveys objection to B/DDSO director or designee. |
| B/DDSO Director or
Designee | 2. | If a party objects to the placement, but has not requested a hearing, attempts to informally resolve objection(s). Notes objection and proposed strategies for resolution in the person's clinical record. |
| B/DDSO Director | 3. | Sends letter of confirmation to objecting party with results of attempts to informally resolve objections. If objecting party submits a formal written objection requesting a hearing, within five (5) days after the receipt of the demand for a hearing, schedules the hearing and provides no less than ten (10) days' notice to the involved parties. |
| Objecting Party,
Resident, and/or
MHLS | 4. | Ensures that notice of the hearing is sent by certified mail, return receipt requested, to all parties who received the original notices of placement, or notification copies thereof. |
| Objecting Party,
Resident, and/or
MHLS | 5. | May appear with counsel or any other representative, may make any statement respecting the proposed placement, and may call to the attention of the hearing officer conducting the hearing, any documents relevant to the proposed placement. Such documents will have been made available and will continue to be available to the party objecting to the placement. |
| B/DDSO Director or
Designee | 6. | Designates appropriate staff (who may or may not be accompanied by counsel) to attend the hearing for the purpose of presenting evidence and information in support of the proposed placement and answering any inquiries put to them by the hearing officer. |

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7. Attends the hearing to state the reasons for the proposed placement and the basis therefor and provide relevant documentation upon which a decision can be based.
- Hearing Officer
8. Has the authority to require the presence of anyone, in addition to those designated by the B/DDSO director. If necessary, an adjournment of not more than five (5) days may be allowed to secure the presence of such parties. However, adjournments are not to be favored.
9. Ensures that the hearing testimony and statements are recorded, either by a stenographer or electronically.
10. Accepts all relevant written statements, documents, and testimony from all parties that were entitled to notice of the proceedings and who wish to be heard.
11. Determines if the proposed placement will offer the person better services, an opportunity for personal development, and a more suitable living environment than that available at the person's present setting. In making this determination, considers, too, whether the proposed placement setting is the least restrictive appropriate alternative available, and whether any other considerations advanced by the objecting party or parties renders the placement one which is not in the best interest of the person. Sustains the objection to the proposed placement if, after determining and considering the above-mentioned factors, he or she is convinced that the proposed placement is not in the person's overall best interest.
12. Within fourteen (14) days of the hearing, renders a decision in writing setting forth the conclusion reached and the reasons therefor and forwards it to the B/DDSO director.
- B/DDSO Director
13. Immediately distributes copies of the decision to all parties by certified mail, return receipt requested.
- Objecting Party or
B/DDSO Director
14. If the decision is unsatisfactory, may within ten (10) days of receipt of the decision, seek review by the Commissioner by submitting a request to the Commissioner.
- Commissioner
15. May, at his or her discretion, send the matter back to the hearing officer for further review.

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|-----------------|--|
| Objecting Party | 16. Renders a written decision on the appeal. The Commissioner will base his or her decision on a review of all evidence presented at the previous hearing(s).

17. Decides all appeals within fourteen (14) days of the request for review, and advises all parties of decision by certified mail, return receipt requested.

18. May seek judicial review as provided by the laws of New York State. |
|-----------------|--|

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DEFINITIONS

Capable Adult - A person (see definition below) who is 18 years of age or older who is able to understand the nature and implication of various issues such as program planning, treatment, or placement. The assessment of capability in relation to each issue as it arises will be made by the person's Interdisciplinary Team (I.T.). This will be done with notice to the Mental Hygiene Legal Service. Capability, as stipulated by the definition, does not mean legal competency; nor does it necessarily relate to a person's capacity to independently handle his or her own financial affairs; nor does it relate to the person's capacity to understand appropriate disclosures regarding proposed professional medical treatment, which must be evaluated independently. Thus a person may be capable of participation in planning for his or her services and programs but still require assistance in the management of financial or other matters. Whenever there is doubt on the part of any other party interested in the welfare of the person as to that person's ability to make decisions, as ascertained by the Interdisciplinary Team, a determination of capability is to be made by an external capability review board designated by the Commissioner. A capable adult person cannot override the authority of a guardian appointed in accordance with the Surrogate Court Procedure Act, or of a conservator, or of a committee.

Correspondent - Someone (not on the staff of the facility) who assists a person in obtaining necessary services, participates in the person's program planning process as a member of the person's program planning team, and who receives notification of certain significant events in the life of that person. The fact that a correspondent is providing advocacy for a person as a correspondent does not endow that party with any legal authority over the person's affairs.

1. In the first instance, a correspondent would be the parent, legal guardian or committee listed in the person's Individual Program Plan. If parents are deceased or their whereabouts cannot, with due diligence be ascertained, or they have failed to designate an appropriate representative, and there is no guardian or committee, then, for other than Willowbrook Class members, the correspondent may be defined as the relative or other party, if any, in closest relationship with the person who has, at least once within the previous year, manifested interest in the person by communication with the facility regarding the person, or by visiting that person.
2. If none of the above can be located, or if such party or parties refuse to participate in the program planning process for the person, the administrator is to designate another party to be the person's correspondent, unless the person is a Willowbrook Class Member. For Willowbrook Class Members, regardless of present location, the correspondent in this instance will be a member of the Consumer Advisory Board established by the Willowbrook Consent Judgement.

Non-Correspondent Status - There is no correspondent acting on behalf of a person as established by an annual determination. Additionally, for a Willowbrook Class member, non-correspondent status shall mean that the correspondent has failed to respond to a notice of proposed placement forwarded pursuant to procedures; or that the correspondent has indicated that he or she does not wish to participate in placement planning. Members of the Willowbrook Class who are considered to be on

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non-correspondent status will be represented by the Consumer Advisory Board for the Willowbrook Class members.

Person/Persons - For the purposes of this and other policies related to placement, a child or adult with a diagnosis of developmental disability, who is being served by a state, private, or voluntary facility operated/certified by OMRDD.

Placement - In relation to developmental center policies, the relocation (change of address) of a person from an OMRDD operated developmental center to another residential setting as proposed and planned by the person's Interdisciplinary Team (e.g., to an OMRDD operated or certified ICF/DD, community residence, or family care home; to a nursing home; to an independent living situation; to live with family; to another developmental center); or relocation to another OMRDD operated or certified residential location as requested by a capable adult or someone acting on behalf of a person.

- "Placement," as used in this and other developmental center policies related to placement, does not include the **admission** of someone residing in a non-OMRDD operated or certified residential setting to a **developmental center** (e.g., someone is admitted to a developmental center from the parent's home).
- Nor does it include the termination of services in a developmental center (e.g., when the person or the person's correspondent chooses to terminate such services; the person will reside out-of-state; the person chooses to live independently; a determination is made by the facility that it will no longer provide services). In such instances the person shall be discharged (see Policy 2.5.1, **Process for Discharge or Conditional Release From a Developmental Center**). However, when the facility has made the determination to terminate services, the person has the right to object to and appeal such a determination in conformance with Policy 7.3.4, **Procedures when there are Objections to an Individual Program Plan (IPP), Proposed Changes Thereto, or Facility Initiated Discharge**.
- Time limited moves are not placements (see Policies 2.4.5, **Obtaining Psychiatric Services Outside of the Developmental Center** and 2.4.19, **Emergency and Transitional Moves**).
- Hospital stays, vacations at camps, and visits with families are neither time-limited moves or placements and are to be handled in a routine manner.
- For **statistical reporting purposes** this definition of placement has no bearing.

POLICY

A request to move to another residential setting, operated or certified by OMRDD, may be made by a person or that person's parent, guardian, correspondent, or legal representative. The person's Interdisciplinary Team at the developmental center where the person now resides will consider such a

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request as expediently as possible, and make a recommendation as to whether such placement is in the person's best interest, if available. This recommendation may be appealed in accordance with Policy 2.6.2, **Procedures When There Is An Objection to Placement**. MHLS is to be advised of the request.

If a person on voluntary or non-objecting status or someone acting on the person's behalf gives notice in writing to the B/DDSO director requesting that he or she be allowed to leave the developmental center, the person is to be promptly released. If, however, there are reasonable grounds for belief that the person may be in need of involuntary care and treatment, the B/DDSO director may detain the person for a period not to exceed 72 hours from receipt of the notice. Before the expiration of the 72 hours, the person is to be released or the B/DDSO director is to apply to a court of record in the county where the developmental center is located for an order authorizing the involuntary retention of the person. (Also see Policy 2.5.1, **Process for Discharge or Conditional Release From a Developmental Center**.)

RESPONSIBILITY

Person or
Correspondent

Interdisciplinary Team

PROCEDURE

1. Requests move to another residential setting, and submits, when possible, the name of the program to which admission is requested and information on availability and arrangements (financial or otherwise) that have or can be made.
2. Considers request and supporting documentation.
3. In as timely a manner as possible, but always within 30 days after receipt of request, responds in writing, accepting or rejecting the request, and stating the reasons for any rejection. A request may be rejected because of, but not limited to:
 - a. The setting does not provide better services or an opportunity for personal development, it is not a more suitable living environment, it is not the least restrictive appropriate alternative available, the move is otherwise not in the best interest of the person, or the continued certification of the facility is under question.
 - b. The requested placement does not comply with a specific provision of law or regulation.
 - c. The requested placement is not geographically appropriate.

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- d. The requested placement is not available.
4. If the interdisciplinary Team agrees that such a placement is appropriate, notification of movement is to be sent in conformance with Policy 2.4.18, **Notification of Residential Placement**.
 5. If the Interdisciplinary Team considers that such placement is not in the best interest of the person or is not available, the party originating the request for the move is to be notified in writing of the determination. The party must also be advised that if he or she is dissatisfied with the decision he or she may, within ten (10) days, submit a formal written objection to the decision in conformance with Policy 2.6.2, **Procedures When There Is An Objection to Placement**. A copy of the correspondence is to be sent to each person entitled to receive notification of placement (see Policy 2.4.18, **Notification of Residential Placement**).

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	Topic Community Services Plan			

DEFINITIONS

Capable Adult - A person (see definition below) who is 18 years of age or older who is able to understand the nature and implication of various issues such as program planning, treatment, or placement. The assessment of capability in relation to each issue as it arises will be made by the person's Interdisciplinary Team (I.T.). If the person resides in a developmental center or is on conditional release, this will be done with notice to the Mental Hygiene Legal Service. Capability, as stipulated by the definition, does not mean legal competency; nor does it necessarily relate to a person's capacity to independently handle his or her own financial affairs; nor does it relate to the person's capacity to understand appropriate disclosures regarding proposed professional medical treatment, which must be evaluated independently. Thus a person may be capable of participation in planning for his or her services and programs but still require assistance in the management of financial or other matters. Whenever there is doubt on the part of any other party interested in the welfare of the person as to that person's ability to make decisions, as ascertained by the Interdisciplinary Team, a determination of capability is to be made by an external capability review board designated by the Commissioner. A capable adult person cannot override the authority of a guardian appointed in accordance with the Surrogate Court Procedure Act, or of a conservator, or of a committee.

Community Placement - The relocation of a person residing in a developmental center to another residential setting located in the community as proposed and planned by the person's Interdisciplinary Team (e.g., to an OMRDD operated or certified ICF/DD, community residence, family care home; to a nursing home; to an independent living situation; to live with family); or to an OMRDD operated or certified residential facility in the community as requested by a person or someone acting on behalf of a resident in a developmental center.

Person/Persons - For the purposes of this and other policies related to placement, a child or adult with a diagnosis of developmental disability, who is being served by a state, private, or voluntary facility operated/certified by OMRDD.

Placement - In relation to developmental center policies, the relocation (change of address) of a person from an OMRDD operated developmental center to another residential setting as proposed and planned by the person's Interdisciplinary Team (e.g., to an OMRDD operated or certified ICF/DD, community residence, or family care home; to a nursing home; to an independent living situation; to live with family; to another developmental center); or relocation to another OMRDD operated or certified residential location as requested by a capable adult or someone acting on behalf of a person.

- "Placement," as used in this and other developmental center policies related to placement, does not include the **admission** of someone residing in a non-OMRDD operated or certified residential setting to a **developmental center** (e.g., someone is admitted to a developmental center from the parent's home).

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- Nor does it include the termination of services in a developmental center (e.g., when the person or the person's correspondent chooses to terminate such services; the person will reside out-of-state; the person chooses to live independently; a determination is made by the facility that it will no longer provide services). In such instances the person shall be discharged (see Policy 2.5.1, **Process for Discharge or Conditional Release From a Developmental Center**). However, when the facility has made the determination to terminate services, the person has the right to object to and appeal such a determination in conformance with Policy 7.3.4, **Procedures when there are Objections to an Individual Program Plan (IPP), Proposed Changes Thereto, or Facility Initiated Discharge**.
- Time limited moves are not placements (see Policies 2.4.5, **Obtaining Psychiatric Services Outside of the Developmental Center** and 2.4.19, **Emergency and Transitional Moves**).
- Hospital stays, vacations at camps, and visits with families are neither time-limited moves or placements and are to be handled in a routine manner.
- For **statistical reporting purposes** this definition of placement has no bearing.

POLICY

Pursuant to §29.15 of the Mental Hygiene Law and prior to an actual community placement, but at a point when all the information is available, a written plan, which is called a Community Services Plan, must be prepared for each person to be conditionally released or discharged from a developmental center to live in the community. When a person moves from one developmental center to another developmental center it is not necessary to prepare a Community Services Plan; however, it is necessary to prepare a plan of services which describes how the person's identified needs will be met.

This plan is to identify who can provide services and, if it is a community placement, where the person can receive those services in the community. The plan is to be prepared with the input of those who will be providing services, including those in the community, and others, as follows:

1. The person whose placement is being proposed.
2. The person's correspondent (unless the person is a capable adult and objects to such participation).
3. The person's Interdisciplinary Team.
4. The Resident Resource Agent.
5. Designated staff of any future providers of service in the community, including the person's anticipated community based residential and day programs.

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6. Designated staff of the local Department of Social Services (community placements only).
7. Designated staff of the County Mental Health Board (Community Mental Retardation Services) if the person is eligible for and/or needs services from that agency (community placements only).
8. As appropriate, MHLS, the Special Master's Office and the plaintiffs' attorney.

This plan is to describe the following as minimal requirements, based on a person's identified needs, and is to include the names and addresses of service providers who are available to provide the described services:

1. The person's current and proposed place of residence.
2. Arrangements for respite, if appropriate.
3. Medical and health services.
4. Sources of economic support for the person.
5. Pre-vocational and/or vocational training, or work placement, if appropriate.
6. Educational programs (required for all persons 21 years of age and under).
7. Training, including, as appropriate, activities of daily living, mobility, social and socialization programs, and activities including recreation and leisure time pursuits.
8. Family, friends and other parties concerned with the well-being of the person.
9. Assistance needed for self-care and the activities of daily living.
10. Transportation arrangements for employment, services, programs, visits, and recreation.

Each plan is to identify someone as having program plan coordination functions who will be responsible for implementing, reviewing, and revising the services detailed in the plan.

For community placements, Form IPP-71, **Community Services Plan** (or equivalent), should be used (see pages 4 and 5). For placement in another developmental center, the Community Services Plan may be used for the convenience of staff.

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NAME (LAST)	(FIRST)	(MI)	C-NUMBER/DDIS NUMBER	DATE OF BIRTH	GENDER
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DATE OF PLAN	SOCIAL SECURITY NO.	OTHER IDENTIFICATION NUMBERS
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REFERRED BY: AGENCY LIAISON PHONE	CASE MANAGER (Person to be contacted when there are problems) NAME ADDRESS PHONE
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SERVICE/ACTIVITY	PROVIDER (NAME/ADDRESS/PHONE)
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1. LIVING ARRANGEMENTS	
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2. HEALTH	
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3. FINANCIAL	
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4. DAY PROGRAM	
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5. SOCIAL/RECREATION	
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	NYS OMRDD	IPP 71
FACILITY/AGENCY	COMMUNITY SERVICES PLAN	
		3-81

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This policy has been deleted.

Information relative to approval of proposed placement
is found in Policy 2.4.18, Notification of Residential Placement.

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DEFINITIONS

Capable Adult - A person (see definition below) who is 18 years of age or older who is able to understand the nature and implication of various issues such as program planning, treatment, or placement. The assessment of capability in relation to each issue as it arises will be made by the person's Interdisciplinary Team (I.T.). This will be done with notice to the Mental Hygiene Legal Service. Capability, as stipulated by the definition, does not mean legal competency; nor does it necessarily relate to a person's capacity to independently handle his or her own financial affairs; nor does it relate to the person's capacity to understand appropriate disclosures regarding proposed professional medical treatment, which must be evaluated independently. Thus a person may be capable of participation in planning for his or her services and programs but still require assistance in the management of financial or other matters. Whenever there is doubt on the part of any other party interested in the welfare of the person as to that person's ability to make decisions, as ascertained by the Interdisciplinary Team, a determination of capability is to be made by an external capability review board designated by the Commissioner. A capable adult person cannot override the authority of a guardian appointed in accordance with the Surrogate Court Procedure Act, or of a conservator, or of a committee.

Discharge - By regulation, most facilities are required to have admission and discharge policies. As used in that context, discharge means the release of a person from the facility and the termination of programs/services at that facility. "Discharge" can be the administrative process that takes place to remove a person's name from the records when that person, who has undergone the placement process, takes up residence in another facility. However, "discharge" also takes place when a residential or day program facility determines, in conformance with its policies/procedures, that it can no longer provide programming/services, even if it has not been able to make provision for alternatives. In a developmental center, and for those persons living in the community on conditional release from a developmental center, a person's "discharge" must also comply with Article 29 of the Mental Hygiene Law, thereby terminating a person's "inpatient status" (see Policy 2.5.1). Community based facilities, whether State or voluntary operated, do not come under the requirements of Article 29 relative to legal admission or discharge and can, therefor, establish their own criteria for discharge which must be in compliance with the regulations governing that class of facility.

Mental Hygiene Legal Service (MHLS) - An agency of the appellate division of the State Supreme Court established pursuant to Article 47 of the Mental Hygiene Law, and which provides protective legal services, advice, and assistance to developmentally disabled persons.

Person/Persons - For the purposes of this and other policies related to placement, a child or adult with a diagnosis of developmental disability, who is being served by a state, private, or voluntary facility operated/certified by OMRDD.

POLICY

Pursuant to §633.12 of 14 NYCRR, each adult person residing in a developmental center, his or her parent, guardian, or correspondent, and MHLS have the right to object to and appeal the person's

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Individual Program Plan (IPP), proposed changes thereto, or proposals initiated by the developmental center to terminate programs/services by discharging the person from the facility. Please note, however, that the process outlined in this policy is not to be used where a person is discharged, in accordance with administrative procedures, after the person has changed his or her place of residence as a result of placement procedures conducted in conformance with applicable OMRDD policies. Objection to a placement is made in conformance with developmental center Policy 2.6.2, **Procedures When There is an Objection to Placement.**

When, in conformance with the requirements of the regulations governing developmental centers, a person and his or her correspondent are invited to attend a team meeting to review progress and discuss changes to the program plan, they are to be advised in writing (or other appropriate method), of the right to object to the plan and the procedures for making a formal written objection should informal discussions fail to result in agreement. MHLS is also to be notified of those team meetings to which the person and his or her correspondent have been invited. However, a capable adult can object to any invitation or notification being made and may refuse any objection or appeal initiated on his or her behalf.

While an objection to programming or facility initiated discharge is pending, a person is to continue to participate in programming agreeable to all parties. Every effort feasible is to be made to maintain a person in at least his or her current level of programming. However, a person's program can be changed while an objection is pending where such is necessary to protect his or her health, safety, or welfare, or the health, safety, or welfare of others.

When a hearing officer or the Commissioner upholds an objection and recommends a resolution to the dispute, and no further appeal is made, the B/DDSO director is to make every feasible effort, within existing resources, to comply with the recommendation(s). If the objecting party is of the opinion that the efforts to meet compliance are inadequate, this may be brought to the attention of the Commissioner.

RESPONSIBILITY

Coordinator

PROCEDURE

1. Ensures that, in conformance with the regulations for a developmental center, when a person's IPP is periodically reviewed or when changes are proposed to the IPP, the person and his or her correspondent and MHLS are advised of the review and of their right to participate in the planning process, and of their right to object to the plan, proposed changes, or facility initiated discharge. Provides such notification in writing or such other means as is necessary to ensure comprehension. As part of this notification:
 - a. Provides the name, office address and telephone number of the B/DDSO director to whom formal written objections are to be addressed.

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- b. Describes the role of MHLS as an advocate for persons residing in a developmental center.
- c. For Willowbrook Class members, states availability of the Willowbrook Consumer Advisory Board to act on a person's behalf when designated by the correspondent, if the correspondent cannot exercise this right (e.g., because of age, illness, out-of-state residence, etc.).
2. Attempts to resolve objections on an informal basis. Notes objections and strategies for resolution in the person's Individual Program Plan.
- B/DDSO Director
3. Sends letter of confirmation to objecting party as to outcome of attempts to resolve objections. If unable to resolve objections, explains to the person, correspondent or MHLS the right to invoke the formal written objection and appeal procedures set forth below.
- Person Receiving Services, or Other Party Objecting
4. Conveys objection(s) and request for a hearing in writing to the B/DDSO director.
- B/DDSO Director
5. Within five days, arranges for a hearing to be held before a hearing officer, with at least ten (10) days advance notice of the hearing date to those entitled to be involved. The notice is to be sent by certified mail, return receipt requested, to the correspondent and MHLS. The person and his or her coordinator are to receive copies of the same notice. All parties are to receive copies of the written objection.
- Person Receiving Services, Correspondent, MHLS, B/DDSO Director, Coordinator, Appropriate Staff
6. Are all entitled to appear at the scheduled hearing and present oral or written statements, documents, or testimony in support of their position relative to the objection. In accordance with facility policy, the coordinator or other designated staff person makes arrangements for appropriate staff to attend and participate in the hearing.
- Hearing Officer
7. Conducts the hearing and ensures receipt of all material and relevant statements, documents and testimony.
 8. Ensures that testimony and statements are recorded, either by a stenographer or electronically.

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9. Determines, from everything submitted by the parties at the hearing, if the objection is sustainable. In making this determination, considers, among other things, the person's program and service needs; whether services and programs currently received by the person meet those needs; whether other programs and services, more appropriate to meet the person's needs, are available within existing resources; and the efforts by staff to plan for and implement the provision of more appropriate programs and services within the current location and/or elsewhere.
10. Sustains the objection if, after weighing the above factors and any other relevant considerations advanced by the parties, he or she finds that the plan or proposed changes thereto, including facility initiated proposals to discharge, are not reasonable under the circumstances.
11. Prepares a written decision within fourteen (14) days of the hearing, setting forth findings made and reasons that support said findings. Where an objection is sustained, recommends resolution to the dispute. Forwards decision to the B/DDSO director.
- B/DDSO Director
12. Sends the hearing officer's written decision, by certified mail, return receipt requested, to the correspondent and MHLS. Includes a cover letter which explains that any party dissatisfied with the decision can appeal, within ten (10) days of receipt of the decision, to the Commissioner (including the Commissioner's name and address). Sends a copy of the decision to the person and his or her coordinator.
13. Where the hearing officer's decision sustains the objecting party's objection and recommends a resolution to the dispute, and no appeal is taken, attempts to carry out the recommended resolution in a timely fashion and within available resources.
- Parties to the Proceeding
14. May appeal the hearing officer's decision by sending a written letter of appeal to the Commissioner within ten (10) days of receipt of the decision.
- Commissioner
15. May, at his or her discretion, send the matter back to the hearing officer for further review.

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16. Upon receipt of letter of appeal, reviews evidence presented at hearing and, based on such review, renders a written decision on issues presented within fourteen (14) days of receipt of letter of appeal.
17. Sends written decision to all parties involved in the proceedings, by certified mail, return receipt requested.
- Objecting Party
18. May seek judicial review as provided by the laws of New York State.

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NOTICE OF RIGHT TO OBJECT TO A PERSON'S PROGRAM PLAN, PROPOSED CHANGES THERETO, OR PROPOSED DISCHARGE

(This is a suggested format. If a person is not a Willowbrook Class member, that portion of the notice referring to Willowbrook Class members is to be omitted.)*

Date _____

TO:

FROM:

SUBJECT: **RIGHT TO OBJECT TO A PROGRAM PLAN, PROPOSED CHANGES THERETO, OR PROPOSED DISCHARGE**

Enclosed is a copy of _____ (person's name) 's program plan incorporating (proposed changes thereto) (proposed discharge). If, after you have read this material you do not agree with the services, care, or treatment reflected in the plan, you have a right to object. You should feel free to contact the coordinator of the person's program plan if you have any questions about it. He or she will be happy to answer questions and discuss the plan, even if you do not have a specific objection, or help you resolve your differences of opinion. OMRDD has established specific procedures to make sure that all formal written objections and appeals are given fair consideration. Basically, this is a two step process:

1. A formal written objection is submitted to the B/DDSO director designated below.
2. An appeal is made to the Commissioner if the decision on your objection is unsatisfactory to you.

If you do not agree with the services, care, or treatment reflected in the program plan, the proposed changes thereto, or proposed discharge, and you wish to make a formal written objection, you should immediately contact:

_____ (insert name of B/DDSO director)
 _____ (address)
 _____ (phone number)

If you are elderly, ill, or living outside New York State, you are free to ask a specific advocacy group to a lawyer to act in your behalf in this appeal process.

*As _____ (person's name) is a member of the Willowbrook Class (that is, he or she was a resident at the Willowbrook Developmental Center on March 17, 1972), you may ask the Willowbrook Consumer Advisory Board to act in your behalf. If you are eligible and wish to designate the Consumer Advisory Board to act for you, you should immediately contact:

Willowbrook Consumer Advisory Board
 Staten Island B/DDSO
 1150 Forrest Hill Rd.
 Staten Island, NY 10314
 Telephone: (718) 698-5206