

5123-15-01**Protective services system for guardianship, trusteeship, protectorship, or conservatorship.****(A) Purpose**

This rule establishes policies for administering the statewide system of protective services for individuals with developmental disabilities in accordance with section 5123.56 of the Revised Code.

**(B) Definitions**

- (1) "Conservator" has the same meaning as in section 5123.55 of the Revised Code.
- (2) "Contract agency" means any public or private agency under contract with the department for the provision of protective services.
- (3) "Department" means the Ohio department of developmental disabilities.
- (4) "Guardian" has the same meaning as in section 5123.55 of the Revised Code.
- (5) "Protective services" means performance of the duties of a guardian, trustee, or conservator, or acting as a protector, with respect to an individual with developmental disabilities.
- (6) "Protector" has the same meaning as in section 5123.55 of the Revised Code.
- (7) "Support brokerage" has the same meaning as in rule 5123-9-47 of the Administrative Code.
- (8) "Trustee" has the same meaning as in section 5123.55 of the Revised Code.

**(C) Provision of protective services by a contract agency**

- (1) The department shall maintain a statewide system for protective services for individuals with developmental disabilities. The department may enter into a contract with any responsible public or private agency for the provision of protective services and technical assistance. The contract agency shall:
  - (a) Be a nonprofit corporation incorporated pursuant to Chapter 1702. of the Revised Code and granted 501(c)(3) status by the internal revenue service;
  - (b) Not be a provider of services, other than protective services or support brokerage, or control the provision of services to individuals with developmental disabilities;

- (c) Have and maintain a bond or other insurance in an amount in excess of the value of all trusteeship funds or other funds held by the contract agency for the benefit of its clients;
  - (d) Maintain qualified and competent personnel who serve as representatives for individuals with developmental disabilities at an average ratio of no more than sixty individuals per each representative;
  - (e) Have policies in place governing various aspects of the provision of protective services including, but not limited to, a grievance process for individuals with developmental disabilities or any interested party and an appeal process for nominations/referrals which are initially denied;
  - (f) Have a policy and procedure in place to deal with emergencies;
  - (g) Conduct background investigations of its employees in accordance with rule 5123-2-02 of the Administrative Code;
  - (h) Subject to Ohio law governing guardianship, make decisions by balancing the individual's personal preferences with the individual's health and safety needs and in making decisions affecting the individual consider input from the individual, the individual's family, providers of services, and any others having relevant information regarding the individual;
  - (i) Ensure the provision of orientation and ongoing training programs for its employees which will guide employees in the efficient and effective delivery of protective services and maintain evidence of at least forty hours of relevant training or continuing education over a four-year-period for each of its employees;
  - (j) Effectively communicate with individuals with developmental disabilities who seek or receive protective services;
  - (k) Provide the least restrictive protective services suitable for the individual;
  - (l) Accept nomination as a guardian, trustee, protector, or conservator only when there is no family member or other advocate available, willing, and capable of serving in that role; and
  - (m) Periodically evaluate individuals with developmental disabilities regarding their continued need for protective services.
- (2) In any case where the interests of an individual with developmental disabilities and the interests of the contract agency are divergent and are part of a suit

or legal proceeding, the contract agency shall contact disability rights Ohio or request the court to appoint a guardian ad litem to protect the interests of the individual in such matters.

(D) The department shall monitor protective services provided under this rule.

(E) The contract agency shall obtain an annual audit of its financial statements and shall submit the audit report to the department within thirty days of receipt.

Replaces: 5123:1-15-01

Effective:

Five Year Review (FYR) Dates:

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Certification

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Date

Promulgated Under: 119.03

Statutory Authority: 5123.04, 5123.56

Rule Amplifies: 5123.04, 5123.56 to 5123.59

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