



Executive Office of Health and Human Services  
Department of Developmental Services

**MEMORANDUM:** **Guidance on Visitation**

**FROM:** **Office of Quality Management**

**DATE ISSUED:** **October 27, 2022**

*Commonwealth of Massachusetts*

## **I. Overarching Governing Principles**

Promoting human dignity, independence, and ensuring privacy are fundamental to the mission of the Department of Developmental Services (“DDS” or the “Department”) and are responsibilities that the Department takes very seriously. Robust due process considerations are woven throughout DDS regulations and service delivery. DDS service providers are bound by the Commonwealth’s Standard Terms and Conditions in addition to their contract with the Department, and both DDS Standards to Promote Dignity and Individual Support Plan (ISP) regulations contain due process protections and allow for judicial review after the exhaustion of administrative remedies.

## **II. Visitation**

DDS regulations are consistent with the Community Rule and ensure participants “are able to have visitors of their choosing at any time.” 42 CFR 441.301(c)(4)(D). *See* M.G.L. c.123B, §9; 115 CMR 5.04(3) and Individual Support Plan (ISP) Manual, pg. 34, 4th Edition, November 1, 2012.

However, DDS regulations recognize that some exceptions to the general rule may be necessary. DDS applies the person-centered planning process, which includes the requirements in the ISP consistent with requirements of 42 CFR 441.301(c)(4)(vi)(F) (1-8), to determine if restricting visitation for a participant is supported by a specific assessed need. In the event that modification to the general rule is required, it must be supported by a specific assessed need and justified in the participant’s ISP. Modifications pertaining to visitation also are subject the additional safeguard of Human Rights Committee review. 115 CMR 5.04(3)(c). In cases where such modification has not been included in the current ISP, modification of the ISP is required, including an ISP meeting and is subject to appeal in the event the participant objects. 115 CMR 6.30-6.33. Following an administrative appeal process before an impartial hearing officer, a participant may also seek judicial review. *See* M.G.L. c. 30A. Of course, participants who reside together may agree with each other to have reasonable restrictions, such as any housemates or family members may in their homes.

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DDS' Licensure and Certification process monitors providers and settings to ensure that individuals can visit with family and friends and are supported to get together with family and friends.