

*****Proposed New Rule - November 16, 2021*****
(Tracking revisions made based on pre-clearance feedback.)

5123-2-01 Technology first.

(A) Purpose

This rule implements the technology first policy in accordance with section 5123.025 of the Revised Code.

(B) Definitions

For the purposes of this rule, the following definitions apply:

- (1) "County board" means a county board of developmental disabilities.
- (2) "Department" means the Ohio department of developmental disabilities.
- (3) "Home and community-based services" has the same meaning as in section 5123.01 of the Revised Code.
- (4) "Individual" means a person with a developmental disability or for purposes of giving, refusing to give, or withdrawing consent for services, the person's guardian in accordance with section 5126.043 of the Revised Code or other person authorized to give consent.
- (5) "Individual service plan" means the written description of services, supports, and activities to be provided to an individual and includes an "individual program plan" as that term is used in 42 C.F.R. 483.440 as in effect on the effective date of this rule.
- (6) "Intermediate care facility for individuals with intellectual disabilities" has the same meaning as in section 5124.01 of the Revised Code.
- (7) "Technology first policy" means the state of Ohio policy, established in section 5123.025 of the Revised Code, that individuals with developmental disabilities have access to technology solutions.
- (8) "Technology solution" means any product, device, equipment, or service used to maintain, increase, or improve the functional capabilities of an individual with developmental disabilities and that is deployed in accordance with applicable federal, state, and local rules and regulations. The efficacy of a technology solution is subject to review and approval by the department.

(C) Implementing the technology first policy

- (1) Each county board and each intermediate care facility for individuals with intellectual disabilities shall:

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- (a) Within ~~sixty~~ ninety calendar days of the effective date of this rule or within ~~sixty~~ ninety calendar days of licensure of a new intermediate care facility for individuals with intellectual disabilities, as applicable, develop and implement a written local policy to enact the technology first policy. The written local policy will:
 - (i) Clearly delineate that technology solutions are to be:
 - (a) Explored prior to authorization or provision of services that may be more intrusive; and
 - (b) Used whenever possible to meet the needs of individuals served.
 - (ii) Require that exploration of technology solutions by an individual and the individual's team be documented in the individual service plan.
 - (iii) Address ability to increase capacity for use of technology solutions and outline specific steps, as applicable, to be taken to increase capacity to use technology solutions to serve individuals, including, when applicable, establishment of benchmarks for increasing the number of individuals who benefit from the use of technology solutions.
 - (iv) Identify strategies for increasing the level of knowledge, skill, and comfort of staff related to use of technology solutions.
- (b) Annually review and update, as applicable, the written ~~local~~ policy developed and implemented in accordance with paragraph (C)(1)(a) of this rule, by February fifteenth of each year for the preceding calendar year.
- (2) Each county board will actively collaborate with ~~other county boards, local schools including schools operated by county boards, area agencies on aging, county departments of job and family services, mental health agencies, public transit authorities, and local vocational rehabilitation centers,~~ individuals served and their families, providers of services, employers, the department, and other community partners (e.g., local schools, mental health agencies, area agencies on aging, county departments of job and family services, public transit authorities, local vocational rehabilitation centers, and employers) to expand awareness and use of technology solutions by individuals served by the county board.
- (3) Each intermediate care facility for individuals with intellectual disabilities will actively collaborate with ~~other intermediate care facilities for individuals with intellectual disabilities, county boards, local schools including schools operated by county boards (when serving school-age residents), mental health agencies, local vocational rehabilitation centers,~~ residents served and their families, persons or entities under contract to provide services to residents, employers, the department, and other

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community partners (e.g., county boards, local schools, mental health agencies, local vocational rehabilitation centers, and employers) to expand awareness and use of technology solutions by residents.

- (4) Each individual served by a county board or an intermediate care facility for individuals with intellectual disabilities will participate in a person-centered planning process in accordance with rule 5123-3-03 or 5123-4-02 of the Administrative Code, as applicable, which identifies the individual's unique strengths, interests, abilities, preferences, resources, and desired outcomes as they relate to technology solutions.

(a) Through the person-centered planning process:

(i) The individual and the individual's team will discuss any technology solution previously or currently used by the individual and the effectiveness of the technology solution;

(ii) The individual and the individual's team will ~~review~~ discuss and explore information regarding available technology solutions and consider how each technology solution might:

(a) Enhance the individual's independence and personal freedom;

(b) Increase the individual's ability to communicate effectively with others;

(c) Expand opportunities for the individual to access and pursue available activities and establish meaningful relationships with people who are important to the individual;

(d) Enable the individual to perform tasks that support the individual's efforts to obtain or maintain employment; or

(e) Help the individual increase and/or maintain independence with daily tasks and activities.

(iii) After discussing ~~available~~ whether or not technology solutions may be appropriate, the individual and the individual's team:

(a) Will ~~assess~~ discuss how available technology solutions may advance what is important to or important for the individual;

(b) Will ~~determine which available technology solutions best meet the individual's assessed needs~~ make referrals for assessments by technology subject matter experts to identify technology solutions; and

(c) May identify additional evaluations needed to determine whether other

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available technology solutions meet the individual's assessed needs.

- (iv) ~~Available~~ When available technology solutions ~~that~~ have been determined to meet the individual's assessed needs, they will be included in the individual service plan.
 - (a) Technology solutions included for the duration of the individual service plan may be reviewed and modified at any time based on a request by the individual or the individual's team. Technology solutions included on a trial basis are to be reviewed by the individual and the individual's team at the conclusion of the trial period.
 - (b) When reviewing a technology solution to determine whether the technology solution is effective and should continue, the individual and the individual's team are to consider documentation related to:
 - (i) The individual's experience in terms of achieving outcomes described in paragraph (C)(4)(a)(ii) of this rule;
 - (ii) Whether the technology solution enhanced the individual's health or safety;
 - (iii) Whether the technology solution reduced dependence on staff by increasing the individual's independence and without having the effect of isolating the individual from the individual's community or preventing the individual from interacting with people with or without disabilities; and
 - (iv) Whether the individual has a desire to continue to use the technology solution.
 - (b) The results of the person-centered planning process, including, as applicable, the individual's desired outcomes as they relate to technology solutions and the activities that will occur to expand the individual's exploration, awareness, and use of technology solutions, ~~shall~~ will be integrated into the individual service plan. The individual service plan will: be amended at any time if a technology solution is no longer meeting the individual's assessed needs.
 - (i) ~~Indicate that the provider has demonstrated that the technology solutions meet the necessary; and~~
 - (ii) ~~Be amended at any time if a technology solution is no longer meeting the individual's assessed needs.~~
- (5) The department will consult and collaborate with individuals and families who receive

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services, county boards, providers of home and community-based services, intermediate care facilities for individuals with intellectual disabilities, vendors of technology solutions, and other state agencies to:

- (a) Identify best practices;
- (b) Share information about available technology solutions and ways the technology solutions provide individuals with more independence;
- (c) Identify funding sources or other means for procuring identified technology solutions;
- (d) Facilitate effective partnerships; and
- (e) Identify ways the department can support statewide efforts to expand use of technology solutions.