

RESOLUTION OF COMPLAINTS

Purpose:

The purpose of this policy is to set forth: 1) the process for the resolution of complaints involving the programs, services, policies or administrative practices of the Board or entities acting under contract with the Board; 2) the process for individuals to appeal adverse actions proposed or initiated by the Board; and 3) the requirements to give notice of the process to be followed for resolution of complaints and appeals of adverse actions.

Policy:

A. Scope

Any individual or person, other than a Board employee, may file a complaint using the process established under this policy. An individual may appeal an adverse action using the process established under this policy. This process must be followed prior to commencing a civil action. Exercise of this right to file a complaint will not result in retaliation or barriers to service.

This policy does not apply to:

1. Situations when the Board is a vendor or subcontractor for service delivery.
2. Education services arranged by the local education agency. Complaints or appeals concerning such services shall follow rules adopted by the Ohio Department of Education.
3. Services provided under Part C of the Individuals with Disabilities Education Act, 34 C.F.R. 303. Complaints or appeals concerning such services shall follow rules adopted by the lead agency responsible for administration of Part C of the Individuals with Disabilities Education Act.
4. Medicaid services including home and community-based services, waiver services and targeted case management services. Complaints or appeals concerning such services shall follow rules adopted by the Ohio Department of Medicaid.
5. Administration of prescribed medication, performance of health-related activities, and performance of tube feedings by developmental disabilities personnel pursuant to O.R.C. 5123.42 or O.A.C. 5123:2-6 of the Administrative Code. Appeals concerning such matters shall be made to the Department using the process established in O.A.C. 5123:2-17-01.
6. Services provided to a resident of an intermediate care facility by the intermediate care facility, or provided on behalf of or through a contract with an intermediate care

facility. Complaints or appeals concerning such services shall follow regulations governing intermediate care facilities.

B. Definitions

1. “Adverse action” means any of the following:
 - a. Denial of a request for a non-medicaid service.
 - b. Reduction in frequency and/or duration of a non-medicaid service.
 - c. Suspension of a non-medicaid service.
 - d. Termination of a non-medicaid service (except when the recipient of that service is deceased).
 - e. The outcome of an eligibility determination.
2. “Advocate” means any person selected by an individual to act and/or communicate as authorized by the individual.
3. “Department” means the Ohio Department of Developmental Disabilities.
4. “Individual” means a person with a developmental disability who is eligible, or purports to be eligible, for services pursuant to O.R.C. 5123 and 5126 and includes a parent of a minor child, an individual’s guardian, or an adult authorized in writing by the individual pursuant to O.R.C. 5126.043 to make a decision regarding receipt of a service or participation in a program.
5. “Person” includes an individual, corporation, business trust, estate, trust, partnership, and association.

C. General Provisions

1. Complaints and appeals of adverse action shall be filed in writing. When an individual or person expresses dissatisfaction with an outcome subject to complaint or appeal in accordance with this policy, the Board shall, to the extent necessary, assist the individual or person in filing a complaint or appeal.
2. At all times throughout the resolution of complaints and appeals of adverse action process, the Board shall maintain the confidentiality of the identities of individuals unless an individual gives written permission to share information.
3. An advocate may assist an individual at any time during the resolution of complaints and appeals of adverse action process.

4. The Board shall make all reasonable efforts to ensure that information regarding resolution of complaints and appeals of adverse action, including all notices and responses made pursuant to this policy, is presented using language and in a format understandable to affected individuals and persons. All notices and responses made pursuant to this policy shall include an explanation of the individual's or person's opportunity to file a complaint with or appeal to a higher authority, as applicable.
5. The time lines set forth in this policy may be extended if mutually agreed upon in writing by all parties involved.
6. Initiation of the formal process set forth in this policy does not preclude the resolution of a complaint or an appeal of adverse action at any point, as long as the outcome is mutually agreed upon in writing by all parties involved.

D. Provision of information about the process for resolution of complaints and appeals of adverse action and to give notice of adverse action

1. General information.

- a. The Board shall give the "Complaint or Appeal of Adverse Action Explanation Form" contained in Attachment 1 to this policy to an individual: 1) at the time of the individual's initial request for services; 2) at least annually to each individual receiving or on a waiting list for non-medicaid services; and 3) at the time a complaint within the scope of this policy is received or the Board proposes an adverse action.
- b. Upon request, a county board or contracting entity shall provide a copy of O.A.C. 5123:2-1-12 *Resolution of Complaints Involving County Boards of Developmental Disabilities and Appeals of Adverse Action Initiated by County Boards of Developmental Disabilities*.
- c. The Board shall publicly post the "Complaint or Appeal of Adverse Action Explanation Form".

2. Specific notice of adverse action.

- a. Except when it is necessary to suspend an individual's services without delay to ensure the health and safety of the individual or other individuals, the Board shall provide written notice to the affected individual of the Board's decision to deny, reduce, suspend, or terminate services at least fifteen (15) calendar days prior to the effective date of such action. The notice shall include:
 - 1) An explanation of the Board's policy and/or authority for taking the adverse action;
 - 2) A description of the specific adverse action being proposed or initiated

- by the Board;
- 3) The effective date for the adverse action;
 - 4) A clear statement of the reasons for the adverse action including a description of the specific assessments and/or documents that are the basis for the adverse action;
 - 5) An explanation of the individual's right to appeal the adverse action;
 - 6) An explanation of the steps the individual must take to appeal the adverse action;
 - 7) A statement that the individual has ninety (90) calendar days to appeal the adverse action;
 - 8) A statement that the individual must file his or her appeal prior to the effective date for the adverse action to keep his or her services in place during the appeal process;
 - 9) The name and contact information for the staff member of the Board who can assist the individual with his or her appeal; and
 - 10) The "Complaint or Appeal of Adverse Action Explanation Form".
- b. The Board shall retain written evidence of the date the notice is personally delivered or sent by certified mail to the individual or for an individual who has selected email as his or her preferred method of communication, the date of electronic confirmation that the individual has read the email.
3. Specific notice of adverse action when it is necessary to suspend an individual's services without delay to ensure the health and safety of the individual or other individuals.
- a. The Board shall:
- 1) Determine what immediate steps are necessary to ensure the health and safety of the individual and other individuals; and
 - 2) Provide written notice to the affected individual immediately. The notice shall include:
 - a) An explanation of the Board's policy and/or authority for suspending the individual's services;
 - b) A description of the specific services being suspended;
 - c) The effective date for the suspension of services;
 - d) A clear statement of the reasons for the suspension of services including a description of the specific circumstances that

- jeopardize the health and safety of the individual or other individuals;
- e) An explanation that the Board shall arrange for appropriate alternative services and a description of the specific alternative services available to the individual;
 - f) An explanation of the steps the Board shall take in accordance with paragraphs 3.c. and 3.d. of this policy;
 - g) The name and contact information for the staff member of the Board who can answer questions about the suspension of services; and
 - h) The “Complaint or Appeal of Adverse Action Explanation Form”.
- b. The Board shall retain written evidence of the date the notice is personally delivered or sent by certified mail to the individual or for an individual who has selected email as his or her preferred method of communication, the date of electronic confirmation that the individual has read the email.
- c. Within five (5) calendar days of the notice of suspension of services, the Board shall convene a team meeting to identify measures that may be implemented to eliminate the circumstances that jeopardize the health and safety of the individual or other individuals.
- d. Within five (5) calendar days of the team meeting, the Board shall:
- 1) With the consent of the individual, implement measures to eliminate the circumstances that jeopardize the health and safety of the individual or other individuals as necessary and restore the suspended services; or
 - 2) With the consent of the individual, continue to arrange for appropriate alternative services; or
 - 3) Provide written notice that includes the components described in paragraph 2.a. of this policy to the individual of the Board’s decision to terminate the individual’s services at least fifteen (15) calendar days prior to the effective date of such action. If the individual files an appeal prior to the effective date of the termination of services, the Board shall keep the individual’s alternative services in place until the appeal process is completed.

Legal Reference: O.A.C. 5123:2-1-12

Attachments: 1. Complaint or Appeal of Adverse Action Explanation Form

2. Informal Procedure for Resolution of Complaints and Appeals of Adverse Action
3. Formal Procedure for Resolution of Complaints and Appeals of Adverse Action
4. Medicaid Appeal Procedures

Board Adopted: April 24, 2003
Board Revised: January 27, 2007
Board Revised: October 15, 2015

COMPLAINT OR APPEAL OF ADVERSE ACTION
EXPLANATION FORM

Why would I file a complaint or appeal?

- You may file a complaint if you are dissatisfied with a program, service, policy, or practice of the county board of developmental disabilities.
- You may file an appeal of adverse action ("appeal") if your request for services is denied or if services you have been receiving are being taken away.

Do I have to file a formal complaint or appeal?

No; if you choose, you may start by trying to resolve your complaint or appeal informally with a supervisor or manager at the county board of developmental disabilities. You and the supervisor or manager can agree to work together to try and resolve your complaint or appeal. The informal process shall take no longer than 30 days.

Should I try to resolve my complaint or appeal informally before filing a formal complaint or appeal?

That is entirely up to you. Trying to resolve your complaint or appeal informally does not prevent you from filing a formal complaint or appeal.

When should I file a complaint or appeal?

- A complaint must be filed within 90 days of becoming aware of the program, service, policy, or practice that is the subject of your complaint.
- An appeal must be filed within 90 days of receiving notice that your services are being denied or taken away.

Important!

In most cases, the county board must notify you at least 15 days prior to the date it plans to take away your services. **If you file an appeal before the date your services are scheduled to be taken away, your services will stay in place during the appeal process.**

How do I file a formal complaint or appeal?

The complaint or appeal must be filed in writing with the supervisor or manager responsible for the program, service, policy, or practice of the county board. Staff of the county board will assist you if you need help.

How will I be notified about my complaint or appeal?

The county board will respond to you in writing. Each response will explain the next step and the time line for completing it.

What will happen after I file a formal complaint or appeal?

The supervisor or manager will meet with you to discuss your complaint or appeal and will investigate your complaint or appeal. Within 15 days, the supervisor or manager will provide you with a written response to your complaint or appeal. If you make a request, the supervisor or manager will discuss the written response with you.

Resolution of Complaints Attachment 1

What if I am not satisfied with the supervisor's or manager's decision?

You may file your complaint or appeal with the Superintendent of the county board. Your complaint or appeal must be filed in writing within 10 days of receiving the supervisor's or manager's written response. Staff of the county board will assist you if you need help. The Superintendent or his or her designee will meet with you within 10 days of receipt of your complaint or appeal and provide you with a written response within 15 days of receipt of your complaint or appeal.

What if I am not satisfied with the Superintendent's decision?

You may file your complaint or appeal with the President of the county board. Your complaint or appeal must be filed in writing within 10 days of receiving the Superintendent's written response. Staff of the county board will assist you if you need help. A hearing will be conducted within 20 days of receipt of your complaint or appeal.

What will happen at the hearing?

The hearing may be conducted by the full county board, by a committee of two or more members of the county board appointed by the President of the county board, or by a hearing officer appointed by the President of the county board. You will have an opportunity to explain your complaint or appeal. You may be represented by an attorney. You have the right to question officials or employees of the county board who have information related to your complaint or appeal. You may be asked questions about your complaint or appeal.

What will happen after the hearing?

You are entitled to receive, at no cost, a written transcript of the hearing. Within 15 days of a hearing conducted by the county board or the county board's receipt of the report and recommendation from a hearing officer, the President of the county board will send you by certified mail, the county board's decision regarding your complaint or appeal. The decision must include a rationale and a description of what you should do if you are still dissatisfied.

What if I am not satisfied with the county board's decision?

You may file your complaint or appeal with the Director of the Ohio Department of Developmental Disabilities. Your complaint or appeal must be filed in writing within 15 days of receiving the county board's decision. Staff of the county board will assist you if you need help. The Director or his or her designee may request additional information from you. Within 45 days of receipt of necessary documents related to your complaint or appeal, the Director or his or her designee will send you by certified mail, his or her decision regarding your complaint or appeal.

What if I am not satisfied with the Director's decision?

You may file a claim through the court system.

Who else can help me with my complaint or appeal?

Arc of Ohio at 1-800-875-2723

Disability Rights Ohio at 1-800-282-9181

Ohio Department of Developmental Disabilities at 1-877-464-6733