

§19506. Agency access to records, facilities, persons with disabilities and reports

For the purposes of this chapter, agency personnel in the performance of duties pursuant to section 19505 must be granted access to records, facilities, persons with disabilities and reports as follows. [PL 1989, c. 837, §1 (NEW).]

1. Records. Agency personnel must be granted access to all records, reports and supporting information, other than records, reports and supporting information created in the course of an ongoing criminal investigation by the Attorney General, a district attorney's office or a law enforcement agency or records, reports and supporting information designated as confidential by Title 16, section 804, that:

A. Pertain to a person who is a client of the agency, if the person or the person's legal guardian or other legal representative has authorized the agency to have that access; [PL 1989, c. 837, §1 (NEW).]

B. [PL 2001, c. 357, §13 (RP).]

C. Describe incidents of abuse, exploitation, neglect or injury, and the steps taken to investigate those incidents, prepared by any staff person of any facility serving persons with disabilities or by any agency charged with investigating allegations of abuse, exploitation, neglect and injury occurring at facilities that serve persons with disabilities; or [PL 2001, c. 357, §13 (AMD).]

D. Pertain to an individual who is or was a person with a disability and who is the subject of a complaint received by the agency or who, as a result of monitoring or other activities resulting from a complaint or other evidence, the agency has probable cause to believe has been or is being abused, exploited or neglected and who:

(1) By reason of a mental or physical condition is unable to authorize the agency to have access and is either under public guardianship or without a legal guardian or other representative who may authorize the agency to have access;

(2) Has a legal guardian, conservator or other legal representative who has been contacted by the agency upon receipt of the name and address of the guardian, conservator or representative, and the agency has offered assistance to that person to resolve the situation, and that person has failed or refused to act on behalf of the individual; or

(3) Is deceased or whose whereabouts are unknown. [PL 2001, c. 357, §13 (NEW).]

Agency personnel must be given access to the records of a person with a disability and other records relevant to conducting an investigation within 3 business days of the agency making a written request. When the agency determines there is probable cause to believe that the health or safety of the person is in serious or immediate jeopardy or in event of the death of a person with a disability, the agency must be given access to records within 24 hours of the agency making a written request.

[PL 2013, c. 267, Pt. B, §2 (AMD).]

2. Persons with disabilities. Any department, agency, board, commission or office of the State or of any subdivision of the State, and any private agency or individual licensed or funded by the Federal Government or the State or any subdivision of the State that operates or administers any program or facility providing services to persons with disabilities shall permit agency personnel performing duties pursuant to section 19505 to meet with those persons. The program or facility must allow agency personnel to communicate privately with the persons with disabilities.

[PL 1989, c. 837, §1 (NEW).]

3. Facilities. Any facility that serves a person with a disability shall permit access to the premises of the facility by agency personnel performing duties pursuant to section 19505.

A. Access to the premises must include reasonable unaccompanied access to all residents of the facility at reasonable times, including normal working and visiting hours, for the following purposes:

(1) Providing information and training on and referral to programs addressing the needs of a person with a disability and information about the rights of a person with a disability and the protection and advocacy services of the agency, including the name, address and telephone number of the agency; and

(2) Monitoring the rights and safety of recipients of services from the facility. [PL 2001, c. 357, §14 (NEW).]

B. If the agency is conducting an investigation of a complaint of abuse, neglect or exploitation, access to the premises must include:

(1) The opportunity to interview any recipient of services from the facility, facility employee or other person, including the person suspected to be the victim of abuse, neglect or exploitation, who the agency reasonably believes may have knowledge of the incident under investigation; and

(2) The opportunity to view, inspect and photograph all areas of the facility's premises that the agency reasonably believes may be connected to the incident under investigation. [PL 2001, c. 357, §14 (NEW).]

[PL 2001, c. 357, §14 (AMD).]

4. Reports. The agency must be provided copies of each annual survey report and plan of corrections for cited deficiencies made pursuant to Title 22, chapter 405 and pursuant to 42 United States Code, Sections 1395 et seq. and 1396 et seq. with respect to any facility serving persons with disabilities within the State. The reports and plans must be provided to the agency within 30 days of completion.

[PL 1989, c. 837, §1 (NEW).]

SECTION HISTORY

PL 1989, c. 837, §1 (NEW). PL 2001, c. 357, §§13,14 (AMD). PL 2013, c. 267, Pt. B, §2 (AMD).

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