2.01: continued

Authorized Staff Person means any member of the staff who is authorized by the head of the provider and trained to order mechanical restraint or physical restraint pursuant to 115 CMR 5.04(4)(b).

Autism Spectrum Disorder shall have the same meaning as is contained in the most recent edition of the *Diagnostic and Statistical Manual of Mental Disorders*.

Available means, with respect to a facility, service or support, that the provider has the staff, resources, assistance, and space to meet the needs or objectives indicated in an individual's ISP and has not been designated for another individual with a higher priority of need for services or supports.

Capable of Evacuation means the capability of an individual to exit his or her residence to grade level within 2½ minutes with or without assistance.

Certification means verification by the Department of the quality of providers' services and supports described at 115 CMR 8.01(3)(b): *Certification* based upon their compliance with certification standards and quality outcomes for individuals set forth at 115 CMR 7.03: *Outcomes for Individuals* or the approval issued by the Department to a licensed provider with respect to certain behavior modification treatments.

Chemical Restraint means the non-consensual use of medication, not for treatment, but for the purpose of impairing the individual's freedom of movement.

Children's Supports means family support services provided to individuals younger than 22 years old who reside in their family home or enhanced or specialized family supports which are available upon referral and assessment by the Department.

Closely Related Developmental Conditions means genetic, neurodevelopmental or physical disorders that have a significant overlap with intellectual disability, and result in similar support needs. For the purposes of 115 CMR 6.06(1), closely related developmental conditions may include:

(a) Williams Syndrome;
(b) Lesch-Nyhan Syndrome;
(c) Angelman Syndrome;
(d) *Cri du Chat* Syndrome;
(e) Down Syndrome;
(f) Fragile X Syndrome;
(g) Cerebral Palsy;
(h) Rett's Syndrome
(i) *Spina Bifida* (Myelomeningocele type MMC);
(j) Tuberous Sclerosis;
(k) Fetal Alcohol Syndrome; or
(l) any other developmental disorder that the Department determines to be a closely related developmental condition.

Commissioner means the Commissioner of the Department of Developmental Services.

Community means a city, town, district, neighborhood, or other commonly recognized geographical or political area.

Community Developmental Disability Supports means a variety of support models designed to support individuals with Autism Spectrum Disorder, Prader-Willi Syndrome, or Smith-Magenis Syndrome who are living in the community. Community Developmental Disability Supports may include day and employment services, family supports, individualized home supports to an individual residing in his or her home or family home and, based upon an individual's assessed need, support to stabilize the individual in his or her own home, family home or in the home of another. The availability of these services is subject to appropriation, and the types of services may be changed based on further assessment of the needs of such persons.

2.01: continued

Community Living Supports means a variety of support models designed to support individuals with intellectual disability that need a moderate level of support that is less than 24-hours per day living in the community. Community Living Supports may include those supports identified in the Community Living Supports Waiver for Adults with Intellectual Disability approved by the Centers for Medicare and Medicaid Services under § 1915(c) of the Social Security Act.

Community Resources means workplaces, businesses, places of worship, social groups, consultants, health care facilities or professionals, places for recreation or entertainment, and other facilities, professionals, or supports generally available to the population-at-large within a community.

Competent in Fact means being capable of making informed decisions in specific areas regarding the conduct of one's personal and/or financial affairs.

Consent means voluntary approval given by the word, or implied by the action of a person with adequate information and sufficient understanding to comprehend the consequences of the decision.

Department means the Department of Developmental Services (DDS).

Designated Representative means a person who has come forward as an advocate for the individual's interests, or whom the individual has, through consent, chosen as a representative, in connection with the development and review of the ISP, who is not otherwise disqualified from taking an appeal therefrom, and who is acknowledged by the Department to be the designated representative for the individual in connection with such service planning, in accordance with 115 CMR 6.20: *Introduction to Individual Support Planning*.

Developmental Disability means for persons who are five years of age or older, a severe, chronic disability that:

(a) is attributable to a mental or physical impairment resulting from Intellectual Disability, Autism Spectrum Disorder, Smith-Magenis Syndrome or Prader-Willi Syndrome;
(b) is manifested before the individual attains 22 years of age;
(c) is likely to continue indefinitely;
(d) results in substantial functional limitations.

Emergency Restraint means "restraint" as used in M.G.L. c. 123B, § 11, and defined at 115 CMR 5.11(1): *Definition of Terms*.

Facility (formerly referred to as a "state school" and referenced in M.G.L. c. 19B, §§ 7 through 10 and 12 as such) means, unless otherwise specified, any of the facilities operated by the Department listed in 115 CMR 3.03: *Designation of Facilities/State Schools*. This definition does not apply within the context of 115 CMR 3.06: *Charges for Care - Department Facilities* governing charges for care or within the context of 115 CMR 2.01: Community Resources.

Facility Director means the chief executive officer of a facility and also is intended to mean the "superintendent" referenced in M.G.L. c. 19B, §§ 8 and 10 and throughout M.G.L. c. 123B.

Family means parents, foster parents, spouses, siblings, and others who perform the roles and functions of family members in the life of an individual, including persons in a relationship of mutual support with an individual that is exclusive and expected to endure over time.

Family Supports means a variety of supports designed to assist individuals and their families that include services such as respite, family training and leadership development, support to assist the individual to participate in the community, social or recreational activities, and home modifications.

Generic Service means services, supports, or treatment options generally available to the population-at-large with or without special accommodations for persons with Intellectual Disability.

2.01: continued

Goals mean long-range outcomes generally expected to be achieved by an individual within five years and stated in measurable terms so that their attainment can be determined. Goals are developed from an evaluation of the individual's present performance, abilities and desires as these relate to what society expects of persons of the same age and culture who do not have disabilities.

Governing Board means the group of individuals that constitute the governing body of a provider.

Guardian means, with respect to persons younger than 18 years old, a natural or adoptive parent, or the individual or agency with legal guardianship of the person; and with respect to persons 18 years of age and older, the individual, organization or agency, if any, that has been appointed legal guardian of the person by a court of competent jurisdiction.

Habilitation means the process by which an individual is assisted to acquire and maintain those life skills necessary to cope more effectively with personal and environmental demands or to improve physical, mental, and social competencies.

Head of the Provider means the person with executive responsibility for the operation of the provider's agency, services, or supports. Where a provider operates at more than one location, "head of the provider" includes the person with responsibility for the operation at a particular location. Where the provider is a facility, the head of the provider is the facility director.

Health-related Protection means limitation of movement ordered by a physician or authorized clinician during a specific medical or dental procedure or if necessary for the individual's protection during the time that a medical condition exists. Health-related protection is not a form of restraint and may not be used for the convenience of staff. Health-related protection may be used only in accordance with 115 CMR 5.12: *Health-related Supports and Protections*.

Individual means, except where otherwise specified, a person receiving services or supports provided, purchased, or arranged by the Department.

Individual Support Plan or ISP means a written plan of services or supports for an individual, which is developed, implemented, reviewed, and modified according to the requirements of the Department's regulations on individual service plans.

Individualized Home Supports (Individual Supports) means a variety of services and supports that are provided regularly but that are less than 23 hours per day and that are determined necessary to prevent institutionalization. This service may include teaching and fostering the acquisition, retention or improvement of skills related to personal finance, health, shopping, use of community resources, community safety, and other social and adaptive skills to live in the community as specified in the Service Plan.

Intellectual Disability means, consistent with the standard contained in the 11th edition of the *American Association of Intellectual Disabilities: Definition, Classification, and Systems of Supports* (2010), significantly sub-average intellectual functioning existing concurrently with and related to significant limitations in adaptive functioning. Intellectual Disability originates before 18 years of age. A person with Intellectual Disability may be considered to be mentally ill as defined in 104 CMR: *Department of Mental Health*, provided that no person with Intellectual Disability shall be considered to be mentally ill solely by reason of his or her Intellectual Disability. The determination of the presence or absence of Intellectual Disability requires that exercise of clinical judgment.

Intellectual Disability Supports means a variety of support models, including Adult Supports, Community Living Supports or Intensive Supports that are designed to support individuals with Intellectual Disability living in the community. The availability of these supports is subject to appropriation, and the types of services included under these support models may be changed based on further assessment of the needs of such persons.

2.01: continued

Intensive Supports means a variety of support models designed to support individuals with Intellectual Disability that need supervision and support provided 24 hours per day seven days per week to an individual living in an out-of-home setting or in their family home, or in the family home less than 24-hours per day. Intensive Supports includes those supports identified in the Intensive Support Waiver for Adults with Intellectual Disability approved by the Centers for Medicare and Medicaid Services under § 1915(c) of the Social Security Act.

Intervention Strategy means training or teaching procedure, a manipulation or change of environment or the provision of supports designed to teach or assist an individual to achieve a goal or a specific objective. Depending on its content, an intervention strategy may also fall within the definition of a behavior modification intervention set forth under 115 CMR 5.14: *Behavior Modification.*

Knowing Objection means the act of an individual in rejecting a choice, made with a reasonable degree of awareness of the likely consequences of his or her act.

Least Restrictive means those settings, modes of service, and styles of living or working that are most similar to and most integrated with what is typical and age-appropriate in the community, and which interfere the least with the individual's independence.

Legal Representative or Legally Authorized Representative means, with respect to an individual, an attorney representing the individual in connection with a particular matter, a court appointed trustee, conservator, or guardian *ad litem* representing the interests of the individual in connection with particular matters, or the individual's guardian.

Legally Competent or Presumed Competent means, for individuals 18 years of age or older, not having been declared by a court to be incapable of making informed decisions with respect to the conduct of one's personal and/or financial affairs.

License means the legal authorization to provide services or supports described in 115 CMR 8.02(1) to persons with mental retardation required by M.G.L. c. 19B.

Licensee means the individual, agency, or other legal entity licensed by the Department.

Limitation of Movement or LOM means any restriction on the movement of an individual.

Mechanical Restraint is any limitation of movement achieved by means of a physical device.
(a) Mechanical restraint does not include Health-related Supports and Protections.
(b) Mechanical restraint may only be used pursuant to a behavior modification plan reviewed and approved in accordance with 115 CMR 5.14A: *Level III Intervention.*

Minor means a person younger than 18 years old.

Non-self-medicating means personally using medication in the manner directed by the prescribing practitioner only with assistance or direction by program or facility staff, in accordance with Department standards. (*See* Self-medicating).

Objective means short term outcomes stated in behavioral or otherwise measurable terms, expected to be achieved through the provision of a particular service or support, the implementation of a particular intervention strategy, or a change of modification of the environment.

Physical Restraint means any limitation of movement achieved by means of direct bodily contact between the individual and staff.

Prader-Willi Syndrome means consistent with the definition of the National Institute of Health, a neurologic condition that typically results from a specific genetic abnormality affecting the regulation of gene expression; for purposes of 115 CMR, the diagnosis of Prader-Will Syndrome must be supported by a medical diagnosis based upon genetic testing.

2.01: continued

Provided by the Department means made available to the individual directly through employees of the Department at Department expense.

Provider means the individual, agency or other legal entity with day-to-day responsibility for the operation of services or supports or facilities regulated by the Department by law or contract. In accordance with the foregoing definition, a provision which applies to "providers" applies with equal force to the Department's service, supports, or facilities, unless otherwise specified.

Purchased by the Department means made available to an individual through a contract between the Department and a private or other non-Departmental entity.

Region means, depending on the context:
(a) a grouping of area offices as determined by the Commissioner;
(b) the geographic area represented by such a grouping; or
(c) the office established by the Commissioner as appropriate to supervise area offices within a grouping of area offices and to perform administrative or service functions for the geographic area represented by the grouping.

Research means a systematic investigation designed to develop or contribute to generalizable knowledge and involving access to human subjects or private information, with the exceptions set forth in 115 CMR 10.00: *Research*.

Seclusion means the placement of an individual alone in a room or other area from which egress is prevented. Seclusion shall not include the placement of an individual in his or her bedroom in the night.

Self-medicating means personally using medication in the manner directed by the prescribing practitioner, without assistance or direction by program or facility staff, in accordance with Department standards. A verbal reminder that the time for taking a dose of medication has arrived does not constitute assistance or direction by program staff.

Service Coordinator means the person designated by the Department to arrange, coordinate, or monitor, or to remain informed about, services or supports provided, purchased, or arranged by the Department for a particular individual and to be responsible for the development of an ISP for the individual.

Services means a system of formalized supports, generic or specialized.

Severe Functional Impairments means functional impairments in at least three specified areas of adaptive functioning, based upon normative expectations of the types of skills normally acquired as the child develops, as measured by standardized assessment or comparable data. The areas of adaptive functioning considered are: self-care, communication (receptive or expressive language), learning, mobility, and self-direction and, for individuals 14 years of age or older, capacity for independent living and economic self-sufficiency.

Significant Limitations in Adaptive Functioning means, for purposes of establishing intellectual disability, an overall composite adaptive functioning limitation that is approximately two standard deviations below the mean or approximately two standard deviations below the mean in one of the three domains of the appropriate norming sample determined from the findings of assessment using a comprehensive, standardized measure of adaptive behavior, interpreted by a qualified practitioner. The domains of adaptive functioning that are assessed shall be:
(a) areas of independent living/practical skills;
(b) cognitive, communication, and academic/conceptual skills; and
(c) social competence/social skills.

Significantly Sub-average Intellectual Functioning means an intelligence test score that is indicated by a score of approximately 70 or below as determined from the findings of assessment using valid and comprehensive, individual measures of intelligence that are administered in standardized formats and interpreted by qualified practitioners.

2.01: continued

Smith-Magenis Syndrome means, consistent with the definition of the National Institute of Health, a neurodevelopmental disorder characterized by a well-defined pattern of anomalies typically due to a common deletion in chromosome 17 found by genetic testing; for purposes of 115 CMR 2.01, the diagnosis of Smith-Magenis Syndrome must be supported by a medical diagnosis and based upon genetic testing.

Substantial Functional Limitations means:

(a) for an individual five years of age or older:

1. functional limitations in three or more of the following areas of major life activity:
   a. self-care;
   b. receptive and expressive language;
   c. learning;
   d. mobility;
   e. self-direction; and for individuals 14 years of age or older only;
   f. capacity for independent living;
   g. economic self-sufficiency; and
2. reflects the individual's need for a combination and sequence of special, interdisciplinary or generic services, supports or other assistance that is of a lifelong or extended duration and is individually planned and coordinated; or

(b) for an individual younger than five years old, a substantial developmental delay or specific congenital or acquired condition with a high probability that the condition will result in a developmental disability if services are not provided.

Supports means those resources and strategies that promote the interests and causes of individuals with or without disabilities; that enable them to access resources, information, and relationships inherent in integrated work and living environments; and that result in their enhanced independence, productivity, community integration, and satisfaction.

Vision Statement means a statement of what is important to the individual in his or her life. It describes the individual's preferences on how he or she wishes to live, work, and spend his or her leisure time and it identifies interests, relationships, and activities he or she would like to continue or explore. If the individual is unable to fully express him or herself the ISP team will assist in the development of the individual's vision statement. The vision statement expresses the individual's vision; it does not create any enforceable rights and is not binding on the department. An individual's vision statement is not subject to appeal under 115 CMR 6.30: *Scope and Purpose*.

REGULATORY AUTHORITY

115 CMR 2.00: M.G.L. c. 19B, § 14; c. 123B, §§ 2, 3, and 8.

NON-TEXT PAGE