

ADMINISTRATIVE RESOLUTION OF COMPLAINTS FOR INDIVIDUALS POLICY

It is the policy of the Erie County Board of Developmental Disabilities (ECBDD) to provide an avenue to quickly, fairly, and effectively address and/or resolve grievances or complaints at the lowest step possible. This policy is to be used by individuals to appeal adverse actions proposed or initiated by ECBDD involving its programs, services, policies, or administrative actions.

The Superintendent shall establish, revise, and keep current the procedures to be utilized in the implementation of this policy. The Superintendent/designee shall ensure compliance with these procedures. All revisions and changes will be shared with Board Members when made.

Superintendent Signature: Carrie Beier Date: 9/17/26

Implemented: 11/1/04

Board Member Approval: 11/1/04, 4/20/17, 9/19/19, 10/28/21, 4/16/26, 5/21/26, 9/17/26

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Reviewed: 8/22/16, 4/9/19, 9/19/19, 10/28/21, 10/19/23, 4/16/26

Cross Reference: Ohio Administrative Code (OAC): 5123-4-01, 5123-4-04, 5101-6-1 to 5101-6-9; Ohio Revised Code (ORC): 5126.01, 5126.06, 5126.45; Ohio Eligibility Determination Instrument; Children's Ohio Eligibility Determination Instrument; Ohio Eligibility Determination Instrument User Guide; Due Process for Medicaid Covered Services Policy

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I. APPLICATION

- A. Although this procedure outlines a formalized process to resolve complaints, all persons are encouraged to discuss concerns with involved parties to resolve issues as quickly as possible. Any person, other than an employee of the ECBDD, may file a complaint using the administrative resolution process established under this policy, and shall use this process prior to commencing a civil action regarding the complaint. The appeal of any action of the ECBDD or its employees shall begin at the level in which the decision or action was made.
- B. Any request for administrative resolution of a complaint filed in accordance with this policy will not affect any other rights to services. If the ECBDD is requesting a termination, reduction of services, or change in services for an individual, the current services shall continue to be provided pending final resolution, unless an entity under contract with the ECBDD for the provision of those services terminates the services it is providing to that individual in accordance with the terms of the contract with the ECBDD.
- C. All reasonable efforts will be made to ensure that information regarding resolution of complaints and appeals, including all notices and responses, is presented using language and in a format understandable to affected individuals. All notices and responses shall include an explanation of the individual's opportunity to file a complaint or appeal to a higher authority, as applicable.
- D. The request for administrative resolution shall be in writing and shall be filed with the supervisor of the applicable service component of the ECBDD. If an individual has difficulty in reading or writing, an oral report may be accepted and documented by the supervisor receiving the report. An individual who wishes to seek administrative resolution may be assisted by an advocate who may speak on behalf of the individual at the individual's request.
- E. The ECBDD shall always 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.
- F. The provisions of this procedure shall not apply to an individual applying for or enrolled in services provided pursuant to the Medicaid home and community-based services waiver or any Medicaid funded services. All such appeals of decisions of the ECBDD shall be made to the Ohio Department of Job and Family Services (ODJFS) in accordance with applicable rules for appeals promulgated by ODJFS under Ohio Administrative Code (OAC) 5101-6-1 to 5101-6-9. Such individuals may appeal other decisions of the ECBDD related to services or administrative practices of the ECBDD other than Home and Community Based Services (HCBS) waiver services using the applicable process under OAC 5123-4-04.
- G. An entity or individual receiving services under contract with the ECBDD for the provision of supported living (Individual Supports) shall follow the process for resolving complaints established under Ohio Revised Code (ORC) 5126.45 prior to initiating an appeal pursuant to OAC 5123-4-04.
- H. If the ECBDD determines that a complaint or appeal of adverse action that has been filed is not subject to OAC 5123-4-04, the ECBDD shall provide the person the name and contact information of the appropriate entity in which to file the complaint.

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II. REQUIREMENTS TO PROVIDE INFORMATION

- A. The ECBDD shall give the "Complaint or Appeal of Adverse Action Explanation" form and the "Request for Administrative Resolution of a Complaint" form to an individual at the time of the individual's initial request for services, at their annual planning meeting, at the time the County ECBDD proposes an adverse action, and at the time the individual is placed on a waiting list for non-Medicaid services.
- B. Upon request, the ECBDD shall provide a copy of this policy and procedure as well as OAC 5123-4-04.
- C. The ECBDD shall publicly post the "Complaint or Appeal of Adverse Action Explanation" form and the toll-free number for Ohio Department of Developmental Disabilities (DODD) and Disability Rights Ohio in a visible place.
- D. The ECBDD shall provide written notice to the affected individual of the County ECBDD's decision to deny, reduce, suspend, or terminate services at least **fifteen (15) calendar days** prior to the effective date of the action. The notice shall include:
 - 1. An explanation of the ECBDD's policy and/or authority for taking the proposed adverse action;
 - 2. A description of the specific adverse action being proposed or initiated by the ECBDD;
 - 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 and how the assessment results or documents specifically support the ECBDD's decision to deny, reduce, suspend, or terminate services;
 - 5. An explanation of the individual's right to appeal the proposed 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 proposed action;
 - 8. A statement that the individual must file the appeal prior to the effective date for the adverse action to keep the individual's services in place during the appeal process;
 - 9. The name and contact information for the staff member of the County Board who can assist the individual with the appeal; and
 - 10. The "Complaint or Appeal of Adverse Action Explanation" form and the "Request for Administrative Resolution of a Complaint" form.
- E. 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 ECBDD 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 ECBDD'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;

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- e. An explanation that the ECBDD shall arrange for appropriate alternative services and a description of the specific alternative services available to the individual;
 - f. An explanation of the following steps that the ECBDD must take:
 - i. Within **five (5) calendar days** of the notice of suspension of services, the ECBDD 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; and
 - ii. Within **five (5) calendar days** of the team meeting, the ECBDD shall with the consent of the individual:
 - (a) 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
 - (b) Continue to arrange for appropriate alternative services; or
 - (c) Provide written notice that includes the components described in Section E(2)(f) of these procedures to the individual of the ECBDD's decision to terminate the individual's services at least **fifteen (15) calendar days** prior to the effective date of such action.
 - iii. If the individual files an appeal prior to the effective date of the termination of services, the ECBDD shall keep the individual's alternative services in place until the appeal process is completed.
 - g. The name and contact information for the staff member of the County ECBDD who can answer questions about the suspension of services; and
 - h. The "Complaint or Appeal of Adverse Action Explanation" form and the "Request for Administrative Resolution of a Complaint" form.
- F. The ECBDD shall maintain a copy of the notice and have written evidence of the date the notice is personally delivered, sent by certified mail or electronic confirmation when email has been read.

III. INFORMAL APPEAL PROCESS

An individual or person may file a complaint or appeal of adverse action using the Informal Appeal Process. The Informal Appeal Process is voluntary and does not delay the person or individual access to the Formal Appeal Process. The individual or person and ECBDD may mutually agree to waive the Informal Appeal Process and initiate the Formal Appeal Process.

- A. **Step One:** The supervisor or manager of ECBDD will discuss the complaint or appeal with the individual or person.
- B. **Step Two:** Within thirty (30) calendar days, the supervisor or manager of ECBDD will provide the individual or person with a written summary of the discussion, including any findings, decisions, and resolution.

IV. FORMAL APPEAL PROCESS

- A. **Step One:** filing a complaint or appeal of adverse action with the supervisor or manager responsible for the program, service, policy, or administrative practice of

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the County Board.

1. An individual or person must file a complaint in writing with the supervisor or manager of the ECBDD within **ninety (90) calendar days** of becoming aware of the program, service, policy, or administrative practice that is the subject of the complaint.
2. If the individual appeals an adverse action within the prior notice period (i.e., the period of time between notice of the intended adverse action and the effective date of the adverse action), the individual's services shall not be reduced, suspended, or terminated until the appeal process is completed or the appeal is withdrawn by the individual in writing. An individual who appeals during the prior notice period may voluntarily consent to writing to the reduction, suspension, or termination of services during the appeal process.
3. Within **two (2) working days** of receipt of the complaint or appeal, the supervisor or manager of the ECBDD will notify the Superintendent of the ECBDD (or the superintendent's designee) that a complaint or appeal has been filed.
4. The supervisor or manager of the ECBDD shall conduct an investigation of the complaint or appeal which includes meeting with the individual or person who filed the complaint or appeal and gathering and analyzing information related to the complaint or appeal.
 - a. When a complaint or appeal is related to the ECBDD's determination that an individual does not have a qualifying diagnosis used to establish a "developmental disability" as defined in ORC 5126.01, and the individual claims to have a diagnosis that if confirmed would constitute a qualifying diagnosis, the ECBDD will consult with a qualified medical professional selected by the ECBDD at the ECBDD's expense.
 - b. When a complaint or appeal is related to the administration or outcome of the "Ohio Eligibility Determination Instrument" (OEDI) or the "Children's Ohio Eligibility Determination Instrument" (COEDI), the supervisor or manager will convene a committee of no less than three (3) persons. The committee will review and ensure the ECBDD conducted the eligibility determination in accordance with OAC 5123-4-01 and the "Children's Ohio Eligibility Determination Instrument and Ohio Eligibility Determination Instrument User Guide" (available at dodd.ohio.gov). At least two (2) of the committee members reviewing the complaint or appeal must have successfully completed the Ohio Department of Developmental Disabilities (DODD) provided training in administration of the instruments.
5. Within **thirty (30) calendar days** of receipt of the complaint or appeal, the supervisor or manager of the ECBDD shall issue and be available to discuss a written report and decision with the individual or person who filed the complaint or appeal. The written report and decision will be reviewed and signed by the Superintendent of the ECBDD (or Superintendent designee) prior to being issued to the individual or person who filed the complaint or appeal. The written report and decision will include the rationale for the decision and a description of the next step in the process if the individual or person is not satisfied with the decision. When the complaint or appeal is denied, the written report and decision will include a

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justification that clearly demonstrates how the decision complies with applicable rules and is based on accurate and current information. The ECBDD will maintain a copy of the written report and decision and written evidence that the written report and decision was issued to the affected individual or person.

- B. **Step Two:** Filing a complaint or appeal of adverse action with the President of the ECBDD.
1. If the individual or person filing the complaint or appeal of adverse action is not satisfied with the outcome of the process, the individual may file a complaint or appeal with the President of the ECBDD.
 2. Within **ten (10) calendar days** of notice of the decision of the supervisor or manager of the ECBDD which has been reviewed and signed by the Superintendent of the ECBDD or the Superintendent's designee, the individual or person must file the complaint or appeal of adverse action in writing with the President of the ECBDD. Within **twenty (20) calendar days** of receipt of the complaint or appeal, the President of the ECBDD shall ensure a hearing is conducted at a time and a place convenient to all parties. At such hearing:
 - a. The full County Board may hear the complaint or appeal;
 - b. A committee of two (2) or more County Board members appointed by the President of the County Board with agreement of the County Board, may hear the complaint or appeal. Within **ten (10) calendar days** of the conclusion of the hearing, the committee shall issue a report and recommendation to the County Board.
 - c. A hearing officer appointed by the President of the County Board may hear the complaint or appeal. The hearing officer shall have the same powers and authority in conducting the hearing as granted to the County Board. The hearing officer shall not be an employee or contracting entity of the ECBDD providing any service other than that of a hearing officer. The hearing officer need not be an attorney but must possess qualifications to be able to make neutral and informed decisions about the complaint or appeal. The President of the ECBDD may ask DODD to decide if a person's qualified to be a hearing officer. Within **ten (10) calendar days** of the conclusion of the hearing, the hearing officer shall issue a report and recommendation to the ECBDD.
 - d. When the full County Board or committee of two (2) or more County Board members appointed by the President of the County Board hears the complaint or appeal, members of the County Board will preside over the hearing. Participation of the Superintendent and staff of the ECBDD will be limited to the presentation of evidence at their allotted time.
 - e. No less than **ten (10) calendar days** before the hearing, the President of the ECBDD shall ensure the individual or person filing the complaint or appeal has access to all records and materials related to the complaint or appeal.
 - f. To the extent permitted by law, the hearing shall be private unless the individual or person requesting the hearing wants the hearing open to the public.
 - g. During the hearing, both parties may present evidence to support their positions.

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- h. The individual or person requesting the hearing and the ECBDD have the right to be represented by an attorney.
 - i. The individual or person requesting the hearing has the right to have in attendance at the hearing and question any official, employee, or agent of the ECBDD who may have evidence upon which the complaint or appeal is based. The President of the ECBDD will inform the individual of this right in writing upon receipt of the notice of appeal.
 - j. The President of the ECBDD shall ensure the hearing is recorded by electronic transcription, stenographic means, or by use of an audio recorder at the option of the ECBDD. The record shall be made at the expense of the ECBDD. Upon request, the ECBDD shall provide, at no cost, one (1) copy of an accurately written transcript to the individual or person requesting the hearing.
 - k. In making its decision, the ECBDD may:
 - i. Request or consider additional information with notice to all affected parties;
 - ii. Request a presentation in writing and/or in person from each party; or
 - iii. Take other action necessary to make a determination.
 - l. When the President of the ECBDD appoints a committee of two (2) or more ECBDD Members or a hearing officer to hear the complaint or appeal, the ECBDD must review and formally accept, reject, or modify the resulting report and recommendation.
 - m. Within **thirty (30) calendar days** of conclusion of a ECBDD hearing or the ECBDD's receipt of the report and recommendation from a ECBDD-appointed committee or hearing officer, the President of the ECBDD or the President's designee shall provide notice of the ECBDD's decision to the individual or person who requested the hearing. The notice shall include the rationale for the decision and a description of the next step in the process if the individual or person is not satisfied with the decision of the ECBDD. If the matter was heard by a ECBDD-appointed committee or hearing officer the notice must explicitly state whether the ECBDD accepted, rejected, or modified the resulting report and recommendation. The notice must specifically identify how evidence presented at the hearing was considered and how the ECBDD's final position aligns with the Administrative Code. If the decision deviates from a hearing officer's recommendation, the rationale for deviation will be documented in detail. The ECBDD will maintain a copy of the notice and written evidence that the notice was provided to the affected individual or person.
- C. **Step Three:** Filing a complaint or appeal of adverse action with the Director of the Department of Developmental Disabilities (DODD).
- 1. If the individual is not satisfied with the outcome of the process, the individual may file a complaint or appeal with the Director of DODD within **fifteen (15) calendar days** of notice of the decision the ECBDD.
 - 2. The Director of DODD shall send a copy of the complaint or appeal of adverse action to the Superintendent and President of the ECBDD.
 - 3. Within **fifteen (15) calendar days**, the President of the ECBDD or the President's designee shall send the Director of DODD a complete record

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of the complaint or appeal.

- a. A complete record includes any written determinations provided to the individual, an accurate written transcript of the ECBDD hearing, copies of any exhibits, and a copy of the ECBDD's decision.
 - b. When the complaint or appeal is related to eligibility determination, the complete record also includes the "Children's/Ohio Eligibility Determination Instrument" and answer sheets.
4. Upon request by an affected party or at the Director of DODD's initiation, the Director of DODD may:
 - a. Request or consider additional information with notice to all affected parties;
 - b. Request a presentation in writing and/or in person from each party;
 - c. Take other action necessary to make a determination.
5. Within **forty-five (45) calendar days** of receipt of a complete record of the complaint or appeal, the Director of DODD shall provide notice with a copy of the Director of DODD's decision to all affected parties. The Director of DODD's decision shall include the rationale for the decision.
 - a. The Director of DODD will uphold the decision of the ECBDD if the Director of DODD determines the ECBDD provided notice and conducted the appeal in accordance with the process set forth in OAC 5123-4-04 and when applicable, the decision is in accordance with the "Children's Ohio Eligibility Determination Instrument and Ohio Eligibility Determination Instrument Guide" and the "Life Activity Areas User Guide."
 - b. The Director of DODD may remand a complaint or appeal back to the ECBDD if the Director of DODD determines the ECBDD failed to comply with the process set forth in OAC 5123-4-04 or the "Children's Ohio Eligibility Determination Instrument and Ohio Eligibility Determination Instrument Guide."
 - i. The remand order may instruct the ECBDD to:
 - (a) Re-administer the "Ohio Eligibility Determination Instrument" or "Children's Ohio Eligibility Determination Instrument" with technical assistance from DODD, if necessary;
 - (b) Contract with another Board to independently administer the "Ohio Eligibility Determination Instrument" or "Children's Ohio Eligibility Determination Instrument";
 - (c) Conduct a new hearing before the ECBDD;
 - (d) Receive technical assistance from DODD.
 - ii. When the Director of DODD remands a complaint or appeal back to the ECBDD, the ECBDD will submit written documentation to the Director of DODD within **forty-five (45) calendar days** demonstrating that the ECBDD has complied with the remand order.
- D. Failure of a ECBDD to issue a notice of decision in accordance with OAC 5123-4-04:
 1. An individual or person may file a request for review with the DODD Director if a Board fails to:
 - a. Issue a notice required in OAC 5123-4-04 or is an issued notice does not contain the required information to sufficiently inform the

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- individual of the individual's legal rights; or
 - b. Issue a decision in accordance with paragraph (III)(A)(5) or (III)(B)(m).
 - 2. The individual or person must file the request for review in writing with the Director of DODD within **twenty-five (25) calendar days** after the date the ECBDD failed to issue the notice or decision required by OAC 5123-4-04.
 - 3. Upon receipt of a request for review submitted in accordance with (D)1) or (D)2), the Director of DODD will review the relevant information. When the Director of DODD determines the ECBDD failed to issue the notice or decision, the Director of DODD may issue an order requiring the ECBDD to:
 - a. Issue or reissue the notice containing all required information and give the individual the opportunity to appeal the decision within **ninety (90) calendar days** of the issued/reissued notice; or
 - b. Permit the individual to reapply for ECBDD services.
- E. After exhausting the administrative remedies listed above, an individual or person may commence a civil action if the complaint or appeal of adverse action is not settled to his/her satisfaction.

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REQUEST FOR ADMINISTRATIVE RESOLUTION OF A COMPLAINT

To: _____

From: _____ Date: _____

Briefly state your complaint and related justifications:

Signature: _____ Date: _____

cc: Superintendent

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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!

Except when it is necessary to stop services to ensure health and safety, 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 timeline 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 30 days, the supervisor or manager will provide you with a written response to your complaint or appeal. The Superintendent of the County Board or Superintendent's designee will review and sign the supervisor's or manager's response. If you make a request, the supervisor or manager will discuss the written response with you.

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What if I am not satisfied with the supervisor's or manager'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 supervisor's or manager'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, an accurate written transcript of the hearing. Within 30 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 the President's designee will send you 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 may request additional information from you. Within 45 days of receipt of necessary documents related to your complaint or appeal, the Director will send you the 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.