

Notification of Rights

As an individual eligible for our services we must inform you* of the following individual and civil rights:

INDIVIDUAL RIGHTS

Oregon Revised Statute (ORS) 427.107

Oregon Administrative Rule (OAR) 411-318-0010 to 411-318-0030

The rights described in this ORS and OAR apply to all individuals eligible for or receiving developmental disability services. A parent or guardian may place reasonable limitations on the rights of a child. Your rights described in this statute and rule may be asserted and exercised by yourself, your legal representative and any representative designated by you.

As a recipient of Developmental Disability Services, you have the following rights:

To be informed of your rights

Per ORS 427.107(m), you have the right to be informed at the start of services and at minimum annual or more frequently as requested thereafter of the rights guaranteed by this statute and the procedures for reporting abuse, and to have these rights and procedures including the name, address and telephone number for Disability Rights Oregon. For those living in a residential program, these rights and procedures must be prominently posted in a location readily accessible to you and made available to your guardian and/or any other representative you designate. If you live in a residential setting, you also have the right to have information about the Residential Facilities Ombudsman program (per ORS 443.392) services posted in your home.

A humane service environment

Per ORS 427.107(2)(e), services must be provided in a humane service environment that affords reasonable protection from harm, reasonable privacy and daily access to fresh air and the outdoors unless that access creates a significant risk of harm to you or others.

Protections

- o To be free and protected from abuse or neglect, and to report any incident of abuse or neglect without being subject to retaliation

- o To be free from seclusion, unauthorized training, treatment, or restraint and assured that

medication is administered only for your clinical needs as prescribed by a health care provider unless an imminent risk of physical harm to you or others exists and only for as long as the imminent risk continues

- o To access and the ability to engage in private communications with any public or private rights protection program, Case Manager or other program representative/designee, and others you choose through personal visits, mail, telephone or electronic means
- o To have access to adequate food, housing, clothing, medical and health care, supportive services and training
- o To have contact and visits with legal and medical professionals, legal or designated representatives, family members, friends, advocates and others you choose, except where prohibited by court order
- o To be informed under ORS 411-318-0010 that a family member has contacted the Department to determine your location and to be informed of the name and contact information of the family member if known
- o To keep and use personal property, personal control and freedom regarding personal property and a reasonable amount of personal storage space
- o To manage your own money and financial affairs unless the right has been awarded to another individual by court order or other legal procedure
- o To have access through the Department of Education to a free and appropriate public education if you are under 21 years of age
- o To participate regularly in the community and use community resources including recreation, developmental disability services, employment and day support activities, school, educational opportunities and health care resources
- o To have the freedom to exercise all rights described in this rule without any form of reprisal or punishment
- o To be able to exercise all rights set forth in ORS 426.385 and 427.031 if you are committed to the Department
- o To have these rights and procedures prominently posted in a location readily accessible

to you and made available to your representatives

- o To be encouraged and assisted in exercising all legal, civil and human rights accorded to other citizens of the same age except when limited by court order.

Choice

- o As an adult, to consent to or refuse treatment unless incapable; then an alternative decision maker must be allowed to consent to or refuse treatment for you. As a child your parent or guardian is allowed to consent to or refuse treatment except as described in ORS 109.610 and ORS 109.640 or limited by court order
- o To seek a meaningful life by choosing from available services, service settings and service providers consistent with the support needs identified through the person-centered planning process, and enjoying the benefits of community involvement and community integration

Guardianship

- o To a guardian if you are an adult only as is necessary to promote and protect your well-being, as deemed necessary by the Judicial System
- o To a guardianship that is designed to encourage your development of maximum self-reliance and independence, and only if necessary by your actual mental and physical limitations
- o To not be presumed to be incompetent because a guardianship is in place
- o As an adult with a guardian to retain all legal and civil rights provided by law, except those that have been expressly limited by court order or specifically granted to your guardian by the court
- o As an adult, the right to contact and retain counsel and to have access to personal records (ORS 125.300)

Consent

- o To have informed, voluntary, written consent prior to receiving services except in a medical emergency or as otherwise permitted by law and informed, voluntary, written consent prior to participating in any experimental programs

Compensation

- o To reasonable and lawful compensation for performance of labor except personal housekeeping duties

Service Plan

- o To have the right to be provided with a reasonable explanation of all service considerations through choice advising and the right to invite others you choose to participate in the plan for services
- o To services that promote independence and dignity and reflect your age and preferences
- o To services that are to be provided in a setting and under conditions that are most cost effective and least restrictive, least intrusive to you and that provide for self-directed decision-making and control of your personal affairs as appropriate to your preferences, age and identified support needs
- o To an individualized written plan for services created through a person-centered planning process, services based upon the plan and periodic review and reassessment of your service needs
- o To have ongoing opportunity to participate in the planning of services in a manner appropriate to you, including the right to participate in the development and periodic revision of the plan for services
- o To the procedures for reporting abuse and the procedures for filing complaints, reviews or requests for hearings if services have been or are proposed to be terminated, suspended, reduced or denied
- o To request a change in the plan for services or to request a new functional needs assessment
- o To receive notice if a provider is exiting, transferring or reducing their services to you
- o To a timely decision upon request for a service or a change in the plan for services
- o To advance written notice of any action that terminates, suspends, reduces or denies a service or request for service and notification of other available sources for necessary continued services
- o To have the right to request an exception to current Oregon Administrative Rule from developmental disabilities services. Form SDS 0514DD may be used to request an exception.

- o To request services that exceed limits in current Oregon Administrative Rule and be notified in writing of the outcome of that request.

Complaints

- o To have the right to be informed of and have the opportunity to make or file a complaint if you believe any of your rights have not been honored
- o To have the right to file a complaint if you feel you've been discriminated against or treated unfairly
- o To have complaint(s) considered in a fair, timely, and impartial complaint procedure without any form of retaliation or punishment

A complaint is when you are dissatisfied (*unhappy*) with something about your services, supports or programs, an assessment or other processes or the people who are providing these services. You may make a complaint to your service provider, Case Manager or other program representative/designee or to the Department. You may have someone help you make a complaint either orally or in writing.

There is a **Developmental Disabilities Services Complaint Form (form number SDS 0946)** which can be provided to you. All efforts will be made to resolve complaints informally with those people who most directly support you. You will receive a written response to your complaint, called a resolution or decision, within 45 days. If you are not satisfied with the response to your complaint, you may appeal the decision with the Department.

Notification of Planned Action

- o To have a Notification of Planned Action when services are going to be terminated, suspended, reduced or a request for services is being denied

Contested Case Hearing

- o To request a contested case hearing if you disagree with a planned action that terminates, suspends, reduces or denies a service or request for service. The process for requesting a hearing is described in the Notice of Hearing Rights included with the Notification of Planned Action and must be requested within 90 calendar days from the date identified on the Notification of Planned Action
- o To request a contested case hearing to dispute an involuntary transfer, exit or reduction in service by your provider

- o To request a contested case hearing if you are not given the choice between institutional and Home and Community Based Services (HCBS) at the time you begin receiving a Medicaid funded service
- o To request a contested case hearing if you requested a service and have not received a timely decision

A hearing is a formal process that is reviewed by an administrative law judge when you disagree with the Notice of Planned Action that terminates, suspends, reduces or denies your service or request for service if you request a funded service or are receiving a funded service from the Department, Community Developmental Disability Program or Brokerage.

There is a **DD Administrative Hearing Request** form **DHS 0443DD** to request a Contested Case Hearing. Your Case Manager or other program representative/designee help you complete the form or you may verbally request a hearing to your Case Manager or other program representative/designee or any other Department Employee.

While waiting for the hearing you may request that your services do not change. You must make the request within the time-period explained in the **Notification of Planned Action**.

The hearings are conducted over the phone unless you request that your hearing is in person. Prior to the hearing, as well as during the hearing, you may present evidence to an Administrative Law Judge. You may have a lawyer help you with the hearing, but you do **not** have to have a lawyer. You may want to ask a local Legal Aid Program, Disability Rights Oregon or another advocate of your choice, such as a family member or a friend, for help.

Civil Rights

The individual rights in ORS 427.107 and OAR 411-318-0010 do not limit all other statutory and constitutional rights that are afforded all citizens, including but not limited to the right to exercise religious freedom, vote, marry, have or not have children, own and dispose of property and enter into contracts and execute documents unless specifically prohibited by law if you are less than 18 years of age.

Nothing in ORS 427.107 and OAR 411-318-0010 may be construed to alter any legal rights and responsibilities between a parent and child.

Required Services

In addition to the above stated rights, there are the following required mandatory services:

1. Abuse Investigations as indicated in OAR 407-045-0000;
2. Services Coordinator or Personal Agent presence at all Department-funded program entry, exit, transition planning or transfer meetings; including support services and in-home services for adults or children;
3. Services Coordinator or Personal Agent must have access to all settings where services are delivered, including the individual's residence.
4. Services Coordinator or Personal Agent access to individual files

Residential Facilities Ombudsman (RFO)

If you have a rights or quality of life issue, you or anyone with a concern on your behalf, can contact the RFO for help. Services are confidential and available for anyone living in a licensed or certified home or facility, including 24-hour residential or foster care for children or adults.

Voice: **503-378-6852** or **1-844-674-4567**

TTY users: dial **711**

Fax: 1-503-373-0852

Email: rfo.info@oregon.gov

Abuse Reporting

Available to you is a contact telephone number if you or someone you suspect of child abuse, elder abuse, abuse of people with physical or developmental disabilities, or abuse of people with mental illness or those experiencing a mental health crisis. Please contact:

Statewide Abuse Reporting Line: (855) 503-SAFE (7233)

If this is an emergency call 911

Disability Rights Oregon

Here is a phone number if you or your guardian or advocate wants to consult with the attorneys of Disability Rights Oregon to discuss your civil rights and legal concerns.

Voice: **503-243-2081** or **1-800-452-1694**

TTY users: dial **711**

Fax: 1-503-243-1738

*If you have a guardian or legal representative or you are a minor, your parent, guardian, or legal representative must also be informed of rights on your behalf.

Notice of Rights

Name (Print)

Phone number

Date of birth

I have been given the NOTICE OF RIGHTS (SDS 0948) which includes:

- Statutory Rights
- Administrative Rule Rights
- Mandatory services
- How to file a complaint
- How to file a hearing
- How to report abuse

My signature below indicates that I have had my rights and mandatory services explained to me, and I have been provided a copy of this information.

Signature

Date

Parent/Guardian (*if applicable*)

Date

Case Manager

Date