



Ohio Revised Code

Section 5123.601 Access to information by staff and attorneys.

Effective: October 6, 2009

Legislation: Senate Bill 79 - 128th General Assembly

(A) As used in sections 5123.601 to 5123.604 of the Revised Code, "provider" means any person or governmental agency that furnishes one or more services to one or more mentally retarded, developmentally disabled, or mentally ill persons.

(B) There is hereby created within the legal rights service the ombudsperson section. The administrator of the legal rights service shall adopt rules in accordance with Chapter 119. of the Revised Code establishing procedures for receiving complaints and conducting investigations for the purposes of resolving and mediating complaints from mentally retarded, developmentally disabled, or mentally ill persons, their relatives, their guardians, and interested citizens, public officials, and governmental agencies or any deficiencies which come to its attention concerning any activity, practice, policy, or procedure it determines is adversely affecting or may adversely affect the health, safety, welfare, and civil or human rights of any mentally retarded, developmentally disabled, or mentally ill persons. After initial investigation, the section may decline to accept any complaint it determines is frivolous, vexatious, or not made in good faith. The section shall attempt to resolve the complaint at the lowest appropriate administrative level, unless otherwise provided by law. The procedures shall require the section to:

- (1) Acknowledge the receipt of a complaint by sending written notice to the complainant no more than seven days after it receives the complaint;
- (2) When appropriate, provide written notice to the department of developmental disabilities or the department of mental health and any other appropriate agency within seven days after receiving the complaint;
- (3) Immediately refer a complaint made under this section to the department of developmental disabilities and to any other appropriate governmental agency, whenever the complaint involves an immediate and substantial threat to the health or safety of a mentally retarded or developmentally disabled person, or to the department of mental health and to any other appropriate governmental



agency, whenever the complaint involves an immediate and substantial threat to the health or safety of a mentally ill person. The department or an agency designated by the department shall report its findings and actions no later than forty-eight hours following its receipt of the complaint.

(4) Within seven days after identifying a deficiency in the treatment of a mentally retarded, developmentally disabled, or mentally ill person that pertains to misconduct, breach of duty, or noncompliance with state or federal laws, local ordinances, or rules or regulations adopted under those laws or ordinances that are administered by a governmental agency, refer the matter in writing to the appropriate state agency. The state agency shall report on its actions and findings within seven days of receiving the matter.

(5) Advise the complainant and any mentally retarded, developmentally disabled, or mentally ill person mentioned in the complaint, no more than thirty days after it receives the complaint, of any action it has taken and of any opinions and recommendations it has with respect to the complaint.

(6) Attempt to resolve the complaint by using informal techniques of mediation, conciliation, and persuasion. If the complaint cannot be resolved by the use of these informal techniques or if the act, practice, policy, or procedure that is the subject of the complaint adversely affects the health, safety, welfare, or civil or human rights of a mentally retarded, developmentally disabled, or mentally ill person, the section may recommend to the appropriate authorities or the administrator of the legal rights service that appropriate actions be taken.

(7) Report its opinions or recommendations to the parties involved after attempting to resolve a complaint through informal techniques of mediation, conciliation, or persuasion. The section may request any party affected by the opinions or recommendations to notify the section, within a time period specified by the section, of any action the party has taken on the section's recommendations.

(C) The section may make public any of its opinions or recommendations concerning a complaint, the responses of persons and governmental agencies to its opinions or recommendations, and any act, practice, policy, or procedure that adversely affects or may adversely affect the health, safety, welfare, or civil or human rights of a mentally retarded, developmentally disabled, or mentally ill person.



(D) The section shall at all times maintain confidentiality under sections 5123.601 to 5123.604 of the Revised Code concerning the identities of mentally retarded, developmentally disabled, or mentally ill persons, complainants, witnesses, and other involved parties who provide it with information unless the person, in writing, authorizes the release of the information.

Nothing in this section shall prohibit the legal rights service from taking appropriate action when the administrator determines it is necessary.

(E) Whenever information is disclosed indicating the commission of a crime or a violation of standards of professional conduct, the legal rights service shall, within seven days of receiving the complaint or identifying the information during its investigation, refer the matter to the attorney general, county prosecutor, other law enforcement official, or regulatory board, as appropriate, to investigate the crime or violation. The section may disclose any information permitted by law that is necessary to resolve the matter referred. The section shall monitor and maintain records on every matter it refers under this division.