

Clients' Rights Training

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Clients' Rights Advocate

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Who is the Clients' Rights Advocate (CRA)?

- Area Board XI Community Program Specialist II assigned to Fairview Developmental Center.
- Orange County office of State Council on Developmental Disabilities (SCDD).
- Mandated by Lanterman Act to protect and advocate for civil, legal and service rights of people with developmental disabilities and their families.
- DDS/SCDD contracts with Fairview.

What The CRA Can Do

- Listen when the client needs to talk to someone.
- Investigate Rights violations.
- Help represent the client to ensure their rights are protected.
- Help the client decide on a plan of action, when needed.

Section 1

*Everyone Has the Right to Be
Treated with Dignity and Respect*

- Every aspect of providing services and care is an opportunity to practice Fairview's values, mission, and policies.
- It also ensures that each person is treated with dignity and respect.

- We recognize and honor the unique value and qualities of all individuals.
- **The Universal Declaration of Human Rights** (adopted after World War II by the United States and the United Nations) recognizes the “inherent dignity and the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.”

- Persons residing at this facility shall have the same rights to opportunities for growth and development as other individuals.
- Each client has the inherent right to fulfill his or her full potential.
- It is possible to help all persons who have developmental disabilities to lead a rich, dignified, honored, and socially enhancing life regardless of handicap.

Human/Client Rights 1960's & 1970's

- Civil Rights Act (1974)
- Willowbrook State Hospital
 - Robert Kennedy (1966)
 - Geraldo Rivera (1972)
- Christmas in Purgatory: A Photographic Essay on Mental Retardation. Blatt and Kaplan (1974)

Human/Clients Rights (continued)

- California Lanterman Mental Retardation Services Act of 1969
 - Initiated services for person who had mental retardation and funding for 2 Regional Centers in San Francisco & Los Angeles
- California Lanterman Act of 1976
 - Expanded services to those who had cerebral palsy, epilepsy, autism and conditions similar to mental retardation.
 - Mandated state obligation to provide care for individuals who have developmental disabilities and the right for individuals to receive this care.
 - California regional centers increased from 2 to 21.

Where found in state regulations

- The Lanterman Act - Welfare and Institutions Code, Section 4502-4505.
- Title 17; California Code Regulations – Division 2, Chapter 1, Subchapter 5 – Section 50510.
- Title 22; Division 6, Chapter 1 - Section 80072, “Personal Rights”.
- Title 22; Division 6, Chapter 6 - Section 85072, “Personal Rights”.

Rights of All People Who Have Developmental Disabilities

- “Persons with developmental disabilities have the same legal rights and responsibilities guaranteed all other individuals by the United States Constitution and laws, and the Constitution and laws of the State of California.”
 - California Welfare & Institutions Code § 4502

Rights of All People Who Have Developmental Disabilities

1. The right to treatment and habilitation services and supports, in the least restrictive environment, that foster the developmental potential of the person and be directed toward the achievement of the most independent, productive and normal lives possible.
2. The right to dignity, privacy, and humane care. To the maximum extent possible, treatment, services and supports shall be provided in natural community settings.

Rights (continued)

3. The right to participate in an appropriate program of publicly supported education, regardless of degree of disability.
4. The right to prompt medical care and treatment.
5. The right to religious freedom and practice.
6. The right to social interaction and participation in community activities.
7. The right to physical exercise and recreational opportunities.

Rights (continued)

12. The right to be free from harm, including unnecessary physical restraint, or isolation, excessive medication, abuse, or neglect.
13. The right to be free from hazardous procedures.
14. The right to make choices in their lives, including, but not limited to, where and with whom they live, their relationships with people in their community, the way they spend their time, including education, employment, and leisure, the pursuit of their personal future, and program planning and implementation.

Rights Of People Living In Developmental Centers

- People living at Fairview have the right to:
 1. Keep and be allowed to spend their own money for personal and incidental needs.
 2. Keep and wear their own clothing.
 3. Keep and use their own personal possessions, including toiletry articles.
 4. Have access to individual storage space for their private use.

Rights of Residents (continued)

5. See visitors each day.
6. Have reasonable access to telephones, both to make and receive confidential calls, and have calls made for them upon request.
7. Have ready access to letter-writing materials, including stamps, and to mail and receive unopened correspondence.
8. Refuse electroconvulsive therapy.

Rights of Residents (continued)

9. Refuse behavior modification techniques which cause pain or trauma.
10. Refuse brain surgery.
11. Make choices about their daily living routines, choice of companions, leisure and social activities and program planning and implementation.
12. Other rights, as specified by government regulations.

Denial of Rights

Certain rights may be denied for good cause (safety)

- If providing the right puts the individual, others, or the facility in danger,

And

- All less restrictive methods have been tried,

And

- There is a plan to reinstate the right,

Then....

Denial of Rights (continued)

- The ID Team, the Human Rights Committee, the CRA, and the Executive Director of Fairview may make a decision to deny a right for a limited amount of time.
- The denial must be reviewed every month.

Denial of Rights/Need Good Cause

- Danger to self.
- Danger to others.
- Danger to property.
- No less restrictive means of protecting self, others or property is available.

Rights That May Be Denied for Good Cause

- To keep and be allowed to spend one's own money for personal and incidental needs.
- To keep and wear one's own clothing.
- To keep and use one's own personal possessions, including toilet articles.
- To have access to individual storage space for one's own private use.

Rights Denied for Good Cause (continued)

- To have access to telephones, both to make and to receive confidential calls.
- To mail and to receive unopened mail and to have ready access to letter writing materials and postage.
- To see visitors each day.

Denial of Rights

- Denial must be related to the right being denied.
- Cannot deny a right as a punishment.
- A right is not a privilege to be earned.

Clients' Rights

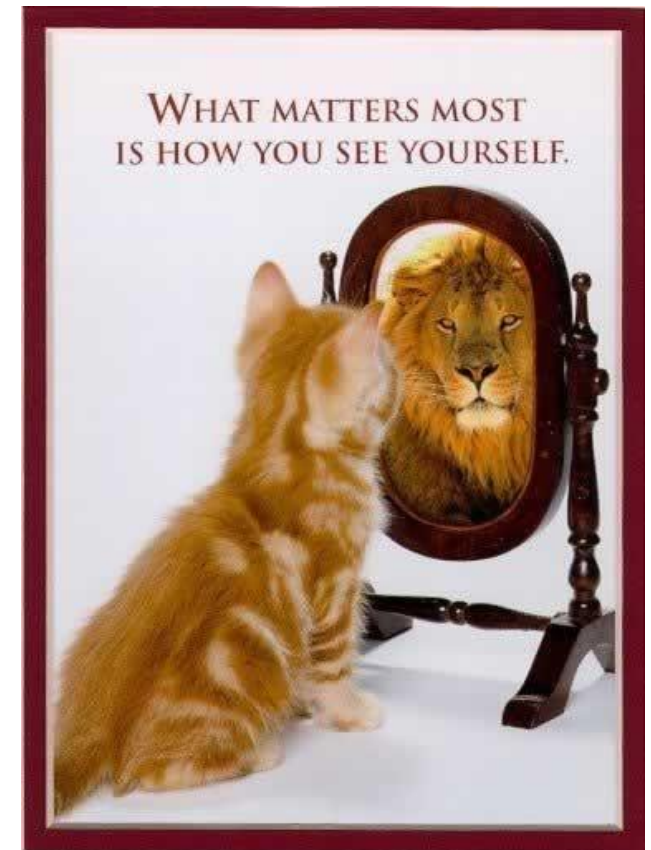
For a complete listing of clients' rights, please also refer to:

- FDC's Policy & Procedure Manual 1.5.1 - 1.5.3.
- The Lanterman Act (Welfare & Institutions Code, sections 4502-4505).
- Rights posters posted on all client residences and in all client activity areas and conference rooms.

Self-Esteem Develops When People Are Treated with Dignity

Self-esteem:

- I am worthy of respect in all areas of life.
- I am proud of my accomplishments.
- I contribute to my community and society.
- I have strengths as well as weaknesses.



Empowerment

Increases self-esteem and confidence

- Strive to develop talents.
- Achieve goals for life.
- Reinforce personal values.
- Right to change.
- Right to succeed.

Communication

- Appropriate communication is the key to providing dignified care to our clients.
- Continuous communication is vital to every interaction.
- There is more than one way to communicate.



Ever notice how people
who tell you to
calm down...
are the ones who
got you mad
in the first
place..



2010/10/10

Additional Principles & Practices

- Refer to all clients by name.
- Address individuals using appropriate language, tone, cadence for their age.
- Assist individuals to exercise personal autonomy by providing acceptable styles of age-appropriate dress and appearance.
- Provide commonly acceptable training materials and leisure activities.

You and I

- I am a resident. You reside
- I am admitted. You move in.
- I have behavior problems. You are rude.
- I am non-compliant. You don't like to be told what to do.
- When I ask you out to dinner, it is an outing. When you ask someone out, it is a date.
- I don't know how many people have read the progress notes people write about me. I don't even know what is in there. You didn't speak to your best friend for a month after they read your journal.
- I make mistakes during my check writing program. Someday I will get a bank account. You forget to record some withdrawals from your bank account. The bank calls to remind you.
- I wanted to talk with the nice-looking person behind us at the grocery store. I was told that it was inappropriate to talk to strangers. You met your spouse in the produce department. He couldn't find the bean sprouts.

You and I (continued)

- I celebrated my birthday yesterday with 5 other residents and 2 staff members. I hope my family sends me a card. Your family threw you a surprise party. Your brother couldn't make it from out of state. It sounded wonderful.
- My case manager sends a report every month to my guardian. It says everything I did wrong and some things I did right. You are still mad at your sister for calling your mom after you got a speeding ticket.
- I am on a special diet because I am 5 pounds over my ideal body weight. Your doctor gave up telling you.
- I am learning household skills. You hate housework.
- I am learning leisure skills. Your shirt says you are a "couch potato".
- After I do my budget program tonight, I might get to go to McDonald's if I have enough money. You were glad that the new French restaurant took your charge card.

You and I (continued)

- My case manager, psychologist, R.N., occupational therapist, physical therapist, nutritionist and house staff set goals for me for next year. You haven't decided what you want out of life.
- Someday I will discharge...maybe.
- You will move onward and upward.

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Elaine Popovich, Lutheran School Services, Midland (written by a self advocate)

Client Rights

- Each person is actively assisted and encouraged to exercise those rights and privileges to the fullest extent of his/her ability.
- This includes participation in their Individual Program Plan and activities within FDC and the community.

Participation

- Encourage individuals to exercise all rights as citizens, with impartial assistance only.
- Identify interests and abilities in ID Team meetings.
- Meet with consumers before their IPP to encourage their participation in the IPP meeting.
- Encourage participation in self-advocacy activities and groups (People First of Fairview and Fairview Community Association).

Section 2

LEGAL PROCESS



Request for Release (Writ) Protocol

- When a client (or someone on the clients' behalf) states they want to leave Fairview or live elsewhere.....
- The CRA should be called and a Request for Release Form (DS 5227) should be completed immediately and sent to Clinical Records Department for processing.

Writ of Habeas Corpus

- The request for release form is processed by the Public Defenders Office who files the Writ of Habeas Corpus with the Orange County Superior Court.
- A hearing is scheduled to explore if Fairview is the least restrictive environment that the client could live in.
- Because all FDC clients are court committed, they have a right to have a Writ filed on their behalf and have their placement reviewed by a judge.

Consumer Complaint Process (§ 4731 Complaint)

- Permits each client or any representative acting on his/her behalf, to pursue a complaint against a regional center, developmental center, or provider when any right has been wrongly or unfairly denied.
- State Developmental Center residents make the complaint to the director of that Developmental Center.

Consumer Complaint Process

- An investigation into whether complaint is true **MUST BE** completed within 20 working days of receipt of the complaint.
- A written response, including a proposed resolution to the complaint, with suggestions to resolve the concerns or actions, is sent to the complainant.
- The resolution shall be effective on the 20th day after receiving the response unless appealed within 15 days to DDS.

If the Complainant is Dissatisfied with the Response

- The client/representative is referred to the next level of appeal.
 - Within 15 working days, the complaint is sent in writing to the Director of DDS, Office of Human Rights and Advocacy.
 - DDS must issue a written administrative decision within 45 days of receipt of the complaint.
- No administrative procedure is available to appeal the decision beyond the Director of DDS.

Fair Hearing Process (§ 4700 Appeal)

- Legal process used to resolve disputes regarding eligibility, the nature, scope, amount of services and supports, or any decision or action requested to be appealed.
- Includes a voluntary informal meeting with FDC Administration, or mediation, and/or a formal fair hearing before an Administrative Law Judge (ALJ), when requested.
- Complainant and facility may submit evidence defining each side of the dispute.
- The laws of the Lanterman Act are applied to the decision.

Appeal Rights

Clients have a right to:

- A Fair Hearing.
- Have a person or agency appointed by the local area board as their representative to assist.
- Be present for proceedings with representative and council of their choosing.
- Confront and cross-examine witnesses.
- All relevant information on the process.
- An informal meeting with the Executive Director or to go directly to the Fair Hearing Process by an ALJ.

For Questions Contact:



- Laurie S. St.Pierre, Clients' Rights Advocate
FDC- Residence 19, Advocacy Services
714-957-5690
- Susan Eastman, Executive Director
Area Board XI - SCDD, Santa Ana, CA
714-558-4404