

CHAPTER 46B**PLACEMENT****Authority**

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

Source and Effective Date

R.1996 d.85, effective January 17, 1996.
See: 27 N.J.R. 3537(a), 28 N.J.R. 1285(a).

Executive Order No. 66(1978) Expiration Date

Chapter 46B, Placement, expires on January 17, 2001.

Chapter Historical Note

Chapter 46B, Placement, was adopted as new rules by 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 was readopted as R.1996 d.85, effective January 17, 1996. See: Source and Effective Date. See, also, section annotations.

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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.

10:46B-1.2 Scope

The provisions of this chapter shall apply to all eligible individuals requesting placement. This chapter provides

guidelines for placement decisions. Each individual's abilities and needs 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 judgment in making such decisions.

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.

"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.

"Individual Habilitation Plan (IHP)" means a written plan of intervention and action that is developed by the interdisciplinary team. It specifies both the prioritized goals and objectives being pursued by each individual and the steps being taken to achieve them. The IHP may identify a continuum of skill development that outline progressive steps and the anticipated outcomes of services. The IHP is a single plan that encompasses all relevant components, such as an education plan, a program plan, a rehabilitation plan, a treatment plan and a health care plan. The complexity of the IHP will vary according to the needs, capabilities and desires of the person. For an individual who has been determined by an Interdisciplinary team to require active treatment, the IHP addresses all needs identified. For an individual who makes only specific service requests, the IHP is a service plan which addresses only those specific requests.

"Interdisciplinary Team (IDT)" means an individually constituted group responsible for the development of a single, integrated IHP. The team shall consist of the individual receiving services, the individual's parents or family member (if the individual is a minor, or, if an adult, if the adult desires that the parent or family member be present), legal guardian, those persons who work most directly with the individual served, and professional and other representatives of service areas relevant to the identification of the individual's needs and the design and evaluation of programs to meet those needs.

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

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

SUBCHAPTER 2. ADMINISTRATION

10:46B-2.1 General standards

(a) The Division recognizes that families function as the primary caregivers for most individuals with developmental disabilities.

(b) Individual and family support shall be provided whenever possible to avoid long-term out-of-home placements. Such support shall be provided to the family in accordance with N.J.A.C. 10:46A, subject to the availability of funding in the given fiscal year.

(c) The Division recognizes that, even with support, not all families can function as the individual’s caregiver. The Division further recognizes that even when the family can support the individual, the family should not be expected to do so forever.

(d) The Division shall have responsibility for placement only:

1. If the individual is found eligible for services in accordance with N.J.A.C. 10:46; and

i. The family can no longer care for the individual; or

ii. The individual, if a competent adult, chooses to live away from his or her family; or

iii. Placement is recommended in the IHP; and

2. An appropriate placement is available.

(e) Whenever possible, the individual shall be offered an available placement in a setting which is least restrictive of his or her personal liberty.

(f) Because an individual’s needs and abilities change, no out-of-home placement shall be considered permanent.

(g) When placement is appropriate, every effort shall be made to place an individual within New Jersey. Placement out-of-State shall be made only as a last resort.

(h) The Division shall make every effort to return individuals placed out-of-State to an in-State residence as soon as possible.

(i) The Division shall place an individual in appropriate licensed facilities. If an individual chooses to live independently in an unlicensed facility, but continues to receive support services from the Division, the provisions of this chapter shall not apply.

(j) When funding from a source other than the Division is available to the individual, Division staff may assist the individual in locating a placement. In such an instance, the Division shall not be responsible to provide any funding for placement.

Case Notes

Placement for developmentally disabled adult upon closure of training center was placement that was otherwise most appropriate to individual’s development. *M.S. v. Developmental Disabilities*, 95 N.J.A.R.2d (DDD) 31.

Alternate placement when most appropriate service was not available due to fiscal limitations was most appropriate to maximizing developmentally disabled adult’s potential. *R.W. v. Developmental Disabilities*, 95 N.J.A.R.2d (DDD) 23.

Private institutional care in residential placement was not available due to fiscal limitations, but alternate placement to provide appropriate care for developmentally disabled adult was available. *P.F. v. Developmental Disabilities*, 95 N.J.A.R.2d (DDD) 1, appeal decided 656 A.2d 1.

SUBCHAPTER 3. PLACEMENTS

10:46B-3.1 Availability of placements

(a) When placement becomes necessary, the Division shall plan with the competent individual, his or her legal guardian and, where appropriate, interested family members, to identify an appropriate, available, out-of-home placement.

(b) The availability of placements shall be limited to the Division’s funding in a given fiscal year. Prioritization for placement shall be governed by N.J.A.C. 10:48-4.

(c) All placements shall be in accord with all applicable Federal and State statutes, rules, and regulations, including the State Code of Criminal Justice provision at N.J.S.A. 2C:30-4, which prohibits the disbursement of public moneys, or the incurring of obligations in excess of legislative appropriation and limit of expenditure.

(d) In an effort to provide fairly for all individuals served, it is recognized that Division appropriations need to be applied across the State and across the entire fiscal year and that planning and judgement are necessary and appropriate on a case-by-case basis as well to ensure that appropriations are not dissipated in an effort to meet extraordinary needs of one individual to the detriment of the rest of the population who require and could benefit from services needed to be funded from the same finite source.

10:46B-3.2 Waiting lists

If a placement recommended in the IHP is not immediately available, the individual shall be assigned to a waiting list category, in accordance with N.J.A.C. 10:48-4, and the Division shall provide an alternate services to the extent such services are available.

10:46B-3.3 Emergency placements

(a) An emergency need for placement shall be established when a long-term placement has been determined to be unavailable and the individual is homeless, or the Division cannot provide adequate alternate service in the existing situation to care for the individual safely.