



Information about Florida's Bill of Rights for Individuals with Developmental Disabilities

From the Protection and Advocacy for Individuals with Developmental Disabilities (PADD) Program at the Advocacy Center

In 1991, the Florida Legislature passed the Bill of Rights of Persons Who Are Developmentally Disabled (FL Code § 393.13). It is intended to provide a legal foundation to protect the treatment of individuals with developmental disabilities. "The system of care which the state provides to individuals who are developmentally disabled must be designed to meet the needs of the clients as well as protect the integrity of their legal and human rights." [FL Code § 393.13(2)(a)]

In summary, the basic aim of the bill of rights is to:

- Reduce the use of large institutions
- Encourage community-based services to provide alternatives to institutions
- Provide training which will foster the potential of individuals with developmental disabilities
- Streamline administrative procedures and clearly define responsibilities
- Ensure that personnel are qualified and able to meet the needs of individuals with developmental disabilities
- Clarify the legal and human rights of individuals with developmental disabilities so they are properly treated
- Provide for appropriate evaluation and treatment of individuals with developmental disabilities
- Enable the development of a plan to provide the most effective treatment programs possible
- Provide programs for the general well-being of individuals with developmental disabilities, such as medical care, education, training, social services, and guardianship
- Guarantee the dignity, liberty, pursuit of happiness, and protection of the civil and legal rights of individuals with developmental disabilities

The bill discusses specific rights as divided into two sections: the rights of all persons with developmental disabilities, and rights specific to clients of the Department of Children and Families' Developmental Disabilities Program.

Rights of All Individuals with Developmental Disabilities

The rights presented in this section apply to anyone with a developmental disability, as defined in Florida law. They are similar to the rights that we all share, but rephrased to apply specifically to individuals with developmental disabilities. [See FL Code § 393.13(3)]

A person with a developmental disability shall have a right to:

- Dignity, privacy, and humane care
- Be free of sexual abuse in a residential setting
- Freedom and practice of religion

- Receive services that protect the personal liberty of the individual and are provided in the least restrictive conditions
- Participate in educational lessons and instructional programs (including training in sex education, marriage, and family planning), regardless of age or degree of disability
- Interact socially and participate in community activities
- Physical exercise and leisure opportunities
- Be free of harm, including unnecessary physical, chemical, or mechanical restraint, isolation, excessive medication, abuse, or neglect
- Consent to or refusal treatment, unless the individual has a legal guardian, then that person has the right to consent or refusal
- Be included in, a member of, or a receiver of benefits of any program or service that receives public funds (it is also stated that this statute has authority over other statutes that may set a prohibition on a program)
- Vote in public elections

Rights Of Clients (Or Those Eligible To Be Clients) of the Department of Children and Families' Developmental Disability Program

The rights presented in this section apply specifically to clients (or those eligible to be clients) of the Department of Children and Families' (DCF) Developmental Disability Program (DDP). This also includes any person with a developmental disability that resides in a facility licensed by the state. [See FL Code § 393.13(4)]

DDP Clients shall have the right to:

- Communicate without restriction.
 - Each client is allowed to send and receive mail that is unopened by anyone but the client. A client's mail cannot be censored or delayed by facility personnel unless there is reason to believe that it contains items that could be harmful to the client or anyone else. If so, the chief administrator of the facility can enact reasonable inspection and regulation of a client's mail.
 - Each client is allowed opportunities to make and receive confidential telephone calls, unless there is reason to believe that the conversation content may be harmful to the client or anyone else. If so, the chief administrator of the facility can enact reasonable observation and monitoring of the phone calls.
 - Each client has the unrestricted right to visitation, in private, subject to reasonable rules set by the facility.
- Possess and use his or her own clothing and personal effects, unless the restricted use of some items is essential for the successful completion of a client's behavioral program. Also, the chief administrator of the facility may take temporary custody of items that could be detrimental to the client's health or safety. Such custody shall be recorded in the client's record along with a receipt immediately presented to the client or his or her parent or legal guardian.
 - Any money that belongs to a client but held by the facility or DCF shall be maintained responsibly and deposited in a bank account.
 - Any interest accrued on that money is the property of the client, for his or her personal use, and may not be used to offset the cost of residential care or benefit other clients in the facility.
 - If a client is discharged from the facility or passes away, all personal effects and money that belonged to him or her must be promptly returned to the client or his or her heirs.

- Receive prompt and appropriate medical treatment for any ailments (physical or mental), as well as for the prevention of illness or disability. All medical care must mirror the accepted standards of medical practice in the community.
 - A written order from a doctor is required for any medication given to a resident. No medication may be used to punish a client, nor to replace the implementation of a behavioral or support plan. Also, no medication may be given in excessive quantities.
 - A daily record of all medication received by each client must be kept.
 - The attending doctor or another appropriate monitoring source must review drug treatment procedures for each client periodically, at least every six months. Prescriptions must have a termination date.
 - A licensed pharmacist must supervise all pharmacy services provided at a residential facility.
 - Express and informed consent must be obtained from a client or his or her parent or legal guardian before beginning a plan of experimental medical treatment or undergoing a necessary surgical procedure. These decisions should be based on information provided to the client, including the nature of the procedures, all consequences, risks, benefits, and reasons for undergoing the procedures, and any alternative procedures that may be available.
 - When a parent or legal guardian is unknown or unavailable, and the doctor is unwilling to perform a procedure based solely on the client's consent, a court of competent jurisdiction must hold a hearing to determine if the procedure is appropriate.
 - A qualified doctor may render emergency care to a client without any consent, if a delay in care would endanger the health of the client.

- Use an individual storage space for his or her private use.

- Appropriate physical exercise as dictated in his support plan. Indoor and outdoor exercise facilities must be provided.

- Receive humane discipline.

- Examination by a doctor before undergoing any treatment program designed to eliminate unusual behaviors.
 - Treatment programs using noxious or painful stimuli are prohibited.
 - Any violations of this right must be reported immediately to the chief administrator of the facility or a district administrator, the DCF head, and the Florida local advocacy council. Investigations of each incident should be conducted, with written reports of the findings presented to the chief administrator and DCF head within 24 hours of the discovery of the incident.
 - Florida statewide or local advocacy councils must review all behavior programs. These reviews must be based on established guidelines for the design, approval, implementation, and monitoring of the program. No program may be implemented before it has been reviewed.

- Receive fair wages for any labor performed while in a work program.

- Be free of unnecessary physical, chemical, or mechanical restraint. Restraints must only be used in emergencies or to protect the client from imminent injury to himself or herself or others. Restraints shall not be used as punishment or for staff convenience. Restraints shall be removed as soon as an emergency situation ends. They shall not cause physical injury to the client, and in fact must allow the greatest possible comfort.

- Mechanical supports used in situations to achieve proper body position and balance are not considered restraints, and must be applied under the supervision of a qualified professional.
 - Completely enclosed cribs and barred enclosures are considered restraints.
 - Daily reports on the use of any restraints by those authorized to employ them must be made to the chief administrator, and a monthly summary of those reports must be distributed to the district administrator and the Florida local advocacy council. Districts must submit quarterly reports to the state DDP office.
 - These rules must be posted in the living units of all residential facilities. They must also be provided to all staff and made a part of all staff training programs.
- A central record that includes all data pertaining to admission and other required information listed under the above rights and rules.
 - Unless waived by the client or his or her parent or legal guardian, the client's central record must be kept confidential. Exceptions to this rule include:
 1. The record may be released to doctors, attorneys, and government agencies having need of the record to aid the client.
 2. The record must be produced in response to a subpoena or by other order of court.
 3. The record may be released to a researcher, staff member, or other employee of DCF when the administrator feels it is necessary for the treatment of the client, maintenance of data, or the evaluation of programs.
 4. Information from the record may be used for statistical and research purposes if any identifying information is removed first.
 - All central records must be kept on universal forms distributed by DCF. The record must accurately summarize each client's history and present condition.
 - A client, or the client's parent or legal guardian, must be supplied with a copy of the client's central record upon request.
 - Vote in public elections if eligible. Facilities should arrange for residents to vote if a client wishes to do so.

Notice of Rights and Resident Government

Within this bill of rights, it is stated that anyone with a developmental disability, or that person's parent or legal guardian, must receive a copy of the act, upon request to DCF or the Department of Education. Anyone with a developmental disability must be informed of his or her rights in a language or mode of communication that the person understands.

Also, this bill of rights states that a residential facility must initiate and develop a program of resident government. It should be composed of residents elected by other residents, staff members with administrative skills, and a representative from the Florida local advocacy council. The resident government should gather the views and interests of the clients served by the facility, and communicate with the district administrator and Florida local advocacy council to promote the interest and welfare of the residents at the facility.

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