

Licking County Board of Developmental Disabilities

Administrative Policy Manual

Policy: Complaint Resolution

Board Approved: 2/96

Revised: 8/02

Reviewed: 7/04, 5/09, 04/10

Section: 1.4

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POLICY

It is the Policy of the Licking County Board of Developmental Disabilities, hereinafter referred to as the Board, that complaints involving its services, programs, programmatic policies, or administrative practices and those of its contract agencies be promptly and satisfactorily addressed by Board staff. When resolution by informal means does not satisfy the complainant, then consistent with Ohio Administrative Code 5123:2-1-12, the Board provides to individuals served and their families and any entity in Licking County that serves eligible persons, or desires to provide other goods or services through a contract with the Board, procedures for the administrative resolution of their complaints.

The Board offers and encourages the use of an informal process for the resolution of disputes. This informal process involves the appointment of one or more persons by the Superintendent to conduct an informal hearing of a dispute for the purpose of seeking to resolve the issue within a timeframe of no more than thirty days. The use of this informal process shall not affect the rights of the complainant or individual to file an appeal through the administrative resolution (appeal) procedures. Any individual that chooses to utilize this informal procedure should contact the Superintendent who shall initiate the process. At the conclusion of the informal hearing, the Superintendent will meet with the complainant to discuss the written findings and recommendations of the individual(s) appointed to conduct the informal hearing.

Any person, other than a staff member of the Board, may file a complaint using the Administrative Resolution process established by this policy, and shall use the related procedures prior to commencing a civil action regarding the complaint. The families of infants and toddlers served in the Board's Early Intervention Program, also have available to them due process and procedural safeguards required by Part C of the federal Individuals with Disabilities Education Act (IDEA).

Any entity or individual receiving services under contract with the Board for the provision of Supported Living shall follow the process for resolving complaints established under division (B) of Section 5126.45 of the Ohio Revised Code. After exhausting the process for resolving complaints established by the supported living contract, an individual may initiate a complaint under this policy and its related procedures.

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This policy and its related procedures do not apply to:

- A. Any preschool or school age child if the complaint has to do with education and related services provided by the child's school district. For these children the Operational Standards for Ohio Schools Serving Students with Disabilities as promulgated by the Ohio Department of Education, shall be followed.
- B. An individual applying for or enrolled in services provided pursuant to a Medicaid Home and Community-Based Services Waiver. All such appeals of actions by Board staff relative to waiver enrollment shall be made to the Ohio Department of Job and Family Services (ODJFS) in accordance with applicable rules for appeals promulgated by ODJFS under Chapters 5101:6-1 to 5101:6-9 of the Administrative Code. Individuals may appeal other decisions of the Board related to services or administrative practices of the Board other than HCBS Waiver Services using the applicable procedures required by this Policy. Concurrent with any appeal to ODJFS, the individual and the Board may attempt to informally resolve issues related to HCBS Waiver services.
- C. Complaints related to the scope of nursing practice. Any such complaints shall be referred to the Ohio Board of Nursing, which regulates nursing practice in accordance with Chapter 4723 of the Ohio Revised Code.
- D. Complaints related to the performance of delegated nursing. Procedures for filing complaints regarding delegated nursing care are contained in Ohio Administrative Code 4723-21-28 and 5123:2-1-07.

The Board will assist an individual, upon request, with the administrative resolution of complaint procedures, as well as with any other applicable appeal procedures promulgated by the Ohio Department of Education, Ohio Department of Developmental Disabilities, Ohio Department of Job and Family Services, Ohio Department of Health and/or any other entity from which an individual receiving Board services believes to have taken an adverse action toward her/him.

Notification of the Administrative Resolution (Appeal) Process

- A. The Board shall give annual notification of the availability of the procedures for administrative resolution of complaints to individuals served by the agency and their families and any entity in the County that serves eligible persons or provides, or desires to provide, other goods or services under a contract with the Board. This annual notification will include information concerning the availability of Board staff to assist with the administrative resolution (appeal) procedures related to this policy.

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The Board shall post the toll free number for the Ohio Department of Developmental Disabilities and Ohio Legal Rights Service in visible places in its buildings.

- B. Upon receipt of any complaint subject to administrative resolution (appeal) under this policy, the Superintendent or her designee shall provide written notice of the rights to administrative resolution (appeal) of the complaint to the complainant or individual.

When circumstances permit, this notice shall be given at least ten days before the action is taken. Such notice shall be written in terms reasonably calculated to be understood by the complainant or individual, and shall include the following:

- 1) A detailed description of the proposed action;
- 2) A clear statement of the reasons for the proposed action, including the specification of any evaluative instruments or reports upon which such action is proposed;
- 3) A statement that the complainant or individual has the right to seek administrative resolution regarding complaints about such decision *within 90 days of the mailing date of the written notice*; and
- 4) A copy of the written procedures for administrative resolution (appeal) of complaints.

REQUIREMENTS

1. Written procedures consistent with Ohio Administrative Code 5123:2-1-12 will be developed. Copies will be available upon request.
2. Notwithstanding any other provisions of this Policy and related procedures, the appeal of any action of the Board or its staff members shall begin at the level in which the decision or action was made.
3. Subject to the limitations of Section 5123.043 of the Revised Code, any request for administrative resolution of a complaint filed in accordance with this policy will not abrogate any other rights to services. If the Board is requesting a termination or reduction of services or change in services for an individual,

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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 that individual in accordance with the terms of its contract with the Board.

4. The Board shall at all times maintain confidentiality concerning the identities of individuals, complainants, witnesses, and other involved parties who provide information relative to a complaint unless the individual, in writing, authorizes the release of information.
5. Subject to the limitations of Section 5123.043 of the Revised code, the administrative resolution of complaints process is in addition to any other rights an individual or the parent of minor or guardian may otherwise have pursuant to the Ohio Revised Code or any other applicable state or federal law.