Rights Restriction and Restraints

Rights, Restriction, and Restraint

701 Series: Community Services Policies & Procedures

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POLICY

EPI will create and maintain procedures to ensure persons supported are taught and exercise their rights and accept responsibilities. A restriction takes place when a person served is not allowed to exercise a right. Any such restriction will be a temporary measure unless it is a result of legal action. All actions to restrict rights will follow the agency's established due process without exception.

Written procedures will specifically address, but not limited to, the following:

1. Understanding of Rights and Responsibilities
2. Rights Restriction/Due Process
3. Restraint
4. Human Rights Committee

PROCEDURE

** For purposes of these procedures, "Independent Contractor" is defined as a "contractor providing residential and community based services" and will be referred to as "contractor".

EPI contends all persons will be afforded basic human rights as defined by the laws practiced in the United States. EPI believes legal protection of human rights extends to all persons receiving services. In order for persons served to fully experience all basic human rights, EPI offers individualized opportunities for learning and exercising rights in addition to recognizing complimentary responsibilities. Training emphasizes the comprehension of responsibilities in order to promote opportunities to maintain all basic human rights. EPI believes rights afforded to all citizens as indicated by the United Nations Declaration of Human Rights such as;

- All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.
- Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.
- Everyone has the right to life, liberty and security of person.
- No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.
- No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.
- Everyone has the right to recognition everywhere as a person before the law.
- All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.
- Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.
- No one shall be subjected to arbitrary arrest, detention or exile.
- Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.
- Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defense.

Applicability:

- Applies to: All Community Service Staff
- Assigned Series Owner: Executive Operations Director

Effective Dates:

- Board approved: February 2021
- Policy updates: February 2021
- Procedure updates (latest): October 2025

Latest Change:

- Assessments

Regulation:

- IAC CH 24.4(8)
- CQL Basic Assurances®

Related:

- Iowa HCBS Final Settings Rule

- No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.
- No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks.
- Everyone has the right to freedom of movement and residence within the borders of each state.
- Everyone has the right to leave any country, including his own, and to return to his country.
- Everyone has the right to seek and to enjoy in other countries asylum from persecution.
- This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.
- Everyone has the right to a nationality.
- No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.
- Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
- Marriage shall be entered into only with the free and full consent of the intending spouses.
- The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.
- Everyone has the right to own property alone as well as in association with others.
- No one shall be arbitrarily deprived of his property.
- Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.
- Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.
- Everyone has the right to freedom of peaceful assembly and association.
- No one may be compelled to belong to an association.
- Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
- Everyone has the right of equal access to public service in his country.
- The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.
- Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.
- Everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment.
- Everyone, without any discrimination, has the right to equal pay for equal work.
- Everyone who works has the right to just and favorable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
- Everyone has the right to form and to join trade unions for the protection of his interests.
- Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.
- Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
- Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.
- Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
- Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
- Parents have a prior right to choose the kind of education that shall be given to their children.
- Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

- Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.
- Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.
- Everyone has duties to the community in which alone the free and full development of his personality is possible.
- In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.
- These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.
- Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein. (Source https://www.un.org/en/universal-declaration-human-rights/index.html)

EPI maintains the responsibility to teach and support principles of exercising rights and accepting outcomes. Exercising rights requires an obligation to act in a responsible manner. When a person served is found to be incompetent by a court of law, EPI will guarantee decisions about rights, freedoms or responsibilities are transferred to the appropriate legal representative. Employees and contractors are responsible to protect and actively advocate for the empowerment of all persons served.

PROCEDURE - Understanding of Rights and Responsibilities

Persons served and the legally responsible party will receive and review the "Statement of Rights and Responsibilities" at the time of admission and annually thereafter. This statement along with annual meetings help promote freedom from financial exploitation, freedom from humiliation, promotes access to information, facilitate his/her decision making and informed consent or refusal/expression of choice regarding concurrent services and composition of service delivery. The statement is prepared in written, pictorial, audio and Braille formats for appropriate distribution. Person served and their Interdisciplinary team (IDT) have access to Rights, Restrictions and Restraints policy at all times by visiting EPI's website. The original copy will be filed in the permanent file of the person served. In addition to the "Statement of Rights and Responsibilities" the following methods are also used to educate and promote rights;

1. Persons served will participate in completing the Person Centered Assessment at the time of admission and annually thereafter if service warrants.
2. Individualized training will be recognized in the Individual Service Plan (ISP) as determined necessary by the IDT.
3. Personal Outcomes Measure (POM) Interviews.
4. EPI employees will receive formal training of persons served rights and responsibilities at onset of employment, annually thereafter and when changes arise.
    1. Contractors will receive persons served rights and responsibilities through the persons served ISP. Updates will be provided by participation in ISP meeting including members of the IDT. Questions or concerns regarding rights and responsibilities of persons served should be brought to the Service Coordinator at EPI.

PROCEDURE - Rights Restriction/Due Process

During the person centered planning process individual health and safety strengths and barriers are reviewed in depth. In the event the individual and/or their team feel all measures not requiring a formal restriction have been implemented and exhausted, the team will then discuss and develop a formal rights restriction plan. This plan will outline the justification, what has been tried in the past, the plan to restore the right, and a date in which the restriction will next be reviewed.

1. Restrictions, and the plans to reduce or restore a right, will be based on the needs of an individual person to reduce or eliminate a maladaptive behavior.
2. Incidents creating an imminent risk to health, safety or well-being of person served or others may limit the scope of procedural practices; however rights will not be restricted without the verbal consent of person served or legal representative and case manager/care coordinator. Appropriate documentation will be completed as soon as possible after such an event.

3. Any restriction of rights will be a temporary measure unless it is a result of legal action.
4. The Front Line Supervisor shall review the restriction documentation, data collection and teaching strategies at least quarterly to determine progress towards restoration.
    - This review shall be documented within the progress review summary.
5. Prior to all restrictions of rights, attempts at less restrictive measures must be completed with documentation as to outcome(s). This will be reviewed by the IDT.
6. The IDT must develop written justification of the right(s) to be restricted. This plan must be in the ISP as well as the authorizing plan.
7. The person served or legally responsible party must provide informed consent.
8. The Human Rights Committee will review standing rights restrictions to ensure appropriate due process and procedure was completed.
9. Restrictions will not be used as punishment, convenience, or as a substitute for a behavior intervention program. Corporal punishment, verbal abuse and physical abuse are prohibited.

PROCEDURE - Restraint

EPI policy prohibits the use of restraint of any type to persons served. Prohibited restraints include, but are not limited to, chemical restraints, floor restraints, "take downs", and standing orders for restraint. The use of time out rooms is also prohibited. Training is required in other methodologies that promote compromise and dignity.

Chemical restraints are defined in Iowa Administrative Code (IAC) as: medications administered to control acute, episodic behavior, restrict freedom of movement, or sedate the member that is not a standard treatment for the member's medical or psychiatric condition.

PROCEDURE - Human Rights Committee

The mission of the Human Rights Committee at EPI strives to enable individuals to exercise and promote basic civil, human and legal rights. Any restrictions to these rights will be temporary in nature and will receive due process. The Human Rights Committee will function as an advisory body to the organization to improve quality of life for person served.

The Human Rights Committee values;

- All people have rights
- Any RIGHT cannot be limited without due process
- All Rights have responsibilities
- It is important to support people with limited life experiences to exercise rights responsibly

Roles and Responsibilities

The role of a member of EPI's Human Rights Committee is as follows;

- Protect and ensure rights are not ignored or infringed upon
- Support mission and values of EPI while respecting individual preferences
- Challenge and investigate alternative options which promote independence
- Facilitate education around rights and responsibilities for staff and person served
- Be a strong advocate for eliminating restrictions

Membership

Membership for the Human Rights Committee shall be a diverse group of members. Assigned employees and community experts who will provide due process and recommendations to individuals who are in danger of facing restrictions or currently restricted. The Human Rights Committee shall be led by a staff member and consist of at least six members with two being an individual not affiliated with EPI. The committee will meet once each month unless there are no restrictions to review. A quorum of five is required to proceed.

Please see Human Rights Charter for specific details.

Training

Members of the Human Rights Committee will be expected to complete the following trainings within the first 30 days of becoming a member.

- History of EPI video
- A Working and Effective Human Rights Committee created by CQL
- HIPAA on Relias
- EPI Rights, Responsibilities and Restrictions on Relias

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