



**MEMORANDUM**

TO: DDSOO/DDRO Directors  
Willowbrook Liaisons  
Service Coordinators with Willowbrook Class  
State Operated and Voluntary Operated Treatment Team Leaders

FROM: John Gleason, Associate Deputy Commissioner, SOO *J. Gleason*  
Sally Berry, Acting Associate Deputy Commissioner, RO

SUBJECT: Residential Notifications/Due Process for Willowbrook Class

DATE: February 20, 2014

This correspondence serves as a reminder to all State and Voluntary Service Coordinators, State and Voluntary Service Coordinator Supervisors, State Operated and Voluntary Operated Treatment Team Leaders and Willowbrook Liaisons as to the importance of adhering to the due process notification process that are in place for Willowbrook class members.

Please keep in mind that these due process provisions are mandated not only by OPWDD’s regulations, but also by the federal court-ordered Willowbrook Permanent Injunction. OPWDD’s “Community Placement Procedures” (aka the “Green Book”) is available on OPWDD’s Beyond Willowbrook web page at:  
[http://www.opwdd.ny.gov/opwdd\\_resources/willowbrook\\_class/community\\_placement\\_procedures](http://www.opwdd.ny.gov/opwdd_resources/willowbrook_class/community_placement_procedures).  
Information regarding due process notifications is available on OPWDD’s Beyond Willowbrook web page at:  
[http://www.opwdd.ny.gov/opwdd\\_resources/willowbrook\\_class/due\\_process\\_notification](http://www.opwdd.ny.gov/opwdd_resources/willowbrook_class/due_process_notification).

The following is intended as a brief overview of the due process/notification process but is not intended to supplant the processes set forth in greater detail in the Green Book.

**Pre-Placement Planning Meetings**

It is always appropriate to assess, on an ongoing basis, whether an individual’s current residential placement meets that person’s needs. When and if the need for alternative placement arises, then a pre-placement planning meeting must be held. These pre-placement planning meetings must be held separately from the individuals’ ISP or ISP review meeting. While undertaking placement planning consideration must be given to the following; living arrangements, health

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services, educational/vocational services, family resources, recreational services, transportation, evacuation, legal services/guardianship, any time-limited services and religion preference or not. This list is not exhaustive. All of these considerations, including the availability of Willowbrook entitlements, shall be documented in the person's record.

### **Pre-Placement Visits**

Once a pre-planning meeting has been held, the individual should be invited to visit his or her proposed new home and meet his/her new housemates and residential staff. These visits must include dinner visits and overnight visits (unless the proposed home is newly certified) which are offered and made prior to the decision by the individual and his/her treatment team to initiate the due process/notification processes identified in the Green Book.

### **Due Process Letters**

When considering a placement, if the planning team decides that the proposed move is appropriate, a due process letter must be sent to the individual and to the individual's correspondent (unless the person is a capable adult and objects to such notice being made). The other mandated parties to receive copies of the letter include the Consumer Advisory Board (CAB), Willowbrook Plaintiffs' Counsel, Mental Hygiene Legal Services, the OPWDD Statewide Willowbrook Liaison and the appropriate OPWDD Local Willowbrook Liaison. Please note that the CAB must receive copies of the due process letters for all Willowbrook class members, regardless of whether the individuals are represented by the CAB or not.

The individual's case manager/service coordinator must work closely with the local Willowbrook Liaison when preparing any due process letter. The local Willowbrook Liaison must review all due process letters prior to the letter(s) being sent. The due process letter must be sent out by the individual's case manager/service coordinator.

The Guidelines for Willowbrook Residential Notification (aka "Green Cheat Sheet") will direct you to the appropriate section of the Community Placement Procedures based on the type of placement being recommended. Samples of the mandated due process letters, regarding both planned movement and emergency movement, are available for your use at OPWDD's Due Process Notification webpage, [http://www.opwdd.ny.gov/opwdd/resources/willowbrook class/due process notification](http://www.opwdd.ny.gov/opwdd/resources/willowbrook/class/due%20process%20notification). Do **NOT** alter the text of these samples letters, **except** to insert the required individual specific information.

All contract information for the CAB and Willowbrook Plaintiffs' Counsel is found at the Guidelines for Willowbrook Residential Notification, available at <http://www.opwdd.ny.gov/node/1071>.

### **"Proposed Placement Response" Form**

The "Proposed Placement Response" form must be included with the due process letter. This form should NOT be altered in any way. Please refer to the "Summary of Procedures for

Responding to Placement Proposals” available at OPWDD’ website at <http://www.opwdd.ny.gov/node/3650>.

### **Response(s) to Due Process Letters**

The individual and/or his/her correspondent must indicate whether he/she is in agreement with the proposed placement or whether he/she is not in agreement. If he/she is not in agreement then he/she has the right to object. OPWDD will respond to any objection by scheduling a hearing before a hearing officer. All due process letters must be responded to by the individual and/or his/her correspondent with 30 day of the receipt of the due process notice. Failure on the part of the correspondent to respond within the 30 days of receipt of the notice will result in the designation of the CAB as the advocate for the person. The CAB then has 15 days to response, from the date of its designation. If there is no response after 15 days, then the placement may proceed. In the case where the CAB is the correspondent and they have not responded to the due process notice in 30 days of the receipt of the due process notice, a courtesy letter should be sent as a reminder that the time has expired and that the placement will proceed.

If you have questions regarding due process and planning, you may contact your local Willowbrook Liaison directly or you may contact Lori Lehmkuhl, OPWDD Statewide Willowbrook Liaison at (518-473-6026) or via email at, [Lori.Lehmkuhl@opwdd.ny.gov](mailto:Lori.Lehmkuhl@opwdd.ny.gov). Lori will be scheduling Regional training specific to residential notification and due process in the very near future. You will be notified by your local district Willowbrook Liaison as to the dates/times of these trainings.

cc: Kerry Delaney – Executive Deputy Commissioner  
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