

Wood County Board of Developmental Disabilities

PROCEDURE

Procedure #: 02-ALL-ALL-0206 (CR) **Subject:** Grievance/Due Process
(Complaint Resolution)

Effective Date: 10-12-88 **Last Revision:** 1/19/2023

Person Responsible: Director of Service and Support Administration

Approvals/Date: Brent Esau 1/19/2023 Ray Brinkman 1/19/2023
Superintendent, WCBDD Date Department Director Date

The following definitions will apply:

Notice of Action Subject to Appeal - Documentation of pending action which is subject to appeal, including but not necessarily limited to: eligibility determination, services for eligible individuals, or any denial, reduction, or termination, or any other change of service, by the Board. This notice shall include a detailed description of the proposed action(s), a statement of the reasons for such action (or refusal to initiate action), and the specification of any evaluative instruments or reports upon which such action was taken.

Notification of Disagreement Form - Documentation of Individual/Guardian/Next-of-Kin grievance and subsequent response(s) to insure an orderly process for the resolution of the disagreement/grievance.

1. For an individual placed by a Local Education Authority (LEA) into a Board program, the Free Appropriate Public Education (FAPE), Rule 3301-51-02 of the Administrative Code, shall be followed. Parents/guardians of children in the early intervention program shall be provided with a copy of the "Parents Rights in Help Me Grow" brochure by the service coordinator upon admission to the early intervention system and at each IFSP review. The parent/guardian signature on the IFSP signature page (which states "rights reviewed/brochure given") will indicate receipt of the rights brochure. They will also acknowledge receipt of this procedure by signing off on Form 03-EI-ALL-0958.

2. All persons receiving services will be treated fairly and their rights supported. At any time, a person feels that they have not been treated fairly or that their rights have been violated, they may inform their Service & Support Administrator (SSA). The SSA shall attempt to resolve the complaint to the satisfaction of the person receiving services and will respond in writing or in a manner that is understood by the person. If the person continues to feel dissatisfied, the appropriate SSA manager will be informed and will attempt to resolve the complaint.

3. For any decision regarding any change in service, including, eligibility determination, arranging appropriate services for eligible individuals, or any denial, reduction, or termination of services by the Board, the Department Director or designee shall provide written notice of action and a written notice of the appeal rights Notification of Disagreement form 03-ALL-ALL-0112 to the individual, the parents of a minor, authorized representative, or the guardian at least 15 calendar days prior to taking action. The Board shall also inform the appellant that a representative of the Board is available to assist the individual with the administrative resolution process.

4. An individual who wishes to appeal a decision may be assisted by an advocate who may speak on the individual's behalf at the individual's request.

5. Any request for administrative resolution of complaints filed according to this process will not abrogate any other rights to services. If the county board is requesting a termination or reduction of services or change in services for an individual, current services shall continue to be provided pending final resolution unless an entity under contract with a county board for the provision of supported living terminates the services it is providing to that individual in accordance with the terms of the contract with the county board.

6. The individual, parents of a minor, or guardian shall file an appeal to the Department Director or designee using the Notification of Disagreement form 03-ALL-ALL-0112 within 90 calendar days of receiving the written notice of action. If an individual, parents of a minor, authorized representative, or guardian have difficulty in reading or writing, an oral notice may be accepted and such notice will be documented on the form by the Department Director or designee receiving the notification.

7. The Department Director or designee will review the appeal within 15 calendar days of receipt of the Notification of Disagreement form, in cooperation with Service and Support Administration (SSA). The Department Director or designee, within those 15 days, shall provide a written report, using the Notification of Disagreement form, regarding the decision to the individual, parents of a minor, authorized representative, or guardian, and the person responsible for making the original decision. This notification shall include a rationale for the decision, any evaluative instruments or reports upon which such action is proposed, and a description of the next step in the appeal process.

8. In the event that the individual, parents of a minor, authorized representative, or guardian wish to continue to appeal, the Notification of Disagreement form shall be sent to the Superintendent, within 10 calendar days of receipt of Notification of Disagreement form (Department Director or designee decision). Time lines may be extended if mutually agreeable to all involved parties.

9. The Superintendent shall review the appeal and meet with the party initiating the appeal to conduct an Administrative Review within 10 calendar days of receipt of Notification of Disagreement form. During the Administrative Review, the Superintendent or designee, and the individual, parents of a minor, authorized representative or guardian may ask questions and/or review the circumstance related to the decision and may present reasons as to why the decision should be reconsidered.

10. The Superintendent shall provide a written report within 15 business days, upon receipt of the Administrative review, using the Notification of Disagreement form, regarding the decision to the individual, parents of a minor, authorized representative or guardian and

the responsible Department Director or designee. This notification shall include rationale for the decision, any evaluative instruments or reports upon which such action is proposed, and a description of the next step in the appeal process. Time lines may be extended if mutually agreeable to all involved parties.

11. In the event that the individual, parents of a minor, or guardian wish to continue to appeal, the Notification of Disagreement form shall be sent to the President of the Wood County Board of Developmental Disabilities (Board), within 10 calendar days of receipt (Superintendent decision).

12. The Board shall notify the individual, parents of a minor, authorized representative or guardian that it shall conduct a hearing, which shall occur in closed session unless written request is made by the initiating party to hold the hearing in open session, no sooner than 20 calendar days of receipt of the Notification of Disagreement form and no later than the next regularly scheduled Board meeting, at a time and place convenient to all parties. The County Board may hear the case as a full Board or the President of the Board with concurrence of the Board may establish a committee of two or more members to hear such appeals. Such a committee shall be vested with the full rights and authorities as the County Board in handling the appeal.

13. The individual, parents of a minor, authorized representative or guardian shall be provided access to Board records which pertain to the specifics of the appeal, no less than 10 days prior to the hearing.

14. The individual, parents of a minor, authorized representative or guardian may be represented at the hearing by legal counsel or others of their choice, at their own expense and present evidence.

15. The individual, parents of a minor, authorized representative or guardian may request the attendance of and question any official, employee, or agent of the Board who may have evidence upon which the appeal is based.

16. The decision of the Board shall be based solely upon the evidence presented at the hearing.

17. Evidence presented at the hearing shall be recorded by stenographic means or by use of an audio recorder at the option of the county board. The record shall be made at the expense of the county board and, upon request, one copy of a written transcript shall be provided, at no cost, to the individual or person requesting the hearing.

18. In any hearing held under the authority of the county, board, the county board may appoint a hearing examiner to conduct the hearing. The hearing examiner shall have the same powers and authority in conducting the hearing as granted to the county board. The hearing examiner shall not be an employee of the county board. The hearing examiner need not be admitted to the practice of law, but shall possess such qualifications as to be able to render neutral and informed decisions on matters presented in the complaint.

19. Within five calendar days of the date the hearing is deemed closed, the hearing examiner shall issue a written report and recommendation, setting forth findings of fact, conclusion of law, and a recommendation for the disposition of the complaint. The report and recommendation shall be served upon the parties to the hearing by certified mail.

20. The Board shall provide a written decision, using the Notification of Disagreement Form, by certified mail to the individual, parents of a minor, authorized representative or guardian (or legal counsel) within 15 calendar days of the hearing. Time lines may be extended if mutually agreeable to all involved parties. This notification shall include the rationale for the decision, any evaluative instruments or reports upon which such action is proposed, and a description of the next step in the appeal process.

21. The parties to the hearing may file with the county board written objections to the report and recommendation, within 10 days of receipt of the report and recommendation.

22. In the event that the individual, parents of a minor, authorized representative or guardian wish to continue to appeal, a written notice of appeal shall be sent to the Director of the Ohio Department of Developmental Disabilities (DODD), within 15 calendar days of receipt of the form (Board decision). Copies of this written appeal shall also be sent to the Superintendent, Board President, and the legal counsel or other representative of either or both parties.

23. The Board shall send to the DODD copies of the minutes of the Board hearing, any exhibits, and the Board's written decision (Notification of Disagreement form), within 20 days, upon receipt of copy of the written appeal to the Department.

24. The Director shall review the appeal to determine if the decision of the Board is based upon applicable statute and/or administrative rule, within 45 days of receipt of transcript.

25. The Director may refer the individual, parents of a minor, authorized representative or guardian back to the Board for reconsideration of the decision based upon new information not previously considered by the Board, as indicated.

26. The Director shall provide a written notice or decision to all affected parties and shall include the rationale for the decision within 45 calendar days following DD Board review.

27. At all times the Board will maintain confidentiality concerning the identities of individuals, complainants, witnesses, and other involved parties who provide information unless the individual, in writing, authorizes the release of information.

28. The Board will not take any retaliatory steps against the complainant during this process as specified under HIPAA privacy rules 45 CFR 160.310(b).

29. The Board will retain all documentation of complaints related to the uses and disclosure of related protected health information, and the disposition of those complaints, in accordance with their HIPAA documentation policy as defined under the HIPAA privacy rules 45 CFR 164.530(j).

30. Parties can resolve a dispute informally at any stage of the process if all parties agree in writing. The informal dispute process will not take longer than 30 days.

The grievance/due process (complaint resolution) procedure shall be posted in all sites operated by the Board and is available to all interested parties (individuals served, parents/guardians, etc) upon request. The procedure shall be provided to any individual or entity in the county that serves persons or provides or wishes to provide other goods or services of any kind under contract with the board. The availability of the procedure shall be published **on the board's website**

The following telephone numbers are posted for use by individuals wishing to register a complaint with Wood County Service and Support Administration, The Ohio Department of Developmental Disabilities (ODDD), and/or Ohio Legal Rights Services:

- Wood County Service & Support Administration On-Call (419)353-0541
- Ohio Department of DD - 800-617-6733
- Disabilities Rights of Ohio - (800)282-9181
- The Arc of Ohio - 800-875-2723

Attachments: Appendix A – Complaint or Appeal of Adverse Action Explanation Form

References: **5123: 4-01**
OAC **5123: 4-04**

Forms: 03-ALL-ALL-0112
03-EI-ALL-0958

tar/procedure/cr0206

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.

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 or his or her designee 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 30 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 1-800-617-6733