

**CHAPTER 46B  
PLACEMENT**

**Authority**

N.J.S.A. 30:4-25.4 and 30:4-165.2.

**Source and Effective Date**

R.2010 d.100, effective May 20, 2010.  
See: 42 N.J.R. 1083(a).

**Chapter Expiration Date**

Chapter 46B, Placement, expires on July 19, 2010.

**Chapter Historical Note**

Chapter 46B, Placement, was adopted as R.1995 d.44, effective January 17, 1995. See: 26 N.J.R. 3611(a), 27 N.J.R. 360(a).

Pursuant to Executive Order No. 66(1978), Chapter 46B, Placement, was readopted as R.1996 d.85, effective January 17, 1996. See: 27 N.J.R. 3537(a), 28 N.J.R. 1265(a).

Chapter 46B, Placement, was repealed and Chapter 46B, Placement, was adopted as new rules by R.1999 d.432, effective December 20, 1999. See: 31 N.J.R. 1786(a), 31 N.J.R. 4262(a).

Chapter 46B, Placement, was readopted as R.2005 d.153, effective April 21, 2005. See: 36 N.J.R. 3975(a), 37 N.J.R. 1731(a). Chapter 46B, Placement, expired on April 21, 2010.

Chapter 46B, Placement, was adopted as emergency new rules by R.2010 d.100, effective May 20, 2010. See: Source and Effective Date.

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**SUBCHAPTER 1. GENERAL PROVISIONS**

**10:46B-1.1 Purpose; authority**

The Division of Developmental Disabilities, Department of Human Services intends this chapter to establish standards

and criteria for the placement of eligible persons, pursuant to N.J.S.A. 30:4-25.6. Placements are made in accordance with N.J.A.C. 10:46C except when there is the need for an emergency service or emergency placement. This chapter provides guidelines for placement. Each individual's abilities, needs and preferences are different. Division staff shall consider the circumstances of each individual in light of his or her unique situation in making placement decisions. Division staff shall exercise reasonable professional judgement in making such decisions.

Amended by R.2001 d.470, effective December 17, 2001.  
See: 33 N.J.R. 2434(a), 33 N.J.R. 4354(a).

Added the third sentence.

Amended by R.2005 d.153, effective May 16, 2005.  
See: 36 N.J.R. 3975(a), 37 N.J.R. 1731(a).

Added the current second sentence and deleted the former third sentence.

**10:46B-1.2 Scope**

The provisions of this chapter shall apply to all eligible individuals. The provisions of this chapter shall not apply to persons involved in the Self-Determination Process. Residential placement will be offered to individuals placed on the Division's Priority Waiting List, as described at N.J.A.C. 10:46B-1.4 unless they meet the criteria of N.J.A.C. 10:46B-3.3, "emergencies," 4.2, "private institutions," or 4.3, "private out-of-State placements."

Amended by R.2001 d.470, effective December 17, 2001.  
See: 33 N.J.R. 2434(a), 33 N.J.R. 4354(a).

Added the second sentence.

Amended by R.2005 d.153, effective May 16, 2005.  
See: 36 N.J.R. 3975(a), 37 N.J.R. 1731(a).

Deleted "requesting residential placement" following "eligible individuals" in the first sentence and added the last sentence.

**10:46B-1.3 Definitions**

The following words and terms, when used in this chapter, have the indicated meanings, unless the context clearly indicates otherwise.

"Available" means the service may be offered within the limitations of funding in a given fiscal year.

"Basic needs" means food, shelter and personal safety.

"Broker" means to arrange a service for an eligible individual without responsibility to fund that service.

"Bureau of Guardianship" (BGS) means the unit within the Division of Developmental Disabilities which has the responsibility and authority to provide guardian of the person services to individuals in need of such services in accordance with N.J.A.C. 10:45.

"Caregiver" means an individual other than a parent, spouse or child of an eligible person including, but not limited to, sibling, grandparent, step family member, aunt, uncle, cousin or legal guardian who, without monetary payment, cares for the eligible person in his or her own home.

“Challenge grant” means funds provided to an agency which may be used in combination with other resources available to an individual which will meet the individual’s needs sufficiently to allow that individual to be removed from the priority waiting list.

“Child” means a person under 18 years of age.

“Congregate setting” means a community residence as defined in N.J.A.C. 10:44A, developmental center, or a nursing home.

“Director” means the Director of the Division of Developmental Disabilities.

“Division” means the Division of Developmental Disabilities.

“Emergency” means that the eligible person is homeless or in imminent peril.

“Emergency services” means a supervised apartment operated by an agency with whom the Division specifically contracts to provide services for up to 60 days when the Division determines that an emergency exists. Services provided include safety, stabilization and assessment prior to a long-term placement or return to the former living arrangement. Emergency services are not considered a residential placement as defined in this rule.

“Funded vacancy” means a residential placement opportunity with a provider agency that is presently funded through a contract with the Division which becomes available when an individual receiving services moves from that placement.

“Homeless” means that the person has no place to live or the person’s living arrangement will end on a date certain within 30 days and he or she has no other living arrangements after that date.

“Imminent peril” means a situation which could reasonably be expected to cause serious risk to the health, safety or welfare of the individual receiving services or another person in the current living arrangement. Imminent peril does not exist if the Division can put supports into the living arrangement which eliminate the serious risk to the individual.

“Individual habilitation plan” (IHP) means a written plan of intervention and action that is developed by the interdisciplinary team. (See N.J.A.C. 10:46B-2.1(j).)

“Interdisciplinary team” (IDT) means an individually constituted group responsible for the development of a single, integrated IHP. (See N.J.A.C. 10:46B-2.1(k).)

“Local education agency” (LEA) means a public board of education or other public authority having administrative control of schools in a city, township or other political subdivision of the State.

“Long-term placement” means a placement which is anticipated to be of one year’s duration or longer.

“Office of Education” means the component of the Department of Human Services which supervises the educational programs in all State facilities operated by, or under contract with, the Department.

“Placement” means a waiver service as defined at N.J.A.C. 10:46-1.3 that provides a residence to the individual or day services that are provided out of the residence.

“Private institution” means a private residential facility for the developmentally disabled located in New Jersey which is licensed in accordance with N.J.A.C. 10:47, or any out-of-State institutional placements.

“Private out-of-State placement” (POSP) means an out-of-State placement in a community setting, such as a group home or supervised apartment or other similar placement as defined in N.J.A.C. 10:44A, which is licensed or otherwise approved by the appropriate agency in the state in which it is located. A community program which is operated by an institution is a POSP.

“Regional Assistant Director” means an employee of the Division with administrative authority over community programs and institutions within a specific geographic region of the State.

“Regional Administrator” means an employee of the Division with administrative authority over community programs within a specific geographic region of the State.

“Residential placement funded by the Division of Developmental Disabilities” means a living arrangement that is operated by the Division and certified by the Department of Human Services, licensed by the Department of Human Services under N.J.A.C. 10:44A, 10:44B or 10:44C or is licensed by the Department of Health and Human Services under N.J.A.C. 10:47 and regulated by the Department of Human Services.

“Respite services” means a short term arrangement in which an entity licensed in accordance with N.J.A.C. 10:44A or N.J.A.C. 10:44B provides supports for a person with developmental disabilities when that person’s parent, child, spouse or caregiver(s) is temporarily unable to provide care. Such arrangements are not placements.

“Self-Determination Process” means a service delivery system which allows an individual with developmental disabilities, in conjunction with his or her legal guardian, if any, family and selected friends to identify appropriate services and supports and determine how an individual budget, as well as personal, family and community resources, can be used to develop a service plan. The Self-Determination Process is based upon the principles of freedom to plan one’s own life, authority to utilize and manage resources, build one’s own support system and carries responsibility to contribute back to the community and the appropriate stewardship of public funds.