



Route: [Ohio Administrative Code](#) » [5123:2 Community Services](#) » [Chapter 5123:2-1 County Board of Mental Retardation and Developmental Disabilities](#)

5123:2-1-02 County board administration.

Go To:

[Prev](#) | [Next](#)

(A) Purpose. This rule directs the planning and administration of county board of MR/DD services, supports, programs and facilities. Implementation of this rule in county boards will promote the development of uniform policies and procedures which protect the rights of individuals with disabilities and ensure the safe and equitable provision of services and programs to eligible individuals and their families.

(B) Each county board shall develop and adopt an annual action plan which covers at a minimum the following:

(1) A statement of philosophy, an organizational chart, and goals and objectives which shall reflect the major components of the comprehensive program, the administrative personnel in charge of the program(s) and their lines of authority and responsibility, and public access to county board administrative offices.

(2) The results of the assessment of the facility, service, and support needs of eligible people of the county with the mental retardation or other developmental disabilities. The facility, service, and support needs shall be projected over the next year. The assessment results shall include, but not be limited to, the following:

(a) Documentation of input received from people and their families receiving services and supports, local public service agencies, county board staff, developmental centers, residential providers, and other providers of services to people with mental retardation or other developmental disabilities as to the quality of services and supports received, gaps in the services and supports available, and recommendations for change.

(b) The number of people needing to be served and the number of people actually served in each major program and service component of the county board's comprehensive program, including how the board will plan, set priorities, and acquire resources related to waiting lists.

(3) A statement(s) as to how the county board shall address the following service needs of individuals eligible to receive services: service coordination, service monitoring, crisis intervention, and major unusual incident review and assessment; and a statement of how the county board shall address information and referral activities, without regard to eligibility for service.

(4) The county board shall hold a public forum annually to gather public comment on the action plan. The county board shall provide a thirty-day notice of the date of the public forum and make the plan available for review by interested persons. The information gathered at the public forum shall be considered in final revisions to the plan which shall be available for distribution to staff, people served or their representative parents of a minor

or guardians, and the interested public.

(C) Eligibility determination for developmental disabilities or developmental delay

(1) "Developmental disability" means a severe, chronic disability that is characterized by all of the following:

(a) It is attributable to a mental or physical impairment or a combination of mental and physical impairments, other than a mental or physical impairment solely caused by mental illness as defined in division (A) of section [5122.01](#) of the Revised Code;

(b) It is manifested before age twenty-two;

(c) It is likely to continue indefinitely;

(d) It results in one of the following:

(i) In the case of a person under age three, at least one developmental delay or an established risk;

(ii) In the case of a person at least age three but under six, at least two developmental delays or an established risk;

(iii) In the case of a person age six or older, a substantial functional limitation in at least three of the following areas of major life activity, as appropriate for his age: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and, if the person is at least age sixteen, capacity for economic self-sufficiency.

(e) It causes the person to need a combination and sequence of special, interdisciplinary, or other type of care, treatment, or provision of services for an extended period of time that is individually planned and coordinated for the person.

(2) A substantial functional limitation in a major life area is determined through completion of the "Ohio Eligibility Determination Instrument" (OEDI) and application of criteria found therein.

(3) For children age six through fifteen, a substantial functional limitation in a major life area is determined through completion of the "Children's Ohio Eligibility Determination Instrument" (COEDI) and application of criteria found therein. The COEDI is used in the eligibility determination process for the county board for all services and supports other than special education services.

(4) The OEDI and COEDI shall be administered by county board personnel authorized to do so by the department. At the local county board's discretion, other individuals may be authorized by the department to administer the OEDI and COEDI.

(5) Eligibility may be determined for individuals under the age of six who have an established risk of acquiring a developmental delay, or for individuals who have a biological or environmental risk of acquiring a developmental delay.

(6) "Developmental delay" means that a child has not reached developmental milestones expected for his chronological age as measured by qualified professionals using appropriate diagnostic instruments and/or procedures.

(a) Delay shall be demonstrated in one or more of the following developmental areas: adaptive behavior; physical development or maturation (fine and gross motor skills; growth); cognition; communication; social or emotional development; and sensory development; or

(b) An established risk involving early aberrant development related to diagnosed medical disorders, such as infants and toddlers who are on a ventilator, are adversely affected by drug exposure, or have a diagnosed medical disorder or physical or mental condition known to result in developmental delay such as Down syndrome.

(c) Depending on the plan and priorities established by the county board, a county board may serve a child who has a condition which has a high probability of resulting in developmental delay if early intervention services are not provided, including the following two categories:

(i) Biological risk: history of prenatal, neonatal, and early developmental events suggestive of biological insult(s) to the developing nervous system.

(ii) Environmental risk: at risk for delayed development because of limiting early environmental experiences.

(7) The county board shall complete eligibility determination within forty-five calendar days of the request for services or after all necessary information has been received from the referring party or applicant.

(8) The county board shall keep on file the documents used to determine eligibility of all persons who apply after July 1, 1991, whether or not such persons are found to be eligible. Information on persons found to be ineligible shall be maintained for five years after such determination is made. Information on persons determined to be eligible for the county board shall be maintained in accordance with this rule.

(9) When a person who has been determined eligible for a county board after July 1, 1991 moves to or wants to move to another county in Ohio, that person shall be considered to be eligible in the new county. In the case of a person wanting to move into another county, the request shall be reviewed every six months to determine if it is still current. The new county; however, may review the person's eligibility. During the review, the person continues to be eligible to receive services according to the county board's plan and priorities.

(10) All persons who were eligible for services and receiving services from programs offered by a county board pursuant to Chapter 5126. of the Revised Code on July 1, 1991, shall continue to be eligible for those services and to receive services in those programs as long as they are in need of services.

(11) All persons who were eligible for case management services and

receiving case management services pursuant to Chapter 5126. of the Revised Code on January 10, 1992, shall continue to be eligible for case management services as long as they are in need of services.

(12) All persons found not to be eligible shall be referred, with their consent, to other agencies or sources of services.

(D) Contracts

(1) The county board may enter into contracts with other such county boards and with public or private nonprofit or profit-making agencies or organizations of the same or another county or with an individual to provide the facilities, programs, services, and supports authorized or required upon such terms as may be agreeable, and in accordance with Chapters 3323. and 5126. of the Revised Code and rules adopted thereunder.

(2) When services and supports are contracted, it shall be the responsibility of the county board initiating the contract to assure that the services and supports being provided are in accordance with the rules of the department. The county board entering into a contract to provide services and supports shall monitor contracted agencies on an ongoing basis to assure compliance.

(3) Reimbursement shall only be provided for contracted services and supports when individuals receiving such contracted services meet eligibility requirements established by the department.

(E) Waiting lists

The county board shall use the requirements set forth in rule [5123:2-1-08](#) of the Administrative Code to establish and maintain waiting lists, service substitution lists, and a long-term service planning registry.

(F) The county board shall develop policies and procedures that ensure, to the extent desired by the individual served and his family, that one process is used to develop the service and support plan, even when the individual is receiving services and supports from more than one county board program component.

(G) Administrative resolution of complaints

The county board shall use the administrative resolution of complaints process established in rule [5123:2-1-12](#) of the Administrative Code to resolve complaints involving the programs, services, policies, or administrative practices of the county board or the entities acting under contract with the county board.

(H) Volunteers

County boards may administer volunteer service programs and have volunteers as an integral part of the overall service delivery.

(1) Volunteers shall be used to supplement, not supplant, services and supports provided by qualified personnel.

(a) Volunteers shall receive direct supervision and training from qualified staff.

(b) Volunteers shall work from a written volunteer service plan.

(2) Written policies concerning recruitment, training, assignments, evaluation, and separation of volunteers shall be established by the county board. These policies shall be available to the entire staff.

(3) County boards may require background checks on volunteers.

(4) Volunteers shall not be considered in the calculation of staffing ratios.

(I) Records

All records required by the department shall be kept in the administrative office(s) of the county board.

(1) The county board shall maintain fiscal records that are in compliance with county and state auditor's requirements in section [149.38](#) of the Revised Code.

(2) The county board shall maintain a record of signed statements regarding criminal background checks completed by county board employees in accordance with section [5126.28](#) of the Revised Code.

(3) The county board shall adopt policies and have written procedures which address access, duplication, dissemination, and destruction of personnel records.

(4) The county board shall maintain personnel records which shall include the following:

(a) Name, permanent and current address, phone number, and person to notify in case of emergency;

(b) Job description which includes the essential functions of the job, requirements for certification, registration or license, civil service classification, and title as established by the department of administrative services if applicable, unless there is a collective bargaining agreement to the contrary;

(c) Records of accrued and used sick leave and vacation;

(d) Record of permanent or temporary certification, license or registration, as applicable;

(e) Bus driver annual physical examination form, as applicable;

(f) Records of inservice training;

(g) Personnel action forms;

(h) Annual performance evaluations signed by the immediate supervisor, the superintendent or his designee, and the employee;

(i) Payroll information;

(j) Record retention information; and

(k) Application forms.

(5) The county board shall maintain in a separate medical file a record of a physical examination current within sixty days of the date of hire (a physical examination completed within one year prior to the date of hire is acceptable). The county board may not require the applicant to pay the cost of a physical examination as a condition of employment.

(6) Personnel records shall be accessible to department personnel authorized by the director of the department.

(7) The county board shall adopt policies and have written procedures that address access, duplication, dissemination, and destruction of individual record information for persons served.

(a) Such policies and procedures shall ensure confidentiality and shall include:

(i) Obtaining written permission from the individual or parent of a minor or guardian prior to releasing information to persons not otherwise authorized to receive such information pursuant to applicable state or federal regulations, including Ohio department human services rule [5101:1-1-03](#) of the Administrative Code when applicable. The permission shall specify the person or organization to whom the information shall be released and the time period during which the permission is valid.

(ii) Transmitting information to a requesting person or agency after receiving a properly authorized written request.

(iii) The procedures by which information concerning an individual shall be collected, the procedures that shall be used to maintain the confidential nature of the information, its use, the recording procedures, the period for which records will be maintained, the procedures for the destruction of data determined to be no longer necessary to the education, services and supports of the individual, the persons to whom the records will be made available, and the conditions under which confidential information shall be made available.

(iv) A statement that lists the types and locations of records maintained that shall be made available to the individual or parent of a minor or guardian on request.

(v) The person responsible for ensuring the safekeeping of records and securing them against loss or use by unauthorized persons.

(vi) For persons placed by the LEA, confidentiality procedures which shall be in accordance with the rules for the education of handicapped children (rule [3301-51-02](#) of the Administrative Code).

(vii) Written permission of the individual or the parent of a minor or guardian will be obtained prior to destruction of individual record information. Copies of county board generated records shall be offered to the individual or the parent of a minor or guardian.

(b) Individual records shall be accessible to department personnel authorized by the director of the department, the parents of a minor, the guardian (when within the scope of guardianship authority), or the

individual.

(c) Individual records shall be kept on file in a secure location to assure the permanence of the records for the time during which services are provided and for transmittal to an alternative program when an alternative placement occurs.

(d) Policies and procedures concerning confidentiality shall be made known to individuals and/or the parent of a minor or guardian of an adult, as applicable, and residential services/supports providers.

(e) The county board shall review, not less than once a year, the systems and safeguards employed by the agency and staff to preserve confidentiality of information.

(8) Records and reports related to the program shall be submitted as requested by the department.

(J) Behavior support policies and procedures

(1) Purpose

(a) The county board shall develop and implement written policies and procedures that support and assist individuals receiving services from county board programs to manage their own behaviors.

(b) These policies and procedures shall acknowledge that the purpose of behavior support is to promote the growth, development and independence of those individuals and promote individual choice in daily decision-making, emphasizing self-determination and self-management.

(c) The county board superintendent shall appoint a committee to implement paragraph (J) of this rule through the development of behavior support policies and procedures.

(d) The county board shall develop and implement written policies and procedures which shall:

(i) Focus on positive teaching and support strategies and encourage use of the least restrictive environment and least intrusive forms of services;

(ii) Specify a hierarchy of these teaching and support strategies, ranging from most positive or least intrusive to least positive or most intrusive, including approvals and review procedures; and

(iii) Be developed in accordance with department guidelines and relevant local, state and federal statutes and regulations.

(e) As used in paragraph (J) of this rule, "provider" refers to all persons and entities that provide specialized services, as defined in section [5126.281](#) of the Revised Code, and that are subject to regulation by the department, regardless of source of payment, including:

(i) A contracting entity of a county board, as defined in section [5126.281](#) of the Revised Code.

(ii) A provider licensed under section [5123.19](#) of the Revised Code. For the

purposes of paragraph (J) of this rule, "provider" does not mean an intermediate care facility for the mentally retarded (ICF/MR) certified under Title XIX of the "Social Security Act."

(iii) A provider of supported living under section [5126.431](#) of the Revised Code.

(iv) A provider of respite care certified under sections [5123.171](#) and 5126.05 of the Revised Code.

(v) A provider approved to provide medicaid services under home and community-based services waivers administered by the department.

(2) The county board shall ensure that:

(a) Medical factors are considered in the development of behavior support plans.

(b) A behavior assessment is completed prior to implementation of any written behavior support plan to help identify the causes for a behavior and to determine the most appropriate teaching and support strategies. The behavior support plan shall be developed to follow the findings of the behavior assessment.

(c) Behavior support methods are integrated into individual plans and are designed to provide a systematic approach to helping the individual learn new, positive behaviors while reducing undesirable behaviors.

(d) Restraint and time-out, as defined in paragraph (J) of this rule, are only used with behaviors that are destructive to self or others and only when all other conditions required by paragraph (J) are met.

(e) Policies and procedures, including administrative resolution of complaints procedures in accordance with rule [5123:2-1-12](#) of the Administrative Code, are available to all staff, individuals receiving services from the county board, parents of minor children, legal guardians, and providers.

(f) Behavior support methods are employed with sufficient safeguards and supervision to ensure that the safety, welfare, due process, and civil and human rights of individuals receiving county board services are adequately protected.

(g) Aversive behavior support methods are never used for retaliation, for staff convenience, or as a substitute for an active treatment program (interdisciplinary team developed and approved per individual plans).

(h) Positive and less aversive teaching and support strategies are demonstrated to be ineffective prior to use of more intrusive procedures.

(i) Standing or as needed programs for the control of behavior are prohibited. A "standing or as needed program" refers to the use of a negative consequence or an emergency intervention as the standard response to an individual's behavior without developing a behavior support plan for the individual as required by paragraph (J) of this rule.

(j) A behavior support committee reviews and approves or rejects all plans

that incorporate aversive methods, including restraint and time-out, and reviews ongoing plans that incorporate aversive methods, including restraint and time-out. The committee shall include persons knowledgeable in behavior support procedures, including administrators and persons employed by a provider who are responsible for implementing behavior support plans, but not those directly involved with the plan being reviewed. The authors of the behavior support plan may attend committee meetings to provide information and to facilitate incorporation of suggested changes.

(k) A human rights committee reviews and prior approves or rejects all behavior support plans using aversive methods, including restraint and time-out, and those which involve potential risks to the individual's rights and protections. The human rights committee shall ensure that the rights of individuals are protected. The committee shall include, at least, one parent of a minor or guardian of an individual eligible to receive services from a county board, at least one staff member of the county board or provider convening the committee, an individual receiving services from a county board, qualified persons who have either experience or training in contemporary practices to support behaviors of individuals with developmental disabilities, and, at least, one member with no direct involvement in the county board's programs. One human rights committee may serve more than one county board or provider.

(l) The behavior support committee and the human rights committee, which reviews the plan, is either those formed by the county board or those formed by the provider. In this situation, representatives of both agencies shall be involved. A county board or provider may establish one multi-purpose committee to fulfill all functions of the behavior support committee and the human rights committee. County boards and/or providers may jointly establish and share the operation of a behavior support committee, a human rights committee, or a multi-purpose committee.

(m) A behavior support plan includes a case history (including medical information), results of a behavior assessment, baseline data, behaviors to be increased and decreased, procedures to be used, persons responsible for implementation, review guidelines, and signature/date blocks including space for dissenting opinions.

(n) Training and experience required for staff who develop behavior support plans and for all persons employed by a provider who are responsible for implementing plans are specified and required training is documented.

(o) Prior documented informed consent is obtained from the individual receiving services from the county board program, or guardian if the individual is eighteen years old or older, or from the parent or guardian if the individual is under eighteen years of age. When informed consent cannot be documented in writing at the time it is obtained, such consent shall be documented in writing within three days of implementation. This written informed consent shall be updated at least annually. Any revisions to a behavior support plan requiring behavior support committee approval shall require written informed consent from the individual receiving services from the county board program, or guardian if the individual is eighteen years old or older, or from the parent or guardian if the individual is under

eighteen years of age. "Informed consent" means an agreement to allow a proposed action, treatment or service to happen after a full disclosure of the relevant facts. The facts necessary to make the decision include information about the risks and benefits of the action, treatment or service; acceptable alternatives to such action, treatment or service; the consequences of not receiving such action, treatment or service; and the right to refuse such action, treatment or service. The behavior support plan shall be presented in a manner that can be understood by the individual or parent of a minor or guardian.

(p) A regular review of all behavior support plans is held, at least, in conjunction with individual plan updates. Plans that incorporate aversive methods, including restraint and time-out, shall be reviewed as determined by the interdisciplinary team but at least every thirty days. Status reports on a plan that incorporates aversive methods, including restraint and time-out, shall be provided to the individual receiving services from the county board program, or guardian if the individual is eighteen years old or older, or the parent or guardian if the individual is under eighteen years of age. Additionally, for individuals who receive services from a provider, status reports shall be provided to the provider.

(q) Prohibited actions are reported as major unusual incidents in accordance with rule [5123:2-17-02](#) of the Administrative Code. Prohibited actions shall include the following:

(i) Any physical abuse of an individual such as striking, spitting on, scratching, shoving, paddling, spanking, pinching, corporal punishment or any action to inflict pain.

(ii) Any sexual abuse of an individual.

(iii) Medically or psychologically contraindicated procedures.

(iv) Any psychological/verbal abuse such as threatening, ridiculing, or using abusive or demeaning language.

(v) Placing the individual in a room with no light.

(vi) Subjecting the individual to damaging or painful sound.

(vii) Denial of breakfast, lunch or dinner.

(viii) Squirting an individual with any substance as a consequence for a behavior.

(ix) Time-out in a time-out room exceeding one hour for any one incident and exceeding more than two hours in a twenty-four hour period. Use of a time-out room requires the additional oversight specified in paragraphs (J)(3) and (J)(4) of this rule and the following safeguards:

(a) A time-out room shall not be key locked, but the door may be held shut by a staff person or by a mechanism that requires constant physical pressure from a staff person to keep the mechanism engaged.

(b) The room must be adequately lighted and ventilated, and provide a safe environment for the individual.

(c) An individual in a time-out room must be protected from hazardous conditions including, but not limited to, presence of sharp corners and objects, uncovered light fixtures, or unprotected electrical outlets.

(d) The individual must be under constant visual supervision by staff at all times.

(e) A record of time-out activities must be kept.

(f) Emergency placement (i.e., without a written plan) of an individual in a time-out room is not allowable.

(x) Systematic, planned intervention using manual, mechanical, or chemical restraints, except when necessary to protect health, safety, and property and only when all other conditions required by paragraph (J) of this rule are met.

(xi) Medication for behavior control, unless it is prescribed by and under the supervision of a licensed physician who is involved in the interdisciplinary planning process.

(r) Behavior support policies and procedures adopted by the county board or the provider:

(i) Promote the growth, development and independence of the individual;

(ii) Address the extent to which individual choice will be accommodated in daily decision-making, emphasizing self-determination and self-management, to the extent possible;

(iii) Specify the individual's conduct to be allowed or not allowed;

(iv) Be available to all staff, the individual, parents of minor children, legal guardians, and providers;

(v) To the extent possible, be formulated with the individual's participation; and

(vi) Ensure that an individual must not discipline another individual, except as part of an organized system of self-government.

(s) The climate for behavior support is characterized by:

(i) Interactions and speech that reflect respect, dignity, and a positive regard for the individual;

(ii) The setting of acceptable behavioral limits for the individual;

(iii) The absence of group punishment;

(iv) The absence of demeaning, belittling or degrading speech or punishment;

(v) Staff speech that is even-toned made in positive and personal terms and without threatening overtones or coercion;

(vi) Conversations with the individual rather than about the individual while

in the individual's presence;

(vii) Respect for the individual's privacy by not discussing the individual with someone who has no right to the information; and

(viii) The use of people-first language instead of referring to the individual by trait, behavior, or disability.

(3) Requirements for restraint and time-out

(a) The use of restraint and time-out, because of their possible adverse effects on health and safety, shall require additional oversight by the department. As used in paragraph (J) of this rule, the following definitions shall apply:

(i) "Restraint" means any one of the following:

(a) "Chemical restraint," which means a prescribed medication for the purpose of modifying, diminishing, controlling, or altering a specific behavior. "Chemical restraint" does not include the following:

(i) Medications prescribed for the treatment of a diagnosed disorder as found in the current version of the American psychiatric association's "Diagnostic and Statistical Manual"

(DSM);

(ii) Medications prescribed for treatment of a seizure disorder.

(b) "Emerging methods and technology," which means new methods of restraint or seclusion that create possible health and safety risks for the individual, including methods or technology that were not developed prior to the effective date of this rule.

(c) "Manual restraint," which means a hands-on method that is used to control an identified behavior by restricting the movement or function of the individual's head, neck, torso, one or more limbs or entire body, using sufficient force to cause the possibility of injury.

(d) "Mechanical restraint," which means a device that restricts an individual's movement or function applied for purposes of behavior support, including a device used in any vehicle, except a seat belt of a type found in an ordinary passenger vehicle or an age-appropriate child safety seat.

(ii) "Time-out," which means confining an individual in 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 staff person remains in the room with the individual.

(b) Prior approval from the director must be obtained before using the following methods of restraint:

(i) Any emerging methods and technology designated by the director as requiring prior approval; or

(ii) Any other extraordinary measures designated by the director as requiring prior approval, including brief application of electric shock to a part

of the individual's body following an identified behavior.

(c) Restraint or time-out shall be discontinued if it results in serious harm or injury to the individual or does not achieve the desired results as defined in the behavior support plan.

(d) Any use of restraint or time-out in an unapproved manner or without obtaining required consent, approval, or oversight shall be reported as a major unusual incident pursuant to rule [5123:2-17-02](#) of the Administrative Code.

(e) Any use of restraint or time-out that results in an injury that meets the definition of a major unusual incident or an unusual incident shall be reported as such pursuant to rule [5123:2-17-02](#) of the Administrative Code.

(f) Within five working days after local approval of a behavior support plan using restraint or time-out, the county board or provider shall notify the department by facsimile or other electronic means in a format prescribed by the department. Upon request by the department, the county board or provider shall submit any additional information regarding the use of the restraint or time-out.

(4) Department oversight of behavior support plans

(a) The department shall provide oversight of behavior support plans, policies, and procedures as deemed necessary to ensure individual rights and the health and safety of the individual.

(b) The department shall select a sample of behavior support plans for additional review to ensure that the plans are written and implemented in a manner that adequately protects individuals' health, safety, welfare, and civil and human rights. These reviews may be conducted by department staff designated by the director or by any qualified entity selected by the department.

(c) The department shall take immediate action, as necessary, to protect the health and safety of individuals served. Such action may include, as appropriate, the following:

(i) Suspension of any behavior support plan(s) not developed, implemented, documented, or monitored in accordance with paragraph (J) of this rule or where significant trends and patterns in data suggest the need for further review. When a behavior support plan is suspended, the department shall ensure that a new behavior support plan is developed and implemented in accordance with paragraph (J) of this rule.

(ii) Technical assistance in the development of a new behavior support plan.

(iii) Referral to the major unusual incident, licensure, or accreditation units of the department or to other state agencies or licensing bodies.

(d) The department shall compile information about the use of behavior supports throughout the state and share the results with county boards, providers, advocates, family members, and other interested parties. The department shall use the information to study and report on patterns and

trends in the use of behavior supports, including strategies for addressing problems identified.

(e) By the effective date of this rule, the department shall establish a behavior support advisory committee made up of persons knowledgeable about behavior support and representatives of groups that have expressed an interest in the application of behavior support as specified in paragraph (J) of this rule. The behavior support advisory committee shall advise the department in the following matters:

(i) Trends and patterns in behavior support methods reported to the department;

(ii) Technical assistance needs throughout the state;

(iii) Behavior support issues raised by or referred to divisions or units of the department;

(iv) Plans for improving the quality of behavior support throughout the state;

(v) Any other pertinent issues related to implementation of this rule.

(K) Safety

(1) The design and maintenance of program facilities and equipment shall be in conformance with all applicable laws, including the Americans with Disabilities Act and Section 504 - Rehabilitation Act of 1973 and any reauthorization of these acts by the federal government.

(2) Each program facility owned, leased, or operated by the county board shall be inspected annually by the local fire marshal or designee to ensure compliance with fire safety practices.

(3) If the county board provides a swimming program, regardless of location, a person shall be present who has a current water safety instructor certificate, or a senior lifesaving certificate, or an adapted aquatics certificate.

(4) The county board shall develop written building emergency plans, which include procedures for fire, tornado, and other emergencies. These building emergency plans shall be available to and communicated in writing to all members of the staff, including volunteers.

(5) The building emergency plans shall include procedures for emergency closing of all program components operated in county board facilities as well as notification of families receiving home-based services and persons in other sites receiving or providing services.

(6) The building emergency plans shall include provisions for dealing with bomb threats, medical emergencies, power failures, and natural disasters.

(7) The building emergency plans shall provide for the training of at least one staff member in each building in techniques of fire suppression.

(8) The building emergency plans shall include procedures for reporting all

accidents or injuries within twenty-four hours of the occurrence. Such report shall include recommendations for prevention at a future time. Information concerning health and special job considerations shall be communicated to appropriate supervisory personnel.

(9) The building emergency plans shall require all of the following:

(a) Emergency fire drills shall be conducted not less than once a month in each building and shall be recorded.

(b) Tornado drills shall be conducted monthly during the tornado season of April, May, June and July.

(c) A written analysis of the conduct and effectiveness of each fire drill and tornado drill shall be prepared by a designated staff member and submitted to the superintendent or designee.

(d) The evacuation plan for fire and tornado drills and other emergencies shall be posted in each room or special area of the facility.

(e) Fire extinguishers, fire gongs, and alarms shall be properly located, identified, and kept in good working order.

(f) Storage areas for combustible or flammable materials shall be effectively separated from all rooms and work areas in such a way as to minimize and inhibit the spread of a fire.

(g) All hallways, entrances, ramps, and corridors shall be kept clear and unobstructed at all times.

(h) Power equipment, fixed or portable, should include operating safeguards as required by the division of safety and hygiene, bureau of worker's compensation.

(L) Health

(1) County board policies and procedures regarding health shall be written, shall ensure the general health and well-being of all individuals and shall include the following:

(a) Reporting of all accidents and incidents to the parents of a minor or guardian and, when appropriate, other persons having care of the individual including residential services/supports providers, and maintaining a record of any such incident on file. The accident or incident record shall be initiated within twenty-four hours of when the accident or incident occurred.

(b) Providing first aid and emergency treatment.

(c) Securing emergency squad or ambulance services or the services of the individual's personal physician.

(d) Providing first aid and CPR training to appropriate county board registered, certified and licensed personnel by a person who has a valid training certificate in first aid and CPR.

(e) Providing suitable first-aid facilities, equipment, and supplies.

(f) Providing training to county board personnel in the recognition and reporting of abuse and neglect.

(g) Providing for the management of communicable diseases including temporary exclusion from the program for health reasons, handling of illness on-site and return to the program after an illness or other health condition. These procedures shall not exclude an individual from services for a handicapping condition, such as AIDS. These procedures shall include providing training to all county board personnel in the use of universal precautions.

(h) Posting emergency numbers by each telephone.

(2) These written policies and procedures shall be communicated to all personnel, persons served, parents of a minor or guardian, and residential services/supports providers, and shall be available in each county board program facility upon request.

(3) All medication shall be pharmacy-labeled to indicate owner, contents, required dosage and schedule. Such medication shall be secured in a locked cabinet and removed by designated staff persons.

(4) The county board shall adopt a policy concerning administration of medications.

(5) A health record shall be on file within thirty days of enrollment for each individual which contains ongoing pertinent health information, including authorization for emergency medical treatment, a record of current immunizations, a list of any medications, and a list of any allergies and treatments.

(M) Food service

All programs providing food service shall:

(1) Have on file in the administrative office, written evidence of an annual inspection of food preparation, storage, and serving areas by the local department of health; and

(2) Have on display all required permits in keeping with state department of health regulations and shall employ food handlers who meet all state and local health requirements.

(N) State reporting and subsidy

(1) The county board shall comply with reporting procedures and schedules requested by the director of the department.

(2) Subsidy from the department shall, subject to the approval of the director, be withdrawn or reduced in programs which:

(a) Employ staff who fail to meet certification, registration or licensing requirements as established by the department;

(b) Fail to comply with the minimum program and operating requirements as established by the department or do not have approved written plans for

compliance, which include timelines and an outline of how minimum compliance will be reached. Such plans of compliance shall be approved by the department and be used by the county board in the development, review, and modification of its annual action plan; and

(c) Do not provide services and supports to former individuals of state mental retardation facilities on a nondiscriminatory basis.

(O) Each county board shall have a copy of Chapter 5126. of the Revised Code and the administrative rules of the department and shall make pertinent information available to administrative staff. The department will provide updated administrative rules.

(P) Waiver procedures

The county board or the department may initiate a request for approval by the department for a waiver of compliance regarding requirements outlined in the rules under Chapter 5123:2-1 of Administrative Code that govern the operation of county board programs and services, so long as the requirements are not those of the Ohio Revised Code.

R.C. [119.032](#) review dates: 12/23/2003

Promulgated Under: 119.03

Statutory Authority: 5123.011, 5123.04, 5123.19, 5126.01, 5126.041, 5126.05, 5126.08

Rule Amplifies: [5123.01](#) , [5123.011](#) , [5123.19](#) , [5126.01](#) , [5126.041](#) to [5126.044](#) , [5126.05](#) , [5126.08](#)

Prior Effective Dates: 7/1/76, 12/11/83, 7/1/91 (Emer.), 9/13/91, 4/22/93, 6/2/95 (Emer.), 12/9/95, 2/28/96 (Emer.), 5/18/96, 7/12/97, 8/1/01, 3/21/02



5123:2-3-25 Discipline, restraint, behavior modification, and abuse of residents.

Go To:

[Prev](#) | [Next](#)

(A) All employees of every residential care facility shall treat each resident with kindness, consistency, and respect.

(B) The residential care facility shall have written policies and procedures available to the residents and to parents and guardians. If appropriate, residents shall participate in formulating these policies and procedures. The written policies and procedures shall include, but not be limited to, enforcement of the following:

(1) Control and discipline. The residential care facility shall use only constructive methods of discipline. The residential care facility may not allow:

- (a) Corporal punishment of a resident;
- (b) A resident to discipline another resident; or
- (c) A resident to be placed alone in a locked room.

(2) Chemical and physical restraints

(a) Each resident shall be free from chemical and physical restraints unless the restraints are:

- (i) Authorized by a physician in writing for a specified period of time;
- (ii) Used in an emergency under the following conditions:

(a) The use is necessary to protect the resident from injuring himself or others;

(b) The use is authorized by a professional staff member identified in the written policies and procedures of the residential care facility as having authority to do so; and

(c) The use is reported promptly to the resident's physician by that staff member; or

(iii) Used during a behavior modification session for a resident who has mental retardation or other developmental disabilities under the following conditions:

(a) The use is authorized in writing by a physician; and

(b) The parent or legal guardian of the resident gives his informed consent to the use of restraints or aversive stimuli.

(b) Physical restraints

(i) Except as provided for in behavior modification programs, the residential care facility may allow the use of physical restraint on a resident only if absolutely necessary to protect the resident from injuring himself or others.

(ii) The residential care facility may not use physical restraint:

(a) As punishment;

(b) For convenience of staff; or

(c) As a substitute for activities or treatment.

(iii) The residential care facility shall have a written policy which specifies:

(a) How and when physical restraints may be used;

(b) The staff member who must authorize its use; and

(c) The method for monitoring and controlling its use.

(iv) An order for physical restraint may not be in effect longer than twelve hours.

(v) Appropriately trained staff shall check a resident placed in a physical restraint at least every thirty minutes and keep a record of these checks.

(vi) A resident who is in physical restraint shall be given an opportunity for motion and exercise for a period of not less than ten minutes during each two hours of restraint.

(vii) Mechanical devices used for physical restraint shall be designed and used in a way that causes the resident no physical injury and the least possible physical discomfort.

(viii) A totally enclosed crib or a barred enclosure is a physical restraint.

(ix) Mechanical supports used to achieve proper body position and balance are not physical restraints. However, mechanical supports shall be designed and applied under the supervision of a qualified professional and in accordance with the principles of good body alignment, concern for circulation, and allowance for change of position.

(c) Chemical restraints. The residential care facility may not use chemical restraint:

(i) Excessively;

(ii) As punishment;

(iii) For the convenience of the staff;

(iv) As a substitute for activities or treatment; or

(v) In quantities that interfere with a resident's habilitation program.

(3) Behavior modification programs

(a) Behavior modification programs involving the use of aversive stimuli or timeout devices shall be:

- (i) Reviewed and approved by the interdisciplinary team or a QMRP;
 - (ii) Conducted only with the consent of the affected resident's parents or legal guardian; and
 - (iii) Described in written plans that are kept on file in the residential care facility.
- (b) A physical restraint used as a timeout device may be applied only during behavior modification exercises and only in the presence of the trainer.
- (c) For timeout purposes, timeout devices and aversive stimuli may not be used for longer than one hour and then only during the behavior modification program and only under the supervision of the trainer.
- (4) Abuse. Each resident shall be free from mental and physical abuse. No operator, administrator, employee, or other person shall fail to report within twenty-four hours any suspected, alleged, observed, or reported abuse or neglect of any resident to the local law enforcement authority, the county welfare department with children's protective services, or the children's services board and board of mental retardation and developmental disabilities, the licensure office, and, in the case of children, the county welfare department with children's protective services or the county children's services board.

R.C. [119.032](#) review dates: 10/04/2004 and 12/30/2005

Promulgated Under: 119.03

Statutory Authority: 5123.04, 5123.19

Rule Amplifies: 5123.04, 5123.19

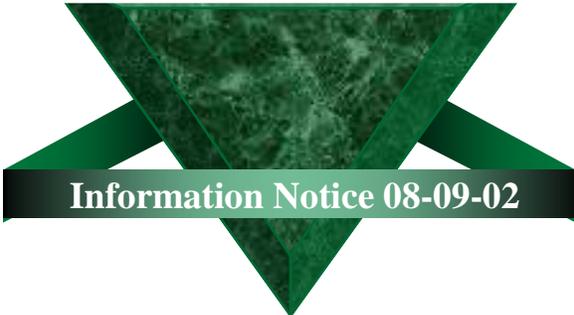
Prior Effective Dates: 10/31/77, 9/30/83



Ohio Department of Mental Retardation and Developmental Disabilities

Ted Strickland, Governor

John Martin, Director

A large green star graphic with a textured, forest-like background. A black banner with white text is superimposed across the center of the star.

Information Notice 08-09-02

From: Michael J Rench, Deputy Director
Division of Community Services

Date: September 19, 2008

Re: **Positive Intervention Culture**

PURPOSE:

The purpose of this Information Notice is to recommend best practices regarding behavior supports with the goal of reducing and eventually eliminating aversive interventions, especially timeout and restraint, except where there is imminent risk to health and safety.

SCOPE:

This Information Notice applies to all providers of services to individuals with disabilities who receive funds directly or indirectly from the Ohio Department of Mental Retardation and Developmental Disabilities (ODMRDD) to provide a service or support to an individual eligible for County Board of Mental Retardation and Developmental Disabilities (CBMRDD) services.

INTRODUCTION:

The ODMRDD, in conjunction with the Statewide Behavior Support Advisory Committee, challenges those within the scope of this Information Notice to reduce and eventually eliminate aversive interventions. This Information Notice has been developed to provide guidance to individuals and organizations as they strive to meet this challenge, which will move Ohio toward creation of the Positive Intervention Culture. The Positive Intervention Culture is an ODMRDD initiative with an initial goal of eliminating timeouts and restraints, and an ultimate goal of an aversive-free approach to behavior supports. The Positive Intervention Culture is essential for building an environment that enhances the quality of life for the individuals we support and is supported by existing rules and regulations.

This Information Notice outlines the core strategies essential in successfully implementing the Positive Intervention Culture initiative and to provide guidance to individuals with disabilities, families, providers, advocates and CBMRDDs. This Information Notice does not eliminate the use of restraints as an emergency safety intervention.

The ODMRDD will provide awareness, education and support in the creation of the Positive Intervention Culture in all 88 Counties of Ohio. The Department will also continue to provide technical assistance and support through the Regional Behavior Support Committees, the Statewide Behavior Support Advisory Committee, the ODMRDD Behavior Support Consultants and any other means available. The recommendations in this Information Notice are considered by the ODMRDD to be best practices that will assist in the reduction of and eventual elimination of aversive interventions.

BACKGROUND:

The elimination of aversive interventions is a key factor in ensuring that individuals experience a quality of life that is in line with the Positive Intervention Culture. The Positive Intervention Culture centers on respect, trust and building relationships that are safe and healthy. The use of aversive techniques as behavioral interventions continues to be a concern in Ohio and nationally due to the risk of serious injury and death, emotional harm and trauma and the disruption of relationships with family members, peers and direct support professionals. The ODMRDD is dedicated to the reduction and eventual elimination of aversive interventions, again with the exception of extreme crisis where there is imminent risk to health and safety.

The ODMRDD supports statewide and national efforts to eliminate the use of aversive procedures. Alternatives that will eliminate the use of aversive interventions are needed to support and improve the quality of life for each person. Behavior supports are unique to each individual and will continue to be a chief component of each person's Individual Service Plan (ISP).

The ODMRDD encourages all providers of services and supports, on an individual and organizational level, to carefully examine the rationale for their use of restraint and timeout, along with their general approaches to positively support individuals with challenging behaviors.

PHILOSOPHY OF CARE AND SUPPORT:

Tenets of the ODMRDD's Positive Intervention Culture include:

- Supporting individuals
- Striving to meet the needs of individuals
- Working to understand individuals, regardless of their means of communication
- Empowering choice-making
- Assisting individuals to feel and be safe

Essential to this approach is the understanding that behavior is a form of communication. Facilitating the understanding of negative behaviors as communication and the use of alternate modes and methods of communication is an integral part of the Positive Intervention Culture.

The following value statements emphasize the importance of the Positive Intervention Culture and the need for it to spread through all levels of the MRDD service system:

- The individual is the central focus of the planning team.
- Create a safe and supportive person-centered environment where the individual has choices in matters affecting his/her everyday life.
- Staff understanding and incorporating the Positive Intervention Culture philosophies are critical at every level, from Direct Support Professionals to Administrators, in order to

create a culture that supports positive approaches. All staff members should be knowledgeable in positive practices and in the use of any aversive procedure.

- Use positive practices that are known to be effective in helping the individual. There are various positive practice techniques that may negate the use of restraint or timeout. Promotion of positive practices should be integral in an organization's overall operations and training, as well as being explicitly evident in each ISP.
- Ensure that prevention and intervention as early as possible are critical parts of any plan to support the individual when reducing and eliminating restraints, timeouts and other aversive procedures.
- All staff members should be knowledgeable about the use of positive practices specific to the individual they support and be able to demonstrate them where needed. This includes the integration of behavioral and environmental supports that have proven effective for each person.
- Teach skills of self-monitoring and self-control to individuals receiving services, as well as to staff providing services.
- Create a culture of respect and ensuring ongoing training for staff that focuses on all forms of positive practices.

QUALITY EFFORTS:

The ODMRDD recommends that great effort be put forth by all persons involved in the MRDD service system to reduce and eventually eliminate aversive interventions. Each provider should review, assess and analyze the specifics of all aversive techniques in an effort to better understand the behavior and reduce the need for the aversive intervention in the future. Areas that public and private providers may consider in their quality efforts to safely reduce and eventually eliminate aversive techniques may include:

- Training
 - Acknowledging that there are providers that continue to serve and support individuals in a restraint-free environment and provide extensive training for their staff, these guidelines are viewed as minimal expectations to help support the individual and create a structure that prevents restraint and timeout.
 - Training should be ongoing for all staff and focus on overall supports for improving an individual's quality of life while maintaining his or her health and safety.
 - All staff should have documented, initial training specific to each individual prior to working directly with that individual. Training is expected to occur within every 12-month period.
 - Training in the application of restraints for those providers who utilize restraint as part of their operating procedures. The ODMRDD does not endorse any one curriculum; however below is a list of recommended curricula content for review and/or development of crisis programs and/or behavior support procedures:
 - Prevention strategies that include instruction on Person-Centered Philosophy (i.e., elaborate staff purpose and principles to guide practical affairs, knowing the person, knowing oneself in the role of staff, relationship skills and avoidance strategies in order to decrease the probability of problem behaviors arising).
 - Instruction on de-escalation strategies.
 - Instruction regarding intervention strategies that include judgment of when to use physical intervention, the safety issues involved and the possible risks

when using physical restraints. This includes the proper application of restraints appropriate to the age, weight and diagnosis of the individual and possible negative psychological effects of restraint and how to monitor an individual's physical condition for signs of distress or trauma.

- Definitions of restraint, policies on the use of restraints, the risks associated with the use of restraints and staff experiencing the use of physical restraint applied to themselves. This includes debriefing techniques with the individuals as well as the staff members.
- Policies and Procedures
 - Policies and procedures in place that address how people are supported in emergency situations where an individual's health and safety are at imminent risk, as well as outlining positive strategies.
- Risk Assessment
 - Each organization should have a Risk Assessment Policy and Procedure that includes:
 - Emphasis on the ongoing quality improvement efforts directed at the reduction and eventual elimination of the use of aversive interventions, especially timeout and restraint. The use of risk assessment processes to review and analyze aversive intervention use on an ongoing basis. A provider-specific plan to proactively address the prevention, detection, evaluation and correction of any environmental factors and/or triggers that may lead to the use of aversive interventions should also exist.
 - Use of debriefing procedures that address the needs of individuals and staff directly following a restraint, as well as a more formal debriefing session where events and strategies are discussed in greater depth and detail. The debriefing sessions should work to address trauma and minimize the negative effects of the use of restraint while addressing the following components:
 - Thorough analysis of the events that occurred before, during and after each incident.
 - Strategies to prevent or decrease the time of future restraints.
 - Skills or methods to prevent a future crisis.
 - Appropriate revisions to an individual's ISP.
 - An internal review committee responsible for the review of post-emergency restraint and the outcomes of that follow-up.
 - An internal method for the collection of aversive interventions data required to be reported to the CBMRDD and/or the ODMRDD.
- Administrative Review
 - Each public and private agency provider should appoint a committee to analyze the organization's aversive intervention policies and procedures at least annually. This review will assure that they continue to meet the best practice standards established in this Information Notice and in the applicable rules and regulations established by ODMRDD in the area of Behavior Supports.
 - The ODMRDD Office of Provider Standards and Review will review each CBMRDD, licensed provider and certified provider's policies and procedures on behavioral supports, aversive procedures and restraint use in order to ensure that they comply with current ODMRDD rules and regulations.

REDUCING RESTRAINT AND AVERSIVE PROCEDURES:

As a way to reduce and eventually eliminate aversive techniques, it is recommended that providers consider the following standards are met before they use any restraint:

- Providers train their staff in appropriate positive intervention techniques, safety, de-escalation and crisis intervention techniques.
- Staff use only the restraint(s) for which they were trained.
- An internal method for data collection and monthly analysis of the use of aversive interventions is in place.
- Timeout and restraint are only used with behaviors that are destructive to self or others, and only when all conditions required by Administrative Rule 5123:2-1-02 (J) are met. Property destruction, where there is no imminent threat to any person's health and safety, is not considered to be destructive to self or others.
- Timeout and restraint are always last resort, emergency responses to protect an individual's health and safety.
- Individual and team involvement in a post-restraint debriefing should occur. It is critical to determine how future situations can be prevented. It is important, as part of the ongoing planning process, to review each occurrence of restraint. Information from the debriefing sessions should, at minimum, be included in the 30-day reviews. These discussions can be separate and distinct with the intended purpose of determining what could have been done differently to avoid the restraint. Any changes determined by the team as a result of these discussions will be documented in the ISP and/or Behavior Support Plan (BSP).
- Consideration should be given to the potential for trauma-related issues. A trauma assessment and training in trauma-informed care would be of great benefit in addressing future incidents.

It is recommended that all providers develop agency-wide policies and procedures for the reduction and eventual elimination of restraints and timeout. These policies and procedures should outline specific steps to be taken for the elimination of restraint components in any individual plan as well as general policies and procedures promoting the Positive Intervention Culture.

It is also recommended that within one year from the date of this Information Notice, person-centered strategies containing the following positive components be incorporated into all individuals' ISPs/BSPs. People that have experienced restraint in the past year should also have these positive components in their plans:

- The ISP should reflect an overall strategy to support and provide services for the individual without the need for restraint. If it is felt the individual exhibits behavior that may put them at risk of injury to themselves or others, the ISP should reflect strategies that will reduce the likelihood of aversive interventions and protect the individual.
- Information about undesirable behavior and what specific positive practices can be used to prevent future occurrences. This includes several suggested teaching strategies and intervention techniques that de-escalate or redirect the individual's behavior, as well as information regarding what positive components are currently effective.
- Justification that the proposed plan contains the most effective methods of helping the person deal with the negative behavior, while promoting the safety of the individual and others.

- Information regarding what procedures were unsuccessful in the past and what other positive alternatives might be incorporated in the future if the current alternatives are proven ineffective.
- A review of situations that could have potentially resulted in restraint but did not due to positive support strategies. These situations should be viewed as learning tools and communicated among the team.
- The types of procedures to be used in any situation where an aversive intervention may still be necessary.

Please contact Ginger Curtiss or Heidi Taylor, ODMRDD Behavioral Support Consultants, via email at behavior.support@odmrdd.state.oh.us for information on joining your local Regional Behavioral Support Committee or for further information on additional support in your area.

c: Ted Strickland, Governor
 Sandra Stephenson, Director, Department of Mental Health
 Helen Jones-Kelley, Director, Department of Job and Family Services
 John Corlett, Deputy Director of Medicaid, Department of Job and Family Services
 Angela Cornelius-Dawson, Director, Department of Alcohol and Drug Addiction Services
 Alvin Jackson, Director, Department of Health
 Barbara Riley, Director, Department of Aging
 Thomas Stickrath, Director, Department of Youth Services
 Susan Zelman, Director, Department of Education
 John Martin, Director, Department of MR/DD
 Dan Ohler, Executive Director, OACBMR/DD
 Mary Ann Chamberlin, President, OSCBMR/DD
 Michael Kirkman, Executive Director, OLRS
 Carolyn Knight, Interim Executive Director, ODDC
 Mark Davis, Executive Director, OPRA
 Susan Dlouhy, Administrator, OAAS
 Gary Tonks, Executive Director, The Arc of Ohio
 Ron Kozlowski, Executive Director, APSI
 Mary Vaughan, Executive Director, ADA-Ohio
 Shawn Henry, Executive Director, OCALI
 Tanya Marie Fernandez-Mote, Chairperson, Governor's Council
 Sadie Hunter, Executive Director, People First
 CBMR/DD Superintendents
 ODMR/DD DC Superintendents
 ODMR/DD Deputy Directors
 ODMR/DD Central Office
 COG Directors
 SSA Directors
 Providers

Resources:

Ohio Administrative Code 5123:2-1-02 (County Board Administration)

Commonwealth of Pennsylvania, Department of Public Welfare, Office of Mental Retardation
 MR Bulletin 00-06-09 Elimination of Restraint Through Positive Practices

Relevant Websites:

<http://www.gentleteaching.com/> - Gentle Teaching International - John McGee

<http://www.thenadd.org/> - The National Association for the Dually Diagnosed

<http://www.dimage.com/> - Imagine - David Pitonyak



**Department of
Developmental Disabilities**

Division of Policy & Strategic Direction

**John R. Kasich, Governor
John L. Martin, Director**

Memorandum

To: Rick Tully
From: Monty Kerr and Zach Haughawout
Re: Time Out and Restraint Notification IDS linked pilot expansion
Date: June 5, 2014

The County Board Administration Rule requires that “within five working days after approval of a behavior support plan using restraint or time-out, the County Board or provider shall notify the Department by facsimile or other electronic means” [5123:2-1-02 (J)(3) (f)].

Historically, County Boards have met this requirement by faxing in a notification form to the Department. Department is then responsible for compiling and analyzing data regarding behavior support strategies and determining ways to reduce the frequency of restrictive measures.

DODD launched a pilot project in July 2013 for the newly designed Time Out and Restraint Notification database system (TRN), which is housed within the Individual Data System (IDS). The primary reason for the creation of TRN was to offer County Boards of Developmental Disabilities an easy way to provide data to the Department regarding aversive behavioral interventions. The electronic system is designed to collect initial, revised and annual behavioral support plans using restraints or time-outs. The system also identifies the author of the plan as well as the local contact person. Additionally, the targeted behavior and type of restraint used, (e.g., manual, mechanical, chemical) and time-out practices are reported in the system.

DODD will be reviewing data in the TRN system to assist in directing policy making decisions, to provide follow up regarding waiver performance measures, to respond to CMS/OHT questions regarding behavior support/interventions, and to monitor increases or decreases in aversive interventions.

Athens, Coshocton, Cuyahoga, Franklin, Miami and Knox County are currently participating in the pilot. The Department plans to expand the use of the TRN database and is seeking counties willing to participate in this project.