

# Statewide Assessment

## Home and Community Based Settings

### Chapter 35 Regulations for Residential Settings

Section of the Rule	Type of Setting	Issue	Oppose/Silent/ Positive	# of sites	Remedial Strategy	Lead Agency	Target Date	Ongoing Monitoring
(a) The setting ensures an individual's rights of privacy, dignity, respect, and freedom from coercion and restraint	Group Home for Persons with Intellectual Disabilities	<p><b>§ 7-1305.05.</b> Visitors; mail; access to telephones; religious practice; personal possessions; privacy; exercise; diet; medical attention; medication  <b>[Formerly § 6-1965]</b></p> <p>(d) Each customer shall have the right to a humane psychological and physical environment. He or she shall be afforded reasonable privacy in his sleeping and personal hygiene practices.</p> <p>(h) All customers have a right to be free from unnecessary or excessive medication.</p>	Positive/Silent	All-90	<p>Additional language has been added to revised rules. The rule specifically will state:</p> <p>The setting shall ensure an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.</p> <p>Individual rights, which cover the formation and composition of an individual's rights committee, the monitoring of programs or procedures that involve a risk to individual rights; the right to be free from excessive medications, restraints or punishment.</p>	DOH	September 2018	ICFD surveyors monitor periodically and survey annually to ensure license compliance.
b. The setting optimizes individual initiative, autonomy, and independence in making life choices	Group Home for Persons with Intellectual Disabilities	The licensure regulations do not address this rule.	Silent	All-90	<p>Language has been added to revised rules. The rule specifically will state:</p> <p>The setting shall optimize, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical</p>	DOH	September 2018	ICFD surveyors monitor periodically and survey annually to ensure license compliance.

					<p>environment, and with whom to interact.</p> <p>The setting shall facilitate individual choice regarding services and supports, and who provides them.</p>			
c. The setting facilitates individual choice regarding services and supports, and who provides them	Group Home for Persons with Intellectual Disabilities	The licensure regulations do not address this rule.	Silent	All-90	<p>Language has been added to revised rules. The rule specifically will state:</p> <p>The setting shall optimize, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.</p> <p>The setting shall facilitate individual choice regarding services and supports, and who provides them.</p> <p>Individual rights, which cover the formation and composition of an individual's rights committee, the monitoring of programs or procedures that involve a risk to individual rights; the right to be free from excessive medications, restraints or punishment; the right to have freedom and support to control their schedules and activities; the right to have access to food at any time; the right to have visitors at any time and assurances that the services are provided in a manner that promotes individual choice;</p>	DOH	September 2018	ICFD surveyors monitor periodically and survey annually to ensure license compliance.
d. The setting	Group Home	The licensure regulations	Silent	All-90	Language has been added to revised	DOH	September	ICFD surveyors

<p>provides opportunities to seek employment and work in competitive integrated settings, engage in community life, and control personal resources.</p>	<p>for Persons with Intellectual Disabilities</p>	<p>do not address this rule.</p>			<p>rules. The rule specifically will state</p> <p>The setting shall be integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.</p> <p>The setting is selected by the individual from among setting options, including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.</p>		<p>2018</p>	<p>monitor periodically and survey annually to ensure license compliance.</p>
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e. The setting is integrated and supports access to the greater community	Group Home for Persons with Intellectual Disabilities	<p><b>3501.3</b> Each GHPID shall be within easy walking distance of public transportation or demonstrate that it can provide transportation for its residents to the following facilities:</p> <ul style="list-style-type: none"> <li>(a) Stores;</li> <li>(b) Restaurants;</li> <li>(c) Movies;</li> <li>(d) Parks;</li> <li>(e) Recreational facilities;</li> <li>(f) Libraries;</li> <li>(g) Post offices;</li> <li>(h) Churches; and</li> <li>(i) Similar Facilities.</li> </ul> <p><b>3501.7</b> Each GHPID shall show that it can provide outside recreational activities.</p> <p><b>§ 7-1305.05.</b> Visitors; mail; access to telephones; religious practice; personal possessions; privacy; exercise; diet; medical attention; medication  <b>[Formerly § 6-1965]</b></p> <p>(e) Each customer shall have reasonable daily opportunities for physical exercise and outdoor exercise and shall have</p>	Positive	All-90	<p>DOH will update the language in license regulations to require the following: “The Provider’s settings must support people’s full access to the greater community.”</p> <p>Additional language has been added to the revised rules. The rule specifically will state:</p> <p>Each GHPID shall demonstrate to the satisfaction of the Department of Health that it provides recreational activities outside the home for all of the individuals residing there in accordance with their expressed preferences, or if the individual is represented, in accordance with the preferences of the individual’s representative. Each GHPID shall offer opportunities for the individuals residing there to participate in the community activities.</p> <p>The setting shall be integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.</p>	DOH	September 2018	ICFD surveyors monitor periodically and survey annually to ensure license compliance.
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		reasonable access to recreational areas and equipment.						
f. The setting provides opportunities to engage in community life	Group Home for Persons with Intellectual Disabilities	<b>3521.7</b> The habilitation and training of residents by the GHPID shall include when appropriate but not limited to the following areas: (s) Opportunity for social recreational and religious activities utilizing community resources.	Positive	All-90	Additional language has been added to the revised rules. The revised rules will state:  The setting shall be integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	DOH	September 2018	ICFD surveyors monitor periodically and survey annually to ensure license compliance.
g. the setting provides opportunities to control personal resources	Group Home for Persons with Intellectual Disabilities	<b>3521.7</b> The habilitation and training of residents by the GHPID shall include when appropriate but not limited to the following areas: (m) Financial management (including budgeting and banking)	Positive	All-90	Additional language has been added to revised rules. The rule specifically will state:  The setting shall be integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	DOH	September 2018	ICFD surveyors monitor periodically and survey annually to ensure license compliance.

					The setting is selected by the individual from among setting options, including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.			
h. The setting provides opportunities to receive services in the community to the same degree of access as individuals not receiving Medicaid HCBS	Group Home for Persons with Intellectual Disabilities	The licensure regulations do not address this rule.	Silent	All-90	DOH will revise its rule in which this provision will be added. Rules are being reviewed by DDS.	DOH	September 2018	ICFD surveyors monitor periodically and survey annually to ensure license compliance.
i. The setting is selected by the individual from among other options including non-disability specific settings and a private unit in a residential setting	Group Home for Persons with Intellectual Disabilities	The licensure regulations do not address this rule.	Silent	All-90	Language has been added to revised rules. The rule specifically will state:  The setting is selected by the individual from among setting options, including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.	DOH	September 2018	ICFD surveyors monitor periodically and survey annually to ensure license compliance.

<p>j. If provider-owned or controlled, the setting provides a specific unit/dwelling that is owned, rented, or occupied under a legally enforceable agreement.</p>	<p>Group Home for Persons with Intellectual Disabilities</p>	<p>The licensure regulations do not address this rule.</p>	<p>Silent</p>	<p>All-90</p>	<p>Language has been added to revised rules. The rule specifically will state:</p> <p>In a provider-owned or controlled residential setting, in addition to the above qualities in this section, the following additional conditions must be met:</p> <p>(a) The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the state, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.</p>	<p>DOH</p>	<p>September 2018</p>	<p>ICFD surveyors monitor periodically and survey annually to ensure license compliance.</p>
<p>k. If provider –owned or controlled, the setting provides the same responsibilities/protections from eviction as all tenants under landlord tenant law of state, county, city</p>	<p>Group Home for Persons with Intellectual Disabilities</p>	<p>The licensure regulations do not address this rule.</p>	<p>Silent</p>	<p>All-90</p>	<p>Language has been added to revised rules. The rule specifically will state:</p> <p>In a provider-owned or controlled residential setting, in addition to the above qualities in this section, the following additional conditions must be met:</p>	<p>DOH</p>	<p>September 2018</p>	<p>ICFD surveyors monitor periodically and survey annually to ensure license compliance.</p>

or other designated entity					(a) The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the state, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.			
1. if the setting is provider-owned or controlled and the tenant laws do not apply, the state ensures that the lease, residency agreement or other written agreement is in place providing protections to address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.	Group Home for Persons with Intellectual Disabilities	The licensure regulations do not address this rule.	Silent	All-90	Language has been added to revised rules. The rule specifically will state:  In a provider-owned or controlled residential setting, in addition to the above qualities in this section, the following additional conditions must be met:  (a) The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the state,	DOH	September 2018	ICFD surveyors monitor periodically and survey annually to ensure license compliance.

					county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.			
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<p>m. If provider-owned or controlled, the setting provides that each individual has privacy in their sleeping or living unit.</p>	<p>Group Home for Persons with Intellectual Disabilities</p>	<p>.  <b>§ 7-1305.05.</b> Visitors; mail; access to telephones; religious practice; personal possessions; privacy; exercise; diet; medical attention; medication  <b>[Formerly § 6-1965]</b>   (d) Each customer shall have the right to a humane psychological and physical environment. He or she shall be provided a comfortable bed and adequate changes of linen and reasonable storage space, including locked space, for his or her personal possessions. A record shall be kept of each customer's personal possessions. Except when curtailed for reason of safety or therapy as documented in his or her record by a physician, he or she shall be afforded reasonable privacy in his sleeping and personal hygiene practices.</p>	<p>Positive</p>	<p>All-90</p>	<p>Additional language has been added to revised rules. The rule specifically will state:   In a provider-owned or controlled residential setting, in addition to the above qualities in this section, the following additional conditions must be met:   (b) Each individual has privacy in their sleeping or living unit:   (1) Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors;   (2) Individuals sharing units have a choice of roommates in that setting; and   (3) Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.</p>	<p>DOH</p>	<p>September 2018</p>	<p>ICFD surveyors monitor periodically and survey annually to ensure license compliance.</p>
<p>n. If provider-owned or controlled, the setting provides units with lockable entrance doors, with appropriate staff having keys to doors as needed</p>	<p>Group Home for Persons with Intellectual Disabilities</p>	<p>The licensure regulations do not specifically address this rule.</p>	<p>Silent</p>	<p>All-90</p>	<p>Language has been added to revised rules. The rule specifically will state:   In a provider-owned or controlled residential setting, in addition to the above qualities in this section, the following additional conditions must be met:</p>	<p>DOH</p>	<p>September 2018</p>	<p>ICFD surveyors monitor periodically and survey annually to ensure license compliance.</p>

					<p>(b) Each individual has privacy in their sleeping or living unit:</p> <p>(1) Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.</p> <p>Each bedroom door shall have a lockable entrance door to which the individual and staff have keys to doors as needed.</p>			
o. If provider-owned or controlled, the setting provides individuals who are sharing units a choice of roommates.	Group Home for Persons with Intellectual Disabilities	The licensure regulations do not address this rule.	Silent	All-90	<p>Language has been added to revised rules. The rule specifically will state:</p> <p>Individual sharing units shall have the choice of roommates.</p>	DOH	September 2018	ICFD surveyors monitor periodically and survey annually to ensure license compliance.
p. If provider-owned or controlled, the setting provides individuals with the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.	Group Home for Persons with Intellectual Disabilities	The licensure regulations do not address this rule.	Silent	All-90	<p>Language has been added to revised rules. The rule specifically will state:</p> <p>Individuals have the freedom to furnish and decorate their sleeping units within the lease or other agreement.</p>	DOH	September 2018	ICFD surveyors monitor periodically and survey annually to ensure license compliance.

<p>q. If provider-owned or controlled, the setting provides individuals with the freedom and support to control their schedules and activities and have access to food at any time.</p>	<p>Group Home for Persons with Intellectual Disabilities</p>	<p>The licensure regulations do not address this rule.</p>	<p>Silent</p>	<p>All-90</p>	<p>Language has been added to revised rules. The rule specifically will state:</p> <p>In a provider-owned or controlled residential setting, in addition to the above qualities in this section, the following additional conditions must be met:</p> <p>(c) Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.</p>	<p>DOH</p>	<p>September 2018</p>	<p>ICFD surveyors monitor periodically and survey annually to ensure license compliance.</p>
<p>r. If provider-owned or controlled, the setting allows individuals to have visitors at any time.</p>	<p>Group Home for Persons with Intellectual Disabilities</p>	<p><b>§ 7-1305.05.</b> Visitors; mail; access to telephones; religious practice; personal possessions; privacy; exercise; diet; medical attention; medication  <b>[Formerly § 6-1965]</b></p> <p>(a) Subject to restrictions by a physician for good cause, each customer has the right to receive visitors of his or her own choosing daily. Hours during which visitors may be received shall be limited only in the interest of effective treatment and the reasonable efficiency of the facility, and shall be sufficiently flexible to accommodate the individual needs of the customer and his or her visitors. Notwithstanding</p>	<p>Positive</p>	<p>All-90</p>	<p>Additional language has been added to revised rules. The rule specifically will state:</p> <p>DDS updated the language to require the following: “People receiving supports shall have the right to visitors of his or her choosing at any time, in their residence. Any exception shall be based on the person’s assessed need and justified in his or her person centered plan.”</p>	<p>DOH</p>	<p>September 2018</p>	<p>ICFD surveyors monitor periodically and survey annually to ensure license compliance.</p>

		the above, each customer has the right to receive visits from his or her attorney, physician, psychologist, clergyman, social worker, parents or guardians, or mental retardation advocate in private at any reasonable time, irrespective of visiting hours, provided the visitor shows reasonable cause for visiting at times other than normal visiting hours.						
s. If provider-owned or controlled, the setting is physically accessible to the individual.	Group Home for Persons with Intellectual Disabilities	<b>3501.8</b> Each GHPID resident shall have access to and shall be encouraged to utilize fully each type of space that is required by this session.	Positive	All-90	Additional language has been added to revised rules. The rule specifically will state:  In a provider-owned or controlled residential setting, in addition to the above qualities in this section, the following additional conditions must be met:  e) The setting is physically accessible to the individual;  To be included in the rules: The homes must be physically accessible for the person and meet his or her support needs. Any obstructions that limit a person's mobility in the home must have environmental adaptations to ameliorate the obstruction.	DOH	September 2018	ICFD surveyors monitor periodically and survey annually to ensure license compliance.