

LICKING COUNTY BOARD OF DEVELOPMENTAL DISABILITIES

Administrative Policy Manual

Policy: Complaint Resolution Procedures

Board Approved: 9/01

Revised: 1/04, 6/09

Section: 1.4.1

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Step One

When a complaint involves an action of the Board, the request for administrative resolution (appeal) shall be in writing and shall be filed with the Component Director of the applicable service component. If an individual has difficulty in reading or writing, an oral report may be accepted and documented by the Component Director receiving the report. An individual who wishes to seek administrative resolution in accordance with this policy may be assisted by an advocate who may speak on behalf of the individual at the individual's request.

- a) The Component Director will conduct an investigation of the complaint within ten calendar days of receipt of the request for the administrative resolution appeal of the complaint.
- b) Within ten calendar days of the completion of the investigation, a written report and decision will be completed and discussed with the complainant or individual. Such report shall include a description of the next step in the administrative resolution (appeal) process.
- c) Within ten calendar days of receipt of the Component Director's written decision, the complainant or individual may request administrative review of the written decision.
- d) Timelines may be extended if mutually agreeable to all involved parties. Any extensions must be in writing and signed by all involved parties.

Step Two

If the complainant or individual wishes an administrative review of the Component Director's decision, the following shall occur:

- a) A request for administrative review shall be made in writing by the complainant or individual within ten calendar days of receipt of the Component Director's written decision. The request for administrative review of the Component Director's written decision shall be made to the Superintendent or her designee.
- b) Upon receipt of a request for administrative review of the Component Director's written decision, the Superintendent or her designee shall, within ten calendar days, meet with the party initiating the request and conduct an administrative review.
 - 1) During the administrative review, the Superintendent or her designee may ask questions to clarify and review the circumstances and facts related to the decision, and provide the party initiating the request the opportunity to present reasons as to why the decision should be reconsidered.

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- 2) Within five working days of the administrative review, the Superintendent's decision shall be made known, in writing, to the complainant or individual and shall include a rationale for such decision, and a description of the next step in the administrative resolution (appeal) process.
 - 3) Timelines may be extended if mutually agreeable to all involved parties. Any extensions must be in writing and signed by all involved parties.

Step Three

If the complainant or individual is not satisfied with the decision of the Superintendent, a written appeal may be filed with the Board President. The written appeal shall be filed with the Board President within ten calendar days of receipt of the Superintendent's decision.

- a) Upon receipt of a written request to appeal, the Board President or his designee shall conduct a hearing no sooner than seven calendar days, nor later than the next regularly scheduled Board Meeting, at a time and place convenient to all parties.

The 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 Board members to hear such appeals. Such a committee shall be vested with the full rights and authorities as the Board in handling the appeal.

- b) No less than seven days prior to the hearing, the complainant or individual shall be provided access to Board records pertaining to the specifics of the appeal.
- c) The hearing shall be a closed meeting unless the complainant or individual requests an open meeting.
- d) During the hearing, evidence shall be presented by both parties to support their positions.
- e) The complainant or individual shall be afforded the right to be represented by legal counsel and/or another representative of the party's choice at his/her expense.
- f) The complainant or individual shall be afforded the right to have in attendance and question any official, staff member or agent of the Board who may have evidence upon which the appeal is based.
- g) The decision of the Board shall be based solely upon evidence presented at the hearing.
- h) Evidence presented at the hearing shall be recorded by stenographic means or by use of audio-electronic recording devices as the Board determines at the time of the hearing. Such record shall be made at the expense of the Board and, upon request, one copy, in the recording medium used, shall be provided to the complainant or individual at no cost.

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Step Four

When a complaint has been made against the Board by an individual involving services or supports provided or arranged by the Board for the individual, the individual shall have the right to appeal the decision of the Board to the Director of the Ohio Department of Developmental Disabilities. The following procedures shall be followed in such appeals to the Director:

- a) The appeal must be filed with the Director within fifteen calendar days of receipt of the Board's decision. Copies of the appeal letter shall also be sent to the Superintendent, the Board President, and the legal counsel or other representative of either or both parties.
- b) The Board shall send to the Department copies, in the recording medium used, of the hearing with the Board, any exhibits incorporated into the transcript, and the Board's written decision.
- c) The Director or his designee shall review the appeal within thirty calendar days of receipt of the appeal. The Director or his designee shall determine if the decision of the Board is based upon applicable statute and/or administrative rule.
- d) Within fourteen calendar days following the Department level review, the Director's decision shall be made known, in writing, to all affected parties, and shall include a rationale for the decision.
- e) Timelines may be extended if mutually agreeable to all involved parties. Any extensions of timelines must be in writing and signed by all involved parties.

After exhausting the administrative remedies required in this policy, if the complaint is not settled to his satisfaction, a complainant may either file a complaint with the Ohio Department of Developmental Disabilities as permitted by rule 5123:2-17-01 of the Administrative Code or commence a civil action.

Board Appointment of a Hearing Examiner

- a) In any hearing held under the authority of the Board pursuant to this policy, the Board may appoint a hearing examiner to conduct said hearing. The hearing examiner shall have the same powers and authority in conducting the hearing as granted to the Board. The hearing examiner shall not be a member or staff member of the Board. The hearing examiner need not be admitted to the practice of law, but shall be possessed of such qualifications as to be able to render neutral and informed decisions on matters presented in the complaint.

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- b) The Director of the Ohio Department of Developmental Disabilities or his designee shall maintain a list of approved hearing examiners, which the Board may request in order to select a qualified hearing examiner. The Board may also request the Ohio Department of Developmental Disabilities to certify a hearing examiner as qualified to hear one or more cases for the Board in accordance with the person's experience and educational background.
 - c) 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, conclusions 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.
 - d) The parties to the hearing may file with the Board written objections to the report and recommendation within ten days of receipt of the report and recommendation.
 - e) Within five calendar days of the hearing or within five calendar days following the Board's action upon receipt of the hearing examiner's report and any objections thereto, written notification of the Board's decision shall be sent by certified mail to the complainant or individual. Such notification shall include a rationale for the Board's decision and a description of the next step in the administrative resolution of complaints (appeal) process.
 - f) Timelines may be extended if mutually agreeable to all involved parties. Any extensions must be in writing and signed by all involved parties.
 - g) After exhausting the administrative remedies required in this policy, if the complaint is not settled to his satisfaction, a complainant may commence a civil action against the Board.