

Sample #2

Letter Format When Advising Correspondent of the Availability of Full Representation from the Consumer Advisory Board (CAB) for Class Members who already have co-representation

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

*USE YOUR AGENCY LETTERHEAD
DO NOT INCLUDE THIS HEADER AS PART OF CORRESPONDENCE*

Date sent [not date drafted]

Dear [Correspondent]:

I am writing to advise you of the availability of the Consumer Advisory Board (CAB), which advocates for Willowbrook class members. With the signing of the Willowbrook Consent Judgment, the CAB was designated to act “in loco parentis” (in place of the parent) for Willowbrook class members who have no involved family. In addition, the CAB is available to provide co-representation for family members who are unable to provide “active representation,” as required by the Willowbrook Permanent Injunction, i.e., participation with the program team in planning and evaluating the individual development plan and/or visits at least annually.

As you know, CAB is already serving as co-representative for (class member name) with you, which means that you sign off on all necessary documents and consent forms for (class member name) while local CAB staff attend case conferences and advocate for (class member name). However, CAB is available to fully represent (class member name) in the provision of active representation as required by the Willowbrook Permanent Injunction, i.e., participation with the program team in planning and evaluating the individual development plan and/or visits at least annually. Merely signing consent forms sent through the mail or receiving phone calls initiated by facility staff with no other involvement does not constitute active representation.

[State reason why full representation may be needed on behalf of class member]. As such, it is the recommendation of the program planning team that CAB full representation would best meet (class member)’s needs and complies with Willowbrook expectations for active representation. If CAB is designated to serve as the full representative for (class member name), local CAB staff will continue to attend case conferences and advocate for (class member name) and also sign documents on his behalf. You would in no way be giving up any of your rights as family, and the issue of (class member)’s active representation would be revisited at your request.

Please complete the enclosed Active Representation Response Form to reflect your preference in regards to active representation for (class member name).

If you have any questions regarding this form or require clarification of Willowbrook active representation, please contact me at (phone number). If I do not hear from you within 30 days of receipt of this correspondence, we will finalize arrangements for CAB full representation.

Thank you for your cooperation in ensuring active representation for (class member name).

Sincerely,

Service Coordinator/Case Manager

Enclosures: Active Representation Response Form
Responsibilities of Correspondent as described in OMRDD Policies and Procedures
Willowbrook Active Representation as defined in the Willowbrook Permanent
Injunction
'Actively Involved' as defined in OPWDD regulation 14 NYCRR section 633.11

Cc:
Residential program designee
Day program designee
[Others as appropriate]
Antonia Ferguson, Consumer Advisory Board
Service Coordinator Supervisor
DDSO Willowbrook Liaison

ACTIVE REPRESENTATION RESPONSE FORM

Class Member Name: _____

Date of Birth: _____

PLEASE CHECK ONE:

___ The Consumer Advisory Board (CAB) will act as the correspondent for my relative and will review and respond to issues of care and treatment which require written consents, including but not limited to: movements, release of information participation in activities (i.e., Special Olympics), routine medical and dental care, behavior management, including medication, etc. Effective November 22, 2005, the CAB may consent to surgery and general anesthesia when there is no other appropriate surrogate decision maker. Effective June 1, 2010, the CAB may serve as a surrogate to make an end-of-life decision when there is no other appropriate surrogate decision maker.

I understand that by signing my name to this request, I am in no way forfeiting my rights and entitlements as a correspondent, and that I may at any time request information (written or verbal) regarding my relative's care and the services he/she is receiving.

___ At this time, I will continue to serve as the correspondent for my relative along with CAB as co-representative. I will fulfill the responsibilities of the correspondent as described in the OPWDD Policies and Procedures, and Active Representation as defined in the Willowbrook Permanent Injunction. I understand that at any time I may seek the assistance of the CAB.

Signature: _____ Date: _____

Relationship: _____

Address: _____

Telephone: Home _____ Business _____

Responsibilities of Correspondent
as described in OPWDD Policies and Procedures

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 person 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.

Willowbrook Active Representation
as defined in the Willowbrook Permanent Injunction

Active Representation is generally defined as participation with the interdisciplinary team in planning and evaluating the individual development plan and/or visits between the correspondent and the individual class member at least annually. Merely signing consent forms sent through the mail or receiving phone calls initiated by facility staff with no other involvement does not constitute active representation.

Actively Involved
as defined in OPWDD regulation 14 NYCRR section 633.11

Significant and ongoing involvement in a person's life so as to have sufficient knowledge of the person's needs.