


PROTOCOL NO. 201
MANAGEMENT OF HUMAN RIGHTS COMPLAINTS

Issued:	November 1, 2000
Revised:	February 11, 2002; April 14, 2003; November 4, 2014; October 1, 2016; January 25, 2018; September 1, 2018; October 13, 2021
Formerly:	Protocol No. 102
Protocol:	All complaints, whether verbal or written, concerning allegations of non-compliance or violations against the Human Rights Regulations (HRR) shall be managed in accordance with established procedures. Situations in which the Advocate proactively intervenes to avoid a violation of an individual's rights should follow the same established procedures. Only complaints against a service provided through facilities/programs operated, licensed or funded by DBHDS, and related to an assured right as outlined in the HRR, can be brought forward through the human rights complaint resolution process as stipulated in 12VAC35-115-175.
Procedure:	<p>The Advocate may initiate a complaint(s) on behalf of an individual when a violation, potential violation, or human rights issue is apparent, and the individual or their representative has not initiated a complaint. As the initial complaint process unfolds, the Advocate will:</p> <ul style="list-style-type: none"> • At all times respect the rights and choices of the individual (or substitute decision maker) making the complaint, or for which the complaint is on the behalf of. • Monitor the provider's compliance with the human rights complaint process. <ul style="list-style-type: none"> ○ An independent review may be necessary. <ul style="list-style-type: none"> ▪ If needed, the independent review should include a review of the provider's internal complaint resolution policies and procedures. • Inform the individual and/or their representative of the right to pursue any complaint(s) through the human rights complaint resolution process. <ul style="list-style-type: none"> ○ The individual's consent or concurrence is not required for the Advocate to initiate a complaint involving abuse, neglect, or exploitation. ○ The individual or their representative may choose to remain anonymous. ○ Only the individual or their authorized representative can request an LHRC hearing (see 12VAC35-115-180). <p>When the Advocate is serving as the representative for an individual, or providing technical assistance to an individual and his chosen representative at an LHRC appeal, the Advocate shall:</p> <ul style="list-style-type: none"> • Ensure that another Advocate is present to provide technical assistance to the LHRC. <ul style="list-style-type: none"> ○ The manager will ensure that the Director is also provided with information about the appeal process; however, the OHR will NOT represent the provider at any point during the appeal hearing. • Take action to ensure resolution of all complaints in a timely manner and at the lowest level possible. (<i>Timely refers to all time frames established by the HRR, these protocols, or reasonable progression of a complaint through the human rights process.</i>) • Make an initial determination of whether or not serious and irreparable harm to the individual will result if the complaint is not resolved immediately. <ul style="list-style-type: none"> ○ If it is determined that serious harm may be possible, the Advocate shall inform the director and attempt to expedite a resolution of the complaint. ○ If the complaint is not quickly resolved at the level of the director, or safeguards put in place for the safety of the individual(s), the Advocate shall work with the LHRC to expedite a review of the complaint. • Assist the individual by providing technical support in the human rights complaint resolution process unless the individual selects other representation. (<i>The role of the Advocate is to provide and clarify information not to justify or Advocate for a particular point of view.</i>)

	<ul style="list-style-type: none"> • Meet with the individual and/or his representative at each stage of the process to provide information on decisions reached and any recommendations made. <ul style="list-style-type: none"> ○ If the individual or his representative is not available for a meeting, the Advocate shall make every effort to convey information via telephone or email. • Ensure that the entire record of the complaint/allegation/issue is documented in CHRIS, as appropriate. • Ensure that all provider corrective actions are verified as being implemented. <ul style="list-style-type: none"> ○ Cases will not be closed until verification of implementation is documented by the Advocate in the Advocate action section of the CHRIS report. <ul style="list-style-type: none"> ▪ This will be monitored by the Regional Manager using data warehouse report DW0052. <p>Instances of sex trafficking shall be reported to the law enforcement authorities immediately and in no case later than 24 hours after receiving information on children or youth who have been identified as being a sex trafficking victim.” [Child Sex Trafficking Act, Sec. 102 (a)(3)(A)].</p> <p>In state operated facilities, when a complaint involves an alleged violation of the Privacy Rule (HIPAA) or the corresponding sections of the HRR, the Advocate will coordinate the resolution of the complaint with the facility privacy officer in accordance with the Department’s Privacy Policies and Procedures for the Use and Disclosure of Protected Health Information.</p>
	9/1/2018
Deborah M. Lochart, State Human Rights Director	Effective Date