**Proposed 5123:2-2-05 Comparison to ICF Tags**

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| **5123:2-2-05** | **Provision** | **ICF Tag #** | **Provision** |
| **(I)(2)(a)(b)(c)(d)** | **The human rights and ethical oversight committee shall be comprised of no less than seven members and shall include: at least two individuals who receive specialized services or who are eligible to receive specialized services; At least two family members or guardians of individuals who receive specialized services; At least one representative of county boards; and At least one representative of providers.** | **W261** | **The facility must designate and use a specially constituted committee or committees consisting of members of facility staff, parents, legal guardians, clients (as appropriate), qualified persons who have either experience or training in contemporary practices to change inappropriate client behavior, and persons with no ownership or controlling interest in the facility** |
| **(I)(6)(a)–(k)** | **Members of the human rights and ethical oversight committee shall receive department-approved training within three months of appointment to the committee in the following topics: Introduction to developmental disabilities; The rights of individuals as enumerated in section 5123:62 of the Revised Code; Positive Culture; Confidentiality; Role of Guardian; Section 5126.043 of the Revised Code; Informed Consent; Causes and contributing factors to abuse of individuals; trauma-informed care; Rule 5123:2-17-02 of the Administrative Code; Department-issued information notices 08-09-02 and 08-11-03 (available at XX) and; Self-advocacy and self-determination** | **W261** | **Interpretive Guidelines: The regulation does not specify the professional credentials of the “qualified persons who have either experience or training in contemporary practices to change inappropriate client behavior.”** |
| **(E)(2)** | **The behavior support strategy shall be developed by the qualified intellectual disability professional or the service and support administrator, as applicable, with the active participation of the individual and the team.** | **W159** | **Each client’s active treatment program must be integrated, coordinated and monitored by a qualified mental retardation professional. *Interpretive guideline:* The facility has the flexibility to allocate staff resources in whatever manner it believes is necessary as long as it ensures that the QMRP function is performed effectively for each individual.** |
| **(E)(7)(f)** | **The qualified intellectual disability professional or service and support administrator, as applicable, to provide an individual or the individual’s guardian, as applicable, with written notification and explanation of the individual’s or guardian’s right to seek administrative resolution if he or she is dissatisfied with the behavior support strategy or the process used for its development** | **W124** | **Inform each client, parent (if the client is a minor), or legal guardian, of the client’s medical condition, developmental and behavioral status, attendant risks of treatment and of the right to refuse treatment** |
| **(E)(7)(h)** | **Review and reconsideration by the qualified intellectual disability professional or service and support administrator, individual and team at least every sixty days to determine and document the effectiveness of the behavior strategy and whether the strategy should be continued, discontinued or revised.** | **W262**  **W254** | **Review, approve, and monitor individual programs designed to manage inappropriate behavior and other programs that, in the opinion of the committee, involve risks to client protection and rights. *Interpretive Guidelines:* The committee periodically monitors restrictive programs to determine if the restriction of rights or risk to protections remains justified.**  **The individual program plan must be reviewed at least by the qualified mental retardation professional and revised as necessary, including, but not limited to situations.. *Interpretive Guideline: The interval in which IPP reviews are conducted is determined by the facility. However, the facility’s review system must be sufficiently responsive…*** |
| **(I)(3)(c)** | **On a quarterly basis, review and make a determination regarding whether the behavior support strategy or a component thereof is still required.** | **W262**  **W254** | **Same as Above**  **Same as Above** |
| **(E)(7)(b)** | **A risk assessment that clearly describes the behavior that poses imminent risk of harm, the level of risk posed by the behavior, when the behavior is likely to occur, and steps to be taken to mitigate the behavior** | **No Corresponding Tag** | **ICF regulations do not include a provision for risk assessment** |
| **(E)(7)(c)** | **A behavioral assessment conducted within the past twelve months that identifies the causes for an individual’s behavior and determines the most appropriate teaching and support techniques. The behavioral assessment for an individual who poses a community safety risk (i.e. the individual has taken action or attempted to take action to assault or injure others, set fires, or engage in sexual aggression) shall be conducted by persons who have the experience necessary to perform psychometric tests that assess and individual’s functional behavioral level who are one of the following:** | **W214**  **W159**  **W259** | **Identify the client’s specific developmental and behavioral management needs (this is part of the CFA)**  **Each client’s active treatment program must be integrated, coordinated and monitored by a qualified mental retardation professional. *Interpretive guideline:* The facility has the flexibility to allocate staff resources in whatever manner it believes is necessary as long as it ensures that the QMRP function is performed effectively for each individual.**  ***Guidelines:* It is not required that each assessment be completely redone each year. It is required that at least annually the assessment(s) be updated when changes occur so as to accurately reflect the individual’s current status.** |
| **(E)(7)(c)(i)-(v)** | **Psychologist licensed by the state pursuant to Chapter 4732. of the Revised Code; Professional clinical counselor licensed by the state pursuant to section 4757.22 of the Revised Code; Professional counselor licensed by the state pursuant to section 4757.23 of the Revised Code; Independent social worker licensed by the state pursuant to section 4757.27of the Revised Code; or Social worker licensed by the state pursuant to section 4757.28 of the Revised Code working under the supervision of a licensed independent social worker** | **W159** | **Each client’s active treatment program must be integrated, coordinated and monitored by a qualified mental retardation professional. *Interpretive guideline:* The facility has the flexibility to allocate staff resources in whatever manner it believes is necessary as long as it ensures that the QMRP function is performed effectively for each individual.** |
| **(D)(2)(a)(b)** | **There are two tiers of behavior support: (a)Positive techniques which are universally available for all individuals.(b)Restrictive techniques set forth in paragraph (H) of this rule** | **W277** | **Designate these interventions on a hierarchy to be implemented, ranging from most positive or least intrusive, to least positive and most intrusive** |
| **(G)(8)** | **Prohibited techniques: Time-out. “Time out” means as a consequence for behavior, confining an individual to a room and preventing the individual from leaving the room by applying physical force or by closing a door or other barrier, including placement in such a room when a care giver remains in the room with the individual.** | **W291** | **A client may be placed in a room from which egress is prevented only if the following conditions are met:**  **The placement is part of an approved systematic time-out program as required in paragraph (b) of this section. (Thus, emergency placement of a client into a time-out room is not allowed.)**  **The client is under the direct constant visual supervision of designated staff.**  **The door to the room is held shut by staff or by a mechanism requiring constant physical pressure from a staff member to keep the mechanism engaged.** |
| **(G)(11)** | **Prohibited techniques: restriction of an individual’s rights as enumerated in section 5123:62 of the Revised Code when there is no imminent risk of harm (such as attempts to control an individual’s habits regarding eating, smoking, or following directions.)** | **W262**  **W122** | **Review, approve, and monitor individual programs designed to manage inappropriate behavior and other programs that, in the opinion of the committee, involve risks to client protection and rights. *Interpretive Guidelines:* The committee periodically monitors restrictive programs to determine if the restriction of rights or risk to protections remains justified.**  **The Condition of Participation of Client Protections is not met when: Individual freedoms are denied or restricted without justification (e.g. systemic lack of privacy, of freedom of access to the community or to other individuals, in use of personal possessions and money, etc.)** |
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