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Section: Human Rights and Legal Responsibilities Approved: /s/Jordan Scheff/LT

###### Policy Statement

The Commissioner of Developmental Services is allowed by state statute to propose a transfer for an individual who resides in a Department of Developmental Services (DDS)-funded residential facility that no longer meets the individual’s health, safety or programmatic needs. An individual subject to a proposed transfer may exercise his or her right to object to the proposed transfer prior to the transfer and provide arguments and reasons for the objection in a Uniform Administrative Procedure Act (UAPA) hearing.

DDS also may conduct an emergency transfer in cases where an individual’s health or safety are at imminent risk. An individual who has been moved as an emergency transfer may exercise his or her right to object to the transfer after the emergency transfer has taken place and is afforded a UAPA hearing in which to provide arguments and reasons for the objection to the emergency transfer.

As a state agency that funds and operates residential services, it is of the utmost importance for DDS that such services maintain a safe, healthy and developmentally appropriate living environment for each individual. As most residential supports are provided through one of the DDS Medicaid Home and Community Based Waivers, it is a federal requirement, as prescribed in the Centers for Medicare and Medicaid Services (CMS) Waiver assurances, that DDS must maintain an individual’s health and welfare as well as address all individuals’ assessed needs including health and safety risk factors. The transfer process is intended to mitigate these potential risk factors, as well as meet our statutory and federal obligations.

###### Purpose

This procedure establishes a consistent practice when a residential transfer is proposed by the DDS Commissioner for an individual from a residential facility operated, licensed, or funded by the Department of Developmental Services (DDS) to another such residential facility. The procedure also establishes the process by which a Regional or Training School Director or a DDS qualified provider may recommend a transfer of an individual for the Commissioner’s approval.

###### Applicability

This procedure applies to any individual who resides in a residential facility that is operated, licensed, or funded by DDS, when a transfer from a current residential facility to another such residential facility is proposed by or recommended to the Commissioner by a Regional or Training School Director or a DDS qualified provider or when an emergency transfer has been made by the Commissioner.

This procedure does not apply to (1) a transfer of an individual from one residential unit to another within the training school or within the campus of a regional center; (2) a transfer initiated by the individual’s planning and support team with the involvement and consent of the individual and the individual’s legal representative, if any; (3) a transfer initiated by the individual or the individual’s legal representative, if any, using portability; or (4) the admission of an individual to a health care or other facility that is not operated, licensed or funded by DDS.

This procedure also does not apply to any individual placed or residing in a DDS residential setting that is considered transitional or time-limited, (e.g., DDS Transitional Unit, DDS-operated Step Up/Step Down Unit) with the intent to provide supports that will facilitate an appropriate transition into a home or community-based residential setting.

This procedure shall be implemented by all case managers, case management supervisors and other DDS staff responsible for transferring an individual from a residential facility that is operated, licensed, or funded by DDS to another such residential facility.

###### Definitions

“Commissioner” means the Commissioner of Developmental Services.

“Emergency transfer” means the immediate move of an individual from any residential facility that is operated, licensed, or funded by DDS to another such residential facility when necessary to avoid a serious and immediate threat to the physical or mental health of the individual or other persons living in the residential facility.

“Hearing” means the administrative proceeding that is held in accordance with Chapter 54 of the Connecticut General Statutes, the Uniform Administrative Procedure Act (UAPA).

“Hearing officer” means the person assigned by the DDS Commissioner or the DDS Legal Director to conduct a hearing in accordance with the provisions of Chapter 54 of the Connecticut General Statutes, the Uniform Administrative Procedure Act (UAPA).

“Individual” means a person receiving funding or services from DDS and who resides in a residential facility operated, licensed or funded by the department.

“Notice of emergency transfer” means the written notification from DDS of the emergency transfer of an individual sent to the individual and the individual’s legal representative not more than 10 days after the emergency transfer. A notice of emergency transfer is only sent for emergency transfers.

“Notice of intent to transfer” means the written notification from DDS of the proposed transfer, sent to the individual and the individual’s legal representative not fewer than 15 days prior to the proposed transfer. A notice of intent to transfer is not sent for emergency transfers.

“Planning and Resource Allocation Team” or “PRAT” means the DDS employees in each region who allocate funding to individuals, including for residential opportunities.

“Planning and Support Team” means the group that includes the individual, the individual’s parent or legal representative, case manager, and support service professionals who develop the individual’s individual plan.

“Residential facility” means a residence that is operated, licensed or funded by DDS including community living arrangements (CLAs), continuous residential supports (CRS) homes operated by DDS qualified providers, and community companion homes (CCHs). This definition of “residential facility” does not include residences where an individual receives individualized home supports (IHS); continuous residential supports (CRS) in a residence not operated by a DDS qualified provider; or supportive housing where the residence is not owned by DDS or a DDS qualified provider.

“Regional or Training School Director” means the DDS employee appointed by the Commissioner in each region or at the Southbury Training School, who may recommend a proposed transfer or an emergency transfer to the Commissioner.

“Transfer” means the move of an individual from one residential facility that is operated, licensed or funded by DDS to another such residential facility, which has been proposed by the Commissioner or recommended to the Commissioner by a Regional or Training School Director or a DDS qualified provider.

“Uniform Administrative Procedure Act” or “UAPA” means the fair hearing process described in Chapter 54 of the Connecticut General Statutes.

###### Implementation

* 1. The Commissioner may propose the transfer of an individual upon the written recommendation of a Regional or Training School Director or a DDS qualified provider from a residential facility that is operated, licensed or funded by DDS to another such residential facility for the following reasons including, but not limited to:
     1. when necessary and desirable for the individual’s welfare;
     2. for the health and safety of the individual; or
     3. to provide greater opportunity for personal development for the individual.
  2. The Commissioner may make an emergency transfer of an individual upon the written recommendation of a Regional or Training School Director or a DDS qualified provider from a residential facility that is operated, licensed or funded by DDS to another such residential facility for the following reasons including, but not limited to:
     1. when necessary to avoid a serious and immediate threat to the life or physical or mental health of the individual. Such serious or immediate threat may include if the individual has a medical reason or a medical condition that cannot be appropriately treated in the individual’s current residential facility;

1. when necessary to avoid a serious and immediate threat to the life or physical or mental health of another person residing in the facility;
2. when a community companion home licensee has (1) relinquished the CCH license; (2) had the CCH license revoked by DDS; or (3) requested that an individual living in the community companion home leave; or
3. at the discretion of the Commissioner.
   1. A request for a move or a transfer of an individual from one residential facility to another residential facility may be (1) initiated by the individual’s planning and support team with the involvement of the individual and the individual’s legal representative, if any; or (2) initiated by the individual or the individual’s legal representative, if any, using portability. The individual’s case manager shall document the request for the move or transfer in the individual’s case notes. The case manager shall retain in the individual’s case file any documentation (e.g., letter, email communication) that the request for the move or transfer was made at the request of the individual or the individual’s legal representative, if any, and that any move or transfer would be voluntary.
4. Notice of Intent to Transfer and Notice of Emergency Transfer
   * 1. If the Commissioner has made a determination that a transfer of an individual should be made and appropriate planning for the transfer is in place, except in emergency transfer cases, DDS shall inform the individual and the individual’s legal representative of the intent to transfer through a Notice of Intent to Transfer.
   1. The individual’s DDS case manager shall send the Notice of Intent to Transfer by certified mail and by secure email, if applicable, not fewer than 15 days prior to the proposed transfer.
   2. The Notice of Intent to Transfer shall be signed by the individual’s case manager andthe Regional or Training School Director, or the director’s designee.
   3. The notice shall contain the date of the proposed transfer, the address of the residence the individual is proposed to be transferred to, notice of the right of the individual to object to the proposed transfer, the right to a hearing on the proposed transfer, and the address and telephone number of Disability Rights Connecticut, Inc., or a successor agency.
   4. A copy of this notice shall be sent to a representative of the individual’s current residential program and a copy shall be placed in the individual’s master file by the case manager.
5. If the Commissioner has transferred an individual on an emergency basis, the individual’s case manager shall send a Notice of Transfer to the individual and the individual’s legal representative, if any, by certified mail and by secure email, if applicable, as soon as possible but not more than 10 days following the emergency transfer.
6. The Notice of Emergency Transfer shall be signed by the individual’s case manager andthe Regional or Training School Director, or the director’s designee.
7. The notice shall contain the date of the emergency transfer, the address of the residence the individual has been transferred to, notice of the right of the individual to object to the emergency transfer, the right to a hearing on the emergency transfer, and the address and telephone number of Disability Rights Connecticut, Inc., or a successor agency.
8. A copy of this notice shall be sent to a representative of the individual’s current residential program and a copy shall be placed in the individual’s master file by the case manager.
9. Objection to Transfer
   * 1. If the individual, or the individual’s legal representative, objects to the proposed or emergency transfer, the individual or the representative shall complete an Objection to Transfer form and submit the completed form to the individual’s case manager not later than 10 days after the date of receipt of the certified letter containing either the Notice of Intent to Transfer or the Notice of Emergency Transfer.
10. The individual’s case manager shall inform the case management supervisor, the Regional or Training School Director, or the director’s designee, and the regional PRAT manager of the objection to the proposed or emergency transfer.
11. The Regional or Training School Director, or the director’s designee, shall send a copy of the objection to transfer to the DDS Legal and Government Affairs Division.

* + 1. If the individual, or the individual’s legal representative, objects to the proposed transfer, in cases other than an emergency transfer, the transfer shall nottake place pending the outcome of the hearing process and the decision of the Commissioner.
    2. If the individual, or the individual’s legal representative, objects to the emergency transfer, the individual shall remain at the residence to which he or she has been transferred until such hearing process is complete and a decision has been made by the Commissioner.

1. Transfer Hearing
   1. The Commissioner, or the DDS Legal Director as the Commissioner’s designee, shall appoint a hearing officer for the hearing to consider the individual’s objection to a proposed transfer or an emergency transfer.
   2. The DDS Legal Director, or the director’s designee shall promptly schedule the transfer hearing.
   3. The hearing officer shall conduct the hearing, in accordance with the provisions of Chapter 54 of the Connecticut General Statutes “Uniform Administrative Procedure Act (UAPA)”.
   4. During the hearing each party shall present evidence regarding the reasons for and against the proposed or emergency transfer. The proponent of the transfer shall have the burden of showing, by clear and convincing evidence, that the proposed or emergency transfer is in the best interest of the individual and that the facility and programs to which the individual is proposed to be or has been transferred (1) are safe and effectively supervised and monitored; and (2) provide a greater opportunity for personal development than the individual’s present residence.
   5. The hearing officer shall render a proposed written decision on the objection to transfer not more than twenty (20) business days after the hearing and send it to the Commissioner.
   6. The Commissioner, or the Commissioner’s designee, shall review the proposed written decision of the hearing officer and shall render a final decision on the objection to transfer.

* 1. The decision of the Commissioner shall be final. This decision shall be shared in writing with the individual, the individual’s legal representative, the individual’s case manager, and the Regional or Training School Director.
  2. If the individual or the individual’s legal representative is aggrieved by the decision of the Commissioner, the decision may be appealed to the Superior Court as outlined in the Uniform Administrative Procedure Act (UAPA), Chapter 54 of the Connecticut General Statutes.
  3. The DDS Legal and Government Affairs Division shall retain all transfer hearing documentation in accordance with the [Agency Specific Records Retention Schedules of the Connecticut State Library](https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fctstatelibrary.org%2Fagency-specific-records-retention-schedules%2F&data=05%7C01%7CRod.O%27Connor%40ct.gov%7C206c6be3a89444773c2b08da95c25492%7C118b7cfaa3dd48b9b02631ff69bb738b%7C0%7C0%7C637986959109383564%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000%7C%7C%7C&sdata=CxLX3KupcWkbPrK7TkwRsQNtlZVOluSe7lNFt35Nwy8%3D&reserved=0).
  4. No hearing shall be required if the Commissioner withdraws the proposed transfer.

1. **References**

**Connecticut General Statutes**

Sections 17a-210 et seq.: Department and Commissioner of Developmental Services

Chapters 54 et seq.: Uniform Administrative Procedure Act

**Regulations of Connecticut State Agencies**

Section 17a-230-13 Transfers

1. **Attachments**

I.F.PR.013 Attachment A [Sample Notice of Intent to Transfer](https://portal.ct.gov/-/media/DDS/DDS_Manual/IF/IFPR013_Attachment_A_Sample_Notice_of_Intent_to_Transfer.docx)

I.F.PR.013 Attachment B [Sample Notice of Emergency Transfer](https://portal.ct.gov/-/media/DDS/DDS_Manual/IF/IFPR013_Attachment_B_Sample_Notice_of_Transfer.docx)

I.F.PR.013 Attachment C [Sample Objection to Transfer](https://portal.ct.gov/-/media/DDS/DDS_Manual/IF/IFPR013_Attachment_C_Sample_Objection_to_Transfer.docx)

I.F.PR.013 Attachment D [Residential Transfers Fact Sheet](https://portal.ct.gov/-/media/DDS/DDS_Manual/IF/IFPR013_Attachment_D_Residential_Transfers_Fact_Sheet.docx)