

1.38	Division Human Rights Council	Page 1 of 3
Issue date: 02/14	Revision date:	Division Staff
Form(s): None	Authorizing Utah Code: 62A-5-103(2)(g)	

I. Directive Purpose:

The purpose of this Directive is to establish rules governing the make-up and structure of the Division Human Rights Council (DHRC) as well as the procedure by which the DHRC operates. The mission of the DHRC is to promote and protect the rights of persons who receive services through the Division of Services for People with Disabilities (Division) according to the Division's governing statutes, rules, and mission statement. This Directive does not in any way attempt to establish administrative hearing rights in addition to those already codified in statute or rule.

II. Definitions:

- A. "Present" for purposes of establishing a quorum includes physical presence, in person, at the location in which the meeting is being held, as well as live participation telephonically and/or electronically from a remote location.

III. Policy:

A. The Function of the DHRC shall be:

1. To review initial Provider Human Rights Plans for all new provider agencies;
2. To hear appeals of Provider Human Rights Committee decisions and provide direction to remedy those situations as per Section R539-3-4(5);
 - a. The DHRC shall maintain and monitor an email, an active phone line, and a mail slot at the Division, through which to receive and respond to complaints regarding restrictions on the rights of persons in services, and aid interested persons in requesting an appeal through the DHRC.
3. To report on any trends or concerns to the Disabilities Advisory Council:
 - a. Biannually;
 - b. As needed, determined by the DHRC; and
 - c. As requested by the Disabilities Advisory Council.
4. To collaborate with the Division's trainer in developing and presenting trainings for Providers or Provider Human Rights Committees that address any reoccurring rights violations and/or provide necessary clarification in regard to trends in Human Rights violations discovered through the process of DHRC meetings. These trainings will be designed to address best practice, as well as rectify any violations of Human Rights already outlined in Utah Administrative Rule. The DHRC shall, at minimum, conduct meetings biannually to discuss any need to develop additional trainings, in conjunction with preparing to report on trends to the Disabilities Advisory Council.
5. To hold annual public meetings to gather input regarding rights of persons in services, general concerns, necessary protections and improvements, and best practices from all interested members of the public, including persons in services and providers of services.

B. Membership of the DHRC:

1. The DHRC shall be comprised of the following members:
 - a. A minimum of one member of the community with a background and experience in disabilities;
 - b. A minimum of one family member of a person who currently receives Waiver services through the Division; and/ or a person who currently receives state Medicaid or Waiver services.

- c. A minimum of one designated staff member from the Division;
 - d. A minimum of one representative from Adult Protective Services;
 - e. A minimum of one designated representative from the Department of Health;
- 2. DHRC membership shall not exceed 12 members.
- 3. All DHRC Members shall possess some knowledge in the following areas:
 - a. Basic rights of persons receiving services through the Division;
 - b. Standards of informed consent;
 - c. Overview of developmental disabilities;
 - d. Positive behavior supports and non-aversive strategies; and
 - e. Principles of least restriction, normalization, reasonable accommodations and protection from harm.
- 4. DHRC members shall be appointed by the Division for a term of two (2) years and may be reappointed for one additional two (2) year term.
- 5. The first round of DHRC member appointment shall be staggered so the DHRC does not have all new membership in the years following. A minimum of two (2) initial members shall serve an additional year (for a total of 3 years) before their first term ends.
- 6. The DHRC members shall appoint a Chairperson and a Recorder from among its members.
 - a. All members of the DHRC are eligible for appointment as Chairperson or Recorder.
 - b. A Chairperson shall be appointed to a one (1) year term, and shall be responsible to:
 - i. Call additional meetings as needed;
 - ii. Preside over meetings and appeals, and facilitate orderly discussion of topics properly before the DHRC; and
 - iii. Perform other duties as are incident to the appointment and that are established by resolution by the DHRC members.
 - c. A Recorder shall be appointed to a one (1) year term, and shall be responsible to:
 - i. Keep written minutes and recordings of open meetings; and
 - ii. Coordinate public notice of meetings with designated Division staff.
- 7. Members may be removed from the DHRC in the following ways:
 - a. Any member may resign from membership in the DHRC at any time by providing one (1) month written notice to the Chairperson;
 - b. Any member may be removed from membership by majority vote of the of the DHRC, for cause only, including but not limited to:
 - i. Continuous failure to be present at meetings; or
 - ii. Continuous failure to follow through with tasks assigned by the DHRC.
- C. Voting Rights are as follows:
 - 1. Each member shall have an equal voice when discussing topics, deciding on the direction of the DHRC, and setting agenda items;
 - 2. Each member shall have one vote;
 - 3. For the DHRC to take any action, a quorum must be present. Quorum shall require a minimum of 75% attendance in order to vote, and will require a minimum of one (1) voting member physically present at the location in which the meeting is being held.
 - 4. All votes shall require a simple majority of the quorum members present, except as otherwise provided in this directive or in rule.
- D. Meetings shall be held quarterly, or as needed depending on the situation.
- E. Appeal Process:
 - 1. Standard Practice:

- a. An interested party may request an appeal of a Provider Human Rights Committee decision by requesting involvement of DRHC to the Division via email, phone, in person, or in writing.
 - b. In accordance with R539-3-4(5), The DHRC shall notify all appropriate parties of its decision to hear the case, within eight (8) business days of receiving the request for an appeal.
The notification shall contain a statement of the issue to be reviewed, the process by which all appeals are reviewed, and a date upon which the appeal shall be held.
 - c. The DHRC shall prioritize appeals according to the severity of the issue to be reviewed.
 - d. A standard appeal shall be heard no less than three (3) business days and no more than 30 days from the date of the written request.
 - e. The decision by the DHRC following the appeal shall be issued no later than ten (10) business days after the appeal review is concluded.
2. Emergency Situations:
- a. The DHRC shall have the ability, in its discretion to determine that a certain situation or practice reported, if true, rises to the level of an emergency situation, and immediately suspend the practice in question, pending an appeal.
 - b. If the DHRC determines an emergency situation exists:
 - i. It shall immediately notify all appropriate parties of its decision to hear the case upon suspending the practice in question;
 - ii. An appeal shall be heard no less than three (3) business days and no more than fifteen (15) business days from the date of the request; and
 - iii. The decision by the DHRC following the appeal shall be issued no later than five (5) business days after the appeal review is concluded.
 - c. If DHRC determines the situation is not an emergency, the interested person who requested the appeal shall be instructed to submit a request in accordance with the Standard Practice laid out in Subsection (E)(1) above.
3. Procedure for Appeal:
- a. The interested party requesting the appeal and/or a designated representative presenting information on behalf of the person in services, as well as the provider or a representative presenting information on behalf of the provider, shall be permitted to comment on the issues via email, phone or in person to the DHRC council members.
 - b. The DHRC will be permitted to ask any questions, of the parties, necessary for clarifying any information provided, as well as to request commentary from other subject matter experts as deemed necessary by the DHRC.
 - c. The setting shall be informal, and is not an adjudicative proceeding as prescribed by rule or statute.