

Eastern Los Angeles Regional Center

Home and Community Based Services (HCBS)

HCBS Final Rule: Federal Requirement # 3 Right to Be Treated Well



4 Key Principles Essential for Compliance with the HCBS Final Rule:

Choices: Is the right, power, or opportunity to choose; option.

Rights: A person’s right is that which is morally, legally, or ethically proper.

Opportunities: Opportunity is a good position, chance, or prospect, as for advancement or success; “a set of circumstances that makes it possible to do something”.

Integration: Integration is to give or cause to give equal opportunity and consideration to.

For additional information on HCBS visit the following:

- [ELARC](#)
- [DDS](#)
- [CMS](#)

Contact ELARC’s HCBS Evaluator for support or questions regarding HCBS:

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HCBS the Final Rule

The HCBS Final Rule ensures that people with disabilities have full access to, and enjoy the benefits of, community living through long-term services and supports in the most integrated settings of their choosing. There are 10 federal requirements that make up the Final Rule. Federal Requirements 1-5 apply to providers of ALL services, including residential and non-residential settings. Federal Requirements 6-10 are additional requirements that apply ONLY to provider-owned or controlled residential settings. Service Providers are to be in compliance with the HCBS Final Rule by March 17, 2023.

What is Federal Requirement #3?

Ensures an individual’s rights of privacy, dignity and respect, and freedom from coercion and restraint.

What does this mean for Service Providers?

Service providers who identified to be in compliance with federal requirement #3 via the DDS Self-Assessment and/or the DDS Site-Assessment will need to provide supporting documents to demonstrate compliance with the requirement during the remediation reporting period projected to commence in 2022. Service providers who are not in compliance with federal requirement #3 will work closely with ELARC to come into compliance with the requirement. Service providers should continue to self-assess for compliance with federal requirement #3 even if they have identified as being in compliance.

What does this mean for Service Coordinators?

Service Coordinators will ensure individuals receive services that secure their rights to privacy, dignity, respect and freedom from coercion and restraint. They will also make certain that settings provide person centered services based on individual’s needs, preferences and abilities. Additionally, Service Coordinators will support service providers assess for compliance with federal requirement #3 during regularly scheduled meetings and reviews.

Assessing for Compliance with Federal Requirement #3

The following are a series of questions intended to help identify compliance or non-compliance with federal requirement #3. Service Providers and Service Coordinators are encouraged to routinely assess and discuss federal requirement #3 with each other and with individuals served during regularly scheduled meetings such as IPPs, quarterlies, ISPs and/or as needed. Service Providers and Service Coordinators are not limited to the guidance provided below and some questions may not apply to all services. Service Providers and Service Coordinators are to consider person centered needs when assessing for compliance with federal requirements.

Guidance for Federal Requirement #3

1. Does the provider inform individuals, in a manner they can understand, of their rights to: Privacy; Dignity; Respect; Freedom from coercion and restraint
2. Identify providers practices on freedom from coercion and restraint
3. Identify providers privacy practices with regards to: Written communications/files; Verbal communications (health, finances, etc.); Medication administration; Visitors; Email, checking mail, phone calls; Personal Care
4. Do staff communicate with individuals based on their needs and preferences, including alternative methods of communication where needed (e.g. assistive technology, braille, large font print, sign language, participants' language, etc.)?
5. Are individuals allowed to dress or groom in a manner that is appropriate to the setting while honoring individual choice and life-style preferences?
6. Does the provider ensure staff is knowledgeable about the capabilities, preferences, interests, and needs of the individuals they serve?
 - Are individual capabilities, preferences, interests and needs documented in the IPP?
 - Do staff have access to the IPP either electronically or onsite?
7. Is there a place for individuals to store belongings in a secure manner (i.e. cubby, locker, staff office with lock, nightstand, closet, locked room or bedroom, staff office)?
 - Does only the individual have access to the secured belongings?
8. Are individuals able to talk on the phone, use virtual chat or comparable technology, text, and read mail or email in private?
9. Does the provider impose restrictions regarding access within the service location, inside or outside, for individuals or visitors?
10. Does the site have Delayed Egress/ Secured perimeters? (“Delayed egress” is defined in [Health and Safety Code 1531.1](#); and “Secured perimeter” is defined in [Health and Safety Code 1531.15](#))
11. Do individuals have privacy in the bathroom?
 - Can bathroom doors be locked from the inside?
12. Does the provider impose visiting hours?
13. Does the provider utilize restraints? (i.e. chemical restraints, physical restraint, mechanical restraint)
14. If restraints are used, is staff trained upon hire and, at a minimum, annually on the use of restraints?
 - Staff trainings on the use of restraints are documented.
15. Does the setting have a policy in place for the use of restraints?
16. Is there a process/protocol in place for reporting the use of restraints?

Additional Support

Service Providers and Service Coordinators are encouraged to contact the assigned Community Services Specialist or the HCBS Evaluator if additional support is needed assessing for compliance with federal requirement #3 and or if a service provider is assessed to be out of compliance with the requirement.