

OHR Functions in State Facilities

The following is an overview of the typical OHR functions in state facilities which outlines OHR Advocate Responsibilities as well as Facility Responsibilities. Additional OHR initiatives or follow-up may occur in the pursuit of advocating for Individuals and ensuring compliance with the Human Rights Regulations.

Abuse/Neglect Allegations

Advocate Responsibilities

- Receives and clarifies allegations reported by Individuals and other interested parties prior to forwarding the allegation to the Facility Director/Designee.
- Ensures allegations of abuse or neglect are related to the service provided at/by the state facility.
- At the time of the allegation, directly informs the party of Human Rights and the investigation process.
- Notifies the Facility Director / Designee of the allegation.
- Monitors the facility investigation through a review of information entered in CHRIS. This may also include review of video footage or observation of witness interviews at the request of an individual or facility investigator. Any independent investigation by the advocate to include any determination about a human rights violation, will take place after the conclusion of the facility investigation and the Facility Director's finding has been rendered.
- May request additional information from the Facility Director / Designee to ensure the immediate safety of and Human Rights protections for all Individuals during the investigation.
- Provides consultation to the Investigator or Facility Director related to Human Rights and the DI 201 process during the investigation, including on whether or not the allegation may be deemed improbable.
- Reviews and approves or denies extension requests.
- Reviews the Investigation Summary to ensure the facts of the investigation match the findings of the Facility Director as well as reviews to identify any Human Rights Violations.
- Reviews the DI 201 Transmittal Memo for information about the Director's findings. If a violation has been identified, there is a review of the proposed corrective action(s). Returns signed transmittal memo to Facility Director / Designee.
- Following an unsubstantiated finding, the Advocate may issue a Violation Letter based on their independent review and determination of a violation.
- Monitors CHRIS for findings and case completion by the Facility within acceptable timeframes.

- Documents all Advocate-related activities relative to the case in CHRIS and closes each case after completion or once corrective action has been verified.
- Should the Individual or AR wish to appeal the findings, the Advocate provides technical assistance on the appeal process and/or assists with mediation prior to a hearing (*more hearing information is covered later in this document*).
- Completes a retrospective review (also known as the FLB or Facility Look Behind), as assigned, after case closure for quality assurance purposes and to verify corrective action.

Facility Responsibilities

- May also directly receive and clarify allegations reported by Individuals, their chosen representative and other interested parties, while ensuring it is an allegation of abuse or neglect and is related to the service provided at/by the state facility.
- May answer questions at this time about Human Rights and/or the investigation process or refer the Individual to the Human Rights Advocate.
- Takes immediate steps to protect the Individual until the investigation is complete, including appropriate personnel actions.
- Enters allegations and notifications into CHRIS within 24 hours and completes required notifications, such as CPS/APS, State Police and AR/Guardian.
- Initiates an impartial investigation as soon as possible, but no later than the next business day.
- The Investigator completes investigation within 10 working days from the date the investigation began unless an extension has been approved by the Human Rights Advocate and provides a written investigation report to the Facility Director and Advocate.
- Provides findings and corrective action for identified violations via the DI 201 Transmittal Memo within 10 working days after completion of the investigation.
- After Director's Decision and Advocate Review, provides written findings letter to Individual and, if applicable, AR/Guardian which includes appeal information.
- Completes all necessary corrective action and includes evidence in the investigation file.
- Ensures CHRIS case completed fully by the 20th working day (unless extended).
- Provides the Advocate access to case files during retrospective reviews.

Human Rights Complaints

Advocate Responsibilities

- Receives and clarifies Human Rights Complaints reported by Individuals or their chosen representative prior to forwarding the complaint to the Facility Director/Designee.

- Ensures Human Rights Complaints are related to the service provided at/by the state facility. If not a Human Rights Complaint, refers to treatment team or Patient Relations, if applicable, and educates of the Complaint Resolution Process.
- At the time of the allegation, directly informs the party of Human Rights and the complaint resolution process.
- Notifies the Facility Director / Designee of the Human Rights Complaint.
- Monitors complaint resolution through CHRIS.
- Provides consultation, as needed to the Facility Director / Designee during complaint resolution.
- Reviews and coordinates extension requests with the Local Human Rights Committee LHRC Chairperson to approve or deny to the request.
- Reviews the Facility Director's decision and action plan for complaint resolution and Human Rights Violations.
- The Advocate may issue a Violation Letter based on their independent review and determination of a violation or systemic pattern of violations.
- Monitors CHRIS for findings and case completion by the Facility within acceptable timeframes
- Documents all Advocate activities related to the case in CHRIS and closes each case after completion or once corrective action has been verified.
- Should the Individual or AR/Guardian wish to appeal the findings, the Advocate provides technical assistance on the appeal process and/or assists with mediation prior to a hearing (*more hearing information is covered later in this document*).

Facility Responsibilities

- May also directly receive and clarify Human Rights Complaints reported by Individuals or their chosen representative.
- May answer questions at this time about Human Rights and/or the complaint resolution process or refer the Individual to the Human Rights Advocate.
- Takes all steps necessary to ensure that Individuals involved in the complaint are protected from retaliation and harm.
- Enters Human Rights Complaints into CHRIS by the next business day.
- Director / Designee contacts the Individual regarding the complaint within 24 hours.
- Initiates an impartial investigation as soon as possible, but no later than the next business day.
- Completes investigation and provides written findings letter including action plan and appeal information within 10 working days unless an extension has been approved by the LHRC Chairperson (through the Human Rights Advocate).
- Ensures CHRIS is fully completed by the 10th working day (unless extended).
- Completes all necessary corrective action and maintains evidence in a filing system.

LHRC Meetings

Advocate Responsibilities

- Plans, schedules, and facilitates LHRC meetings.
- Prepares agenda, LHRC review packets, draft and approved minutes.
- Trains LHRC (Regulations, FOIA, Procedures).
- Provides technical support to the LHRC and Facility.
- Reviews Facility business for LHRC review and provides appropriate LHRC Review Forms (Restrictions, BTP with seclusion or restraint, Next Friend, Variances).
- Reviews Facility program rules and policies & practices to determine if an LHRC review is needed.
- Ensures LHRC Review Forms are signed by the LHRC Chairperson and any recommendations are present and in compliance with the Human Rights Regulations— then returns this to the Facility Director / Designee.
- Ensures draft and approved minutes are posted online in compliance with FOIA.

Facility Responsibilities

- Provides appropriate space for LHRC meetings.
- Provides completed LHRC Review Forms or other requested documents to the Human Rights Advocate prior to the agenda deadline.
- Attends the LHRC meeting at the scheduled date and time as indicated on the agenda to present requested information to the LHRC.
- Facilitates attendance of Individual, AR/Guardian, or potential Next Friend as appropriate.
- Completes variance process, if applicable.
- Maintains signed LHRC Review Forms as part of the Individual's record. This may be scanned into the HER consistent with Facility Policy.
- Implements corrective action based on recommendations from the LHRC and provides necessary updates to the Human Rights Advocate.
- Maintains LHRC minutes on facility's website, if applicable.

LHRC Hearings

Advocate Responsibilities

- When contacted by the Individual or chosen representative regarding an appeal, seeks to mediate between the Individual and Facility Director / Designee.
- Provides technical support to the Individual or chosen representative regarding relevant Human Rights Regulations, appropriate resolutions, and an overview of the appeal process.
- Notifies the Facility Director / Designee of the appeal and provides instructions.
- Notifies the LHRC Chairperson, provides training as needed and schedules hearing.
- Prepares agenda, LHRC review packets, draft and approved minutes

- Assists the Individual with drafting the petition.
- Provides the completed petition to the Facility Director / Designee and requests a response including any exhibits to be used during the hearing.
- Provides the completed petition, Director / Designee's response, and all exhibits to the LHRC and schedules the hearing to occur within 20 working days with at least five working days' notice to all parties.
- May serve as the chosen representative for the Individual during the hearing.
- An additional Advocate provides technical support to the LHRC during the hearing.
- Completes LHRC findings and recommendations and right to appeal with the LHRC and submits this to all parties within 10 working days after the hearing and, if applicable, requests a written action plan from the Director / Designee.
- Submits a Violation Letter based on LHRC findings to the Director / Designee if needed.
- Facilitates SHRC appeal for any party if indicated.

Facility Responsibilities

- Provides appropriate space for the LHRC hearing.
- Director / Designee provides a response to everything in the petition and includes a complete written record of the complaint (CHRIS report, Investigation Summary, if applicable) as well as any exhibits to be used during the hearing. May be asked to provide copies of this packet for all LHRC members.
- Director / Designee represents the Facility during the hearing.
- Director / Designee provides a written action plan to the Advocate and Individual within five working days if needed.
- Director / Designee waits five working days in order to resolve any objections to the action plan and implements after the objection is resolved or, if no objections, begins implementation on the sixth working day.
- If seeking to appeal to the SHRC, Director obtains written permission from the Commissioner prior to notifying the Advocate within 10 working days after submission of the final action plan.

Human Rights Training & Education

Advocate Responsibilities

- Provides quarterly training to staff selected by Director / Designee to include Human Rights "Train the Trainer" for New Employee Orientation, CHRIS and DI 201 Investigator Training. (New initiatives in 2021 include training on Restrictions, Restraints and BTP's).
- Provides Human Rights Posters to be placed in visible areas.
- Consults with Facility staff on Human Rights, including on Facility training development.
- Educates Individuals, families and other interested parties on Human Rights when contacted.
- Serves as resource members in/on Facility meetings and committees.

- Associate Director for Facility Operations provides and oversees TOVA training and provides consultation.

Facility Responsibilities

- Trains all staff on Human Rights upon hire and at least annually.
- Trains all direct care staff in TOVA.
- Provides, and discusses, all Individuals and surrogate decision makers with a written notice of human rights upon admission and annually. This notice includes rights, how to file a Human Rights Complaint, how to contact the Human Rights Advocate and briefly describes the role of the Advocate.
- Displays Human Rights Posters in areas likely to be noticed by Individuals.
- Educates Individuals, families and other interested parties on Human Rights when contacted or refers to the Human Rights Advocate.
- Includes Advocate as a resource member in/on relevant meetings and committees.

OSIG & Constituent Affairs Reponses (subset of complaints received by facility from outside entities that are specific to OHR)

Advocate Responsibilities

- Upon receipt, reviews OSIG Contact Form for allegations, Human Rights Complaints, or requests to speak to the Human Rights Advocate.
- When an OSIG complaint has Human Rights implications, the Advocate contacts all Individuals or interested parties identified on the Form to determine action steps.
- If the allegation or complaint is not in CHRIS, contacts Facility Director / Designee to initiate DI 201 investigation or Human Rights Complaint resolution process and/or collaborates on efforts to resolve issues.
- Responds directly to OHR Senior Leadership on separate OSIG/Constituent Affairs Form, specific to the outcome of the Human Rights portion of the complaint, in addition to what the facility may send.
- Documents Advocate actions, as applicable in CHRIS.

Facility Responsibilities

- Initiate DI 201 or Human Rights Complaint process independently or upon notice from Advocate, and/or collaborate with Human Rights Advocate if Human Rights concerns are noted.
- Responds directly to Alvie Edwards on a separate OSIG/Constituent Affairs Form specific to the outcome of the facility's actions, in addition to what OHR may send.

Internal Forensic Privileging Committee (IFPC)

- The advocate has the responsibility to serve as an ex-officio member on a regular basis, as noted in the NGRI Manual, developed by DBHDS.