


5123:2-2-06
**“BEHAVIORAL SUPPORT STRATEGIES THAT
INCLUDE RESTRICTIVE MEASURES”**

- Updated Rule effective January 1, 2015
- Applies statewide, to all environments (ICF / Home & Community) and to all providers of specialized services, regardless of source of payment
- Limits the use of and sets forth requirements for development and implementation of behavioral support strategies that include restrictive measures

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BEHAVIORAL SUPPORT STRATEGIES

- The focus of a behavioral support strategy shall be the creation of supportive environments that enhance the individual's quality of life by:
 - Mitigating risk of harm or likelihood of legal sanction
 - Reducing and ultimately eliminating the need for restrictive measures
 - Ensuring individuals are in environments where they have access to preferred activities and are less likely to engage in unsafe actions due to boredom, frustration, lack of effective communication, or unrecognized health problems
 - Ensuring that strategies are developed in accordance with the principles of person-centered planning
- Strategies shall be incorporated as an integral part of the Individual Service Plan (ISP)
- A behavioral support strategy shall never include prohibited measures

RESTRICTIVE MEASURES

- Defined as a method of last resort that may be used by providers of specialized services only when necessary to keep people safe and with prior approval by HRC
- Temporary in nature and used only in specifically defined situations
- May include:
 - **Manual restraint, mechanical restraint, chemical restraint or time-out**, only when there is a direct & serious risk of physical harm to the individual or another person
 - **Restriction of an individual's rights** only when there is a risk of harm or a likelihood of legal sanction such as eviction, arrest, or incarceration.
- Shall cease immediately once risk has passed

RESTRICTIVE MEASURES: MANUAL RESTRAINT

- Use of a hands-on method to control an identified action by restricting the movement or function of an individual's head, neck, torso, one or more limbs, or entire body
 - Includes holding, blocking, or disabling an individual's wheelchair or other mobility device
 - Does not include a method that is routinely used during a medical procedure for patients without developmental disabilities



RESTRICTIVE MEASURES: MECHANICAL RESTRAINT



- Use of a device to control an identified action by restricting an individual's movement or function
- Does not include:
 - seatbelt of a type found in an ordinary passenger vehicle
 - age-appropriate child safety seat; medically-necessary device used for supporting or positioning body
 - device that is routinely used during a medical procedure for patients without developmental disabilities



RESTRICTIVE MEASURES: CHEMICAL RESTRAINT

- Use of a medication prescribed for the purpose of modifying, diminishing, controlling, or altering a specific behavior
- Does not include:
 - medications prescribed for the treatment of a diagnosed disorder identified in the DSM-V or medications prescribed for treatment of a seizure disorder
 - medication that is routinely prescribed in conjunction with a medical procedure for patients without developmental disabilities



RESTRICTIVE MEASURES: TIME OUT



- Confining an individual in a room or area and preventing them from leaving by applying physical force or by closing a door or constructing another barrier
- Includes even when a staff person remains in the room or area
- Shall not exceed 30 minutes for any one incident nor 1 hour in any 24-hour period
- Shall cease immediately once risk of harm has passed or if the individual engages in self-abuse, becomes incontinent, or shows other signs of illness
- Does not include periods when an individual, for a limited and specified time, is separated from others in an unlocked room or area for the purpose of self-regulating and controlling his or her own behavior and is not physically restrained or prevented from leaving the room or area by physical barriers



RESTRICTIVE MEASURES: RIGHTS RESTRICTIONS

- Restriction of an individual's rights as enumerated in section 5123.62 of the Revised Code:


<http://codes.ohio.gov/orc/5123.62>




INDIVIDUAL RIGHTS: FROM THE RULE

- Individuals with developmental disabilities should be supported in a caring and responsive manner that promotes dignity, respect, and trust with recognition that they are equal citizens with the same rights and personal freedoms granted to Ohioans without developmental disabilities
- Every individual age 18 years or older is considered an adult, whether or not they have a developmental disability


INDIVIDUAL RIGHTS: FROM THE RULE

- Services and supports should be based on an understanding of the individual and the reasons for their actions
 - Effort should be directed at creating opportunities for individuals to exercise choice in matters that affect their everyday lives
 - Individuals should be supported to make choices that yield positive outcomes
- 


INDIVIDUAL RIGHTS: CHILDREN

- For children, teams should consider what is age appropriate regardless of the child's disability
 - Bedtime
 - Diet
 - Access to recreation and free time
 - Personal care
 - Household responsibilities
 - Community access
- 


INDIVIDUAL RIGHTS: ADULTS

- Team members cannot restrict an adult individual's access to food, drink, tobacco products, adult materials, or alcohol without HRC approval
 - Team members also cannot enforce arbitrary schedules, restrict community outings, restrict access to friends and family, enforce religious practices, or prohibit private time without HRC approval
- 


INDIVIDUAL RIGHTS

- Medical professionals can make recommendations regarding an adult individual's diet, sugar intake, tobacco usage, alcohol intake, etc.
 - However medical professionals and team members cannot force adults with disabilities to follow those recommendations as they cannot force adults without disabilities
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INDIVIDUAL RIGHTS

- Team members are encouraged to educate and empower the individuals that they serve to make informed, healthy choices
 - Team members must recognize that the needs for every individual are different, and the strategies used to help maintain health and safety for every individual will also need to be different
 - Team members can be creative about how they educate and encourage individuals to make healthy choices
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INDIVIDUAL RIGHTS

- Medical interventions used as behavioral interventions (such as splints used to immobilize arms so someone cannot hit/scratch) are subject to the rule
 - Medical interventions that would be used to treat anyone with that medical condition (such as splints to help with contractures) are not subject to rule
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RIGHTS VIOLATION EXAMPLES: ADULTS

- A guardian instructing a provider to withhold an adult individual's cigarettes
 - A provider denying requested food or drink because the individual's doctor recommended it
 - A parent guardian enforcing a 9pm bedtime
 - A team denying community outings or visits with family/friends until the individual takes a shower
 - Parents instructing providers to keep the individual's bedroom or bathroom door open
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RIGHTS VIOLATION EXAMPLES: CHILDREN

- Parent instructing a summer camp provider to restrict camp activities based on their child's behavior at home
 - Parent instructing a provider to place their child in time-out whenever their child curses
 - Parent instructing a provider to give their child Benadryl before bedtime if they having trouble falling sleeping (chemical restraint)
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A GOOD RULE OF THUMB

- If you are uncomfortable with what you being asked to do or what you are hearing, there could be a restrictive measure in place
- Pay attention to language used and ask follow up questions whenever you sense a restrictive measure is being used
- Contact HRC with any questions:
 - behavior.support@dcbdd.org



RESTRICTIVE MEASURES: PROHIBITED MEASURES

Methods that **SHALL NOT** be used:

- Prone restraint (face-down)
- Manual or mechanical restraint that has the potential to inhibit or restrict an individual's ability to breathe or that is medically contraindicated
- Manual or mechanical restraint that causes pain or harm to an individual
- Disabling an individual's communication device
- Denial of breakfast, lunch, dinner, snacks, or beverages
- Placing an individual in a room with no light
- Subjecting an individual to damaging or painful sound
- Application of electric shock to an individual's body
- Subjecting an individual to any humiliating or derogatory treatment
- Squirting an individual with any substance as an inducement or consequence for behavior
- Using any restrictive measure for punishment, retaliation, instruction or teaching, convenience of providers, or as a substitute for specialized services



WHO CAN ASSESS AND DEVELOP RESTRICTIVE MEASURES?

According to the Rule, persons who conduct assessments and develop behavioral support strategies that include restrictive measures shall:

1. Hold professional license or certification issued by: the Ohio board of psychology; the state medical board of Ohio; or the Ohio counselor, social worker, and marriage and family therapist board; or
2. Hold a certificate to practice as a Certified Ohio Behavior Analyst pursuant to section 4783.04 of the Revised Code; or
3. Hold a bachelor's or graduate-level degree from an accredited college or university and have at least three years of experience (paid, full-time or equivalent part-time) in developing and/or implementing behavioral support and/or risk reduction strategies or plans.

ADDITIONAL REQUIREMENTS FOR BEHAVIORAL CONSULTANTS IN DELAWARE COUNTY:

- **Contract & Training Requirements:**
 - DCBDD contract required (3 year contract)
 - Initial and annual training required
- **Ongoing Expectations:**
 - Present to HRC in person annually or for major revisions
 - Use DCBDD forms/templates and bring only completed documents to HRC
 - Adhere to DCBDD timelines and monitor budget / units
 - Communicate with SSA about any ongoing issues within the team (e.g. receiving monthly data)
 - Obtain informed consent
 - Provide the individual and/or guardian with written notification and explanation of their right to seek administrative resolution
 - Ensure that strategies are only implemented once HRC has given approval and all staff are trained

PLANNING & APPROVAL PROCESS

BEHAVIORAL SUPPORT SERVICES OPTION #1: GENERAL STRATEGIES

- May or may not have care provider involved (often parent strategies)
- Typically a short-term service
- No template required
- No oversight by HRC
- Team reviews annually
- Funding according to specific department guidelines

BEHAVIORAL SUPPORT SERVICES OPTION #2: STRATEGIES WITH NON-RESTRICTIVE MEASURES

- Usually a care provider is involved
- Usually a behavioral consultant is on the team
- No template required
- No oversight by HRC
- Team is required by DCBDD policy to review every 90 days to determine effectiveness and ongoing need
- Funding according to *Funding Guidelines* (Consultation, Strategy Development & Training, Follow-Along)



BEHAVIORAL SUPPORT SERVICES OPTION #3: STRATEGIES W/ RESTRICTIVE MEASURES

- Behavioral Consultant is required if strategies are immediately contingent on behavior
 - *Assessment & Strategies* must be reviewed and approved by HRC
 - DCBDD policy requires team to collect & review data monthly and submit *Monthly Progress Review* to HRC
 - DODD rule requires team to monitor every 90 days to determine effectiveness and ongoing need (In Delaware County this is led by HRC)
 - Funding according to *Funding Guidelines* (Consultation, Strategy Development & Training, Follow-Along)
- SSA can assess & develop strategies are not immediately contingent on behavior, and if SSA meets criteria in rule
 - *Restrictive Measures Review* must be reviewed and approved by HRC
 - DCBDD policy requires team to review every 90 days to determine effectiveness and ongoing need (led by SSA)



DCBDD FUNDING GUIDELINES

Service	Code	Rate
Initial Consult and Recommendations	SBE XBE KBE	Up to 16 units based on provider's contracted rate
Development, Training/Implementation – Strategies without Restrictive Measures	SBP XBP KBP	Up to 20 units based on provider's contracted rate
Development, Training/Implementation – Strategies with Restrictive Measures	SBP XBP KBP	Up to 24 units based on provider's contracted rate
Follow Along – Strategies without Restrictive Measures	SBU XBU KBU	Up to 32 units per year based on provider's contracted rate
Follow Along – Strategies with Restrictive Measures	SBU XBU KBU	Up to 96 units per year based on provider's contracted rate



PRE-CONSULTATION DATA COLLECTION

**Behavioral Support Services
Pre-Consultation Data Collection**

Individual's Name: _____ Individual's DOB: _____
 Support Administration: _____ Contact Information: _____
 Please callifying site: _____

Provide any additional medical information (medical and/or mental health diagnoses, medications & dosages, recent health changes, etc.)

Describe any recent life changes (moving, loss of a loved one, change in custody, etc.)

Are these behaviors part of a pattern?

Have any of the behaviors led to a crisis situation? Describe the situation and the team's response. Include recent (30) days.

Describe how the individual communicates.

Describe the individual's strengths.

Why does the team believe the individual are wanting?

What would the team like to see the individual learn to do? What is the best outcome of behavior support services?

- Helps team collect information
- SSA assists with set-up
- Parent/provider/team completes for 30 days
- SSA can request to bypass this step with manager approval in an emergency situation
- Parent/provider/team returns this to SSA when complete
- Team decides if a consultant is needed (SSA may submit an RFP any time during this process)
- Consultant is provided a copy



CONSULTATION SUMMARY & RECOMMENDATION

Behavioral Support Services Consultation Summary & Recommendation	
Individual's Name	Individual's DOB
Behavioral Consultant	Agency
Phone #	Email
Support Administrator	Email
Current IOP Type	Date(s) of Consultation
<small>To be submitted to the individual's SSA. Once created, individual services may be approved through the IOP submission process, according to behavioral support policy and procedures. All services must be pre-approved by the SSA.</small>	
Description of Consultation <small>Describe the community, environment(s), team members present, and how information was gathered.</small>	
Current Behavioral Concerns <small>Describe the current behaviors that led to the consultation. Include location, frequency, duration, intensity.</small>	
Target Behaviors Identified <small>List/Name each target behavior and explain what each behavior looks like when it is occurring.</small>	
Summary of Baseline Data <small>Provide a summary of the data gathered by the team prior to the consultation. Attach the Consult Assessment form if available.</small>	
Non-Restrictive Measures Tried <small>List non-restrictive measures that have been tried by the team, but have been determined ineffective.</small>	
Restrictive Measures <small>List any restrictive measures that the team has implemented. Advise the team that these must be reported under M.I. Rule if not approved by HRC.</small>	
Recommendations	
Interim/Temporary Recommendations <small>Support immediate changes that can be made to improve the situation.</small>	
Recommendation for Ongoing Behavioral Support Services <small>Indicate the level of services needed based on the consultation/environment. **Options include: No Services, General Behavioral Support Strategies, Non-Restrictive Strategies, or Strategies with Restrictive Measures.</small>	
Consultant Signature / Date	

- To be completed by behavioral consultant
- Consultation/Recommendation units are approved on PAS according to *Funding Guidelines*
- Consultant meets with individual/family/team to gather info and make recommendation for future services
- This is due to SSA within 30 days

ASSESSMENT & STRATEGIES

Behavioral Support Services Assessment & Strategies				
Individual's Name	Individual's DOB			
Behavioral Consultant	Agency			
Phone #	Email			
Effective Dates of Behavioral Support Strategies				
Current Behavioral Concerns / Behavioral History <small>Describe previous and current, and describe how the behavior poses a risk of harm or likelihood of legal action, safety, environment (person, place, activity) in which the behavior occurs. Consider past experience, trauma, and patterns of behavior.</small>				
Target Behaviors <small>Clearly define the target behavior(s) to decrease, and what each target behavior looks like when it is occurring. Based on an assessment within the last 12 months, describe why each behavior is occurring, include physiological, environmental, medical, mental health, emotional, and/or other motivational factors that may be contributing to the behavior. Then, clearly define the desired or replacement behavior(s) to increase.</small>				
Baseline Data <small>Provide the original data for each target behavior to decrease and to increase.</small>				
Dates	Target Behavior	Location	Total #	Average #
Program Data <small>Provide a summary of data for each target behavior to decrease and to increase, for program start, if available.</small>				
Dates	Target Behavior	Location	Total #	Average #
Restrictive Measures Used <small>Provide a summary of restrictive measures used during the practice visit, if available.</small>				
Dates	RM Used	Location	Total #	Average Duration
Non-Restrictive Measures Tried <small>List non-restrictive measures that have been employed and have been determined ineffective.</small>				

- To be completed by behavioral consultant
- Plan Development units approved on PAS according to *Funding Guidelines*
- Behavioral consultant completes and sends to SSA and HRC within 30 days
- HRC reviews at next scheduled meeting for initial services, or 2 months before ISP renewal for ongoing services
- Behavioral consultant presents in person to HRC annually and with any major revisions

RESTRICTIVE MEASURE REVIEW

**Behavioral Support Services
Restrictive Measure Review**

Individual's Name		Individual's DOB	
Behavioral Consultant		Agency	
Phone #		Email	
Support Administrator		Email	
Current DSP Ipin		Date Submitted	

This form may be used by the SSA, in place of a behavioral consultant, for certain rights restrictions or mechanical restraints not immediately contingent on behavior. Submit completed form to gregg.justin@dcyf.wa.gov

Proposed Restrictive Measure(s) / Rights Violation(s) (based on Bill of Rights for Individuals with DD (CWS 12.2.6.2))

Current Behavioral Concerns / Behavioral History
Provide a description of the issue's concerns. Describe the target behavior, when it happens, and how it poses a risk of harm or legal violation. Include dates, incident reports, or other anecdotal records if available.

Assessment
After meeting/discussion, suggest possible causes of the behavior. Consider interpersonal, environmental, medical, mental/health, emotional needs, and other motivational factors that may be contributing.

Non-Restrictive Measures Tried
Describe non-restrictive measures that have been tried that were not successful.

Restrictive Measures
Describe the restrictive measure and how it would be implemented. Restrictive measures include verbal, chemical, mechanical restraints, and rights violations based on 12.2.6.2.

Non-Restrictive Measures
If applicable, identify other measures, and/or skills/replacement behaviors to be taught that may allow this restriction to be lifted. Teams must review the need for approved restrictive measures every 90 days.

Safety Protocol
Outline safety concerns and possible outcomes of implementing the plan. Describe how the team will ensure the safety of the individual and team members.

- To be completed by SSA when a mechanical restraint or rights restriction is not immediately contingent on behavior, and no behavioral consultant is already on the team
- SSA submits this to HRC and presents to HRC in person at next scheduled meeting



MONTHLY PROGRESS REVIEW

**Behavioral Support Services
Monthly Progress Review**

Individual's Name		Individual's DOB		Effective Dates of Strategies	
Behavioral Consultant				Date of Report	
<small>This form is to be completed by the behavioral consultant. The consultant will identify measures, the occurrence of the behavior, and the effectiveness of the strategies.</small>					
Target Behavior Data Summary					
Target Behavior	01/1	01/2	01/3	01/4	01/5
Target Behavior	01/6	01/7	01/8	01/9	01/10
Target Behavior	01/11	01/12	01/13	01/14	01/15
Target Behavior	01/16	01/17	01/18	01/19	01/20
Target Behavior	01/21	01/22	01/23	01/24	01/25
Restrictive Measures Data Summary					
Restrictive Measure	01/1	01/2	01/3	01/4	01/5
Restrictive Measure	01/6	01/7	01/8	01/9	01/10
Restrictive Measure	01/11	01/12	01/13	01/14	01/15
Restrictive Measure	01/16	01/17	01/18	01/19	01/20
Restrictive Measure	01/21	01/22	01/23	01/24	01/25

Goal notes: provide additional information regarding items on this form. Goal may be changing behavior (verbal, environmental, etc.). Consider positive and positive alternatives. Report date of the behavior restriction and non-restriction of use.

Month/Year	Comments

- To be completed by behavioral consultant
- Follow-Along units approved on PAS/PAWS according to *Funding Guidelines*
- Team submits data to behavioral consultant monthly
- Behavioral consultant summarizes data and progress on *Monthly Progress Review* and submits to HRC by monthly deadline
- HRC reviews at monthly meeting and provides feedback to consultant and SSA through email




HUMAN RIGHTS COMMITTEE

- OAC 5123:2-2-06 specifies the purpose, composition, training requirements, and responsibilities of Human Rights Committees
- Each county board and ICF must provide a HRC or coordinate with other county boards and/or providers to make a HRC available
- Human Rights Committees oversee the development and implementation of behavioral support strategies that include restrictive measures across all settings
- HRC safeguards individuals' rights and protects individuals from physical, emotional, and psychological harm


HUMAN RIGHTS COMMITTEE

- Per the 2016 DCBDD Behavioral Support Policy, HRC must be comprised of an equal number of members from these two groups:
 - Individuals who are eligible to receive specialized services, family members of eligible individuals, and guardians of eligible individuals (this group shall always include at least one individual eligible to receive services)
 - Employees of DCBDD and contracted Behavioral Consultants (this group shall always include at least one SSA from each of the three program areas and at least one person who has experience or training in contemporary practices for behavioral support)

HUMAN RIGHTS COMMITTEE

- Per the 2016 DCBDD Behavioral Support Policy
 - The total number of voting members cannot exceed twelve
 - A majority vote is required to approve proposed strategies
 - Members are prohibited from voting on proposed strategies for an individual if they are a member of the team or supervise a member of the team
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HUMAN RIGHTS COMMITTEE

- HRC members are asked to serve three years with no more than two consecutive terms
 - When a vacancy on the committee is created, HRC will notify DCBDD staff, community partners, and local organizations to request contact from interested parties
 - The HRC Chair will contact interested parties to explain the committee process and extend an invitation to attend a committee meeting
 - Once an applicant has joined a committee meeting, the HRC Chair may extend an invitation to join the committee as a member
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HUMAN RIGHTS COMMITTEE

- OAC 5123:2-2-06 specifies that HRC members must receive DODD-approved training in:
 - Individual rights as enumerated in ORC 5123.62
 - Person-centered planning
 - Informed consent
 - Confidentiality
 - The requirements of OAC 5123:2-2-06
 - Self-advocacy and self-determination
 - Role of guardians and ORC 5126.043
 - Effect of traumatic experiences on behavior
 - Court-ordered community controls and the role of the court, the county board, and the Human Rights Committee




Human Rights Committee 2016 Due Dates and Meeting Dates


Due Dates	Meeting Dates
1/20/16	1/27/16
2/17/16	2/24/16
3/23/16	3/30/16
4/20/16	4/27/16
5/18/16	5/25/16
6/22/16	6/29/16
7/20/16	7/27/16
8/24/16	8/31/16
9/21/16	9/28/16
10/19/16	10/26/16
11/9/16	11/16/16
12/7/16	12/14/16

Behavioral consultants are required to attend HRC meetings when they are presenting.
 HRC meetings are held from 1pm-4pm in the DCBDD office (7991 Columbus Pike, Lewis Center, OH 43035).
 Please submit Assessment & Strategies, Monthly Progress Reviews to behavior.support@dcbdd.org.
 HRC Co-Chair Karen Ferrell can be reached at 740-201-5856 or karen.ferrell@dcbdd.org.
 HRC Co-Chair Serena Jordan can be reached at 740-201-5858 or serena.jordan@dcbdd.org.

FINAL HRC APPROVAL

- HRC follows a checklist to ensure all Rule requirements are met (checklist is shared with consultant after meeting)
 - HRC may approve or reject strategies; or give pending approval to allow consultant to make revisions
 - Once revisions are accepted, consultant or SSA completes *Informed Consent*, *Team Consent*, and *Training* – these forms are submitted to HRC
 - HRC submits Restrictive Measure Notification to DODD prior to final approval and implementation
 - HRC provides written notification of decision to consultant and SSA
 - Final approvals are filed in individual's DCBDD record
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HANDLING OBJECTIONS

- SSA can assist the team with handling dissenting opinions by following DCBDD procedures. Steps include:
 - Working together through the team process
 - Obtaining Policy & Procedure clarification by HRC
 - Submitting a formal appeal to be reviewed by HRC
 - Submitting an appeal of HRC's final decision through each level of the Table of Organization
 - Submitting an appeal of the Board's decision to the Director of the Ohio Department of Developmental Disabilities
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UNAPPROVED BEHAVIOR SUPPORTS

**** (G)(2) Nothing in this rule shall be construed to prohibit or prevent any person from intervening in a crisis situation as necessary to ensure a person's immediate health and safety. ****

- “Unapproved Behavior Supports” include instances where:
 - A team becomes aware of a restrictive measure being implemented which has not been approved by the HRC
 - A team must implement a restrictive measure in a crisis situation to prevent harm
- UBS shall be reported in accordance with OAC 5123:2-17-02 and DCBDD Policy until the measure has been approved.
- HRC does not meet to review emergency requests.



CONTACTS

- DCBDD HRC: behavior.support@dcbdd.org
- Karen Ferrell: Karen.Ferrell@dcbdd.org
- Serena Jordan: Serena.Jordan@dcbdd.org

RESOURCES

- DODD Behavior Support Work Space:
<https://sites.google.com/site/ohiobssworkspace2/home>
- Rule 5123: 2-2-06:
<https://doddportal.dodd.ohio.gov/rules/ineffect/Documents/5123-2-2-06%20Effective%202015-01-01.pdf>
- Client Bill of Rights <http://codes.ohio.gov/orc/5123.62>