



Department of  
Developmental Disabilities

Division of Legal & Oversight

John R. Kasich, Governor  
John L. Martin, Director

TO: SSA Directors  
Intermediate Care Facilities  
Providers  
Superintendents  
COG Directors

FROM: Kathryn Haller, Deputy Director  
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SUBJECT: Behavioral Support Strategies  
Ohio Administrative Code Section 5123:2-2-06

DATE: December 22, 2014

On January 1, 2015, a new rule regarding behavioral support strategies will go into effect. This rule builds upon the progressive work that our community has engaged in over the past several years, such as the positive culture initiative and most recently, person-centered planning initiatives. We were fortunate to have an engaged group of stakeholders come together over the course of a year to develop this new rule. The group included self-advocates, advocates, licensed professionals, representatives of waiver providers and intermediate care facilities, people with experience in writing plans and people experiencing plans.

We know that for some, portions of the rule will produce change in current practice. For others, this will be an affirmation of what they are already doing. Regardless, we understand that a certain roll out period would be helpful to all.

**January 1, 2015 – June 30, 2015:** We will not cite boards for non-compliance with the new rule unless the action or activity would also have been a violation of paragraph (J) of 5123:2-1-02. We will not cite intermediate care facilities for non-compliance with the new rule unless the action or activity would have been a violation of 5123:2-3-25 or the federal conditions of participation. We do encourage boards and intermediate care facilities to follow the new rule as they write or renew plans during this period.

Boards and providers should examine the composition of their Human Rights Committees and adjust membership as indicated in the rule. OSDA and People First are available to locate candidates who may be interested in membership.

Boards and providers should also examine and update their policies and procedures.

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During this period we will be:

- a. Offering training on a regional basis to boards and providers, families and individuals.
- b. Developing on-going training which will be on-line and will address specific topics or specific audiences (e.g., members of Human Rights Committees).
- c. Offering technical assistance to boards and providers as we conduct regular reviews.

**July 1, 2015 ongoing:** At the time of the annual review, any individual plans with restrictive measures must be reviewed and revised in accordance with the new rule. Any new plans must conform to the new rule.

Human Rights Committee requirements should be met.

Revised policies and procedures should be in place.

Boards and providers should develop a plan to identify and revise existing plans allowing restrictive measures in circumstances that are not permitted under this rule. We would expect these plans to be modified by December 31, 2015 even if the annual review would normally occur later.

The Office of Provider Standards and Review will continue to offer technical support during this period but will also issue citations when there is substantial non-compliance with the rule.

#### **Restrictive Measures Notification:**

The rule requires that county boards, intermediate care facilities and DODD compile and analyze data regarding behavioral support strategies, particularly those including restrictive measures. In addition, county boards and intermediate care facilities are to notify DODD of behavioral support strategies which include restrictive measures. DODD has developed the Restrictive Measure Notification form ("RMN") (which replaces the Time-out Restraint Notification). This form and instructions for its use are attached to this memo. A link to the electronic form will be made available. It will also be available on our website. Boards must submit this form to DODD for any plan with a restrictive measure initiated or renewed after January 1, 2015. Intermediate care facilities must complete and submit this form for any plan with a restrictive measure initiated or renewed after July 1, 2015.

cc:	APSI	OPRA
	ARC	OSDA
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	OHIO SIBS	PEOPLE FIRST
		VFA