



Ohio Administrative Code

Rule 5123-4-04 Resolution of complaints involving county boards of developmental disabilities and appeals of adverse action proposed or initiated by county boards of developmental disabilities.

Effective: March 19, 2026

(A) Purpose

This rule sets forth the process for resolution of complaints involving the programs, services, policies, or administrative practices of a county board of developmental disabilities or a contracting entity of a county board of developmental disabilities; the process for individuals to appeal adverse actions proposed or initiated by a county board of developmental disabilities; and the requirement for a county board of developmental disabilities to give notice of the processes to be followed for resolution of complaints and appeals of adverse action.

(B) Scope

- (1) Any individual or person, other than an employee of the county board, may file a complaint using the process set forth in this rule. An individual may appeal an adverse action using the process set forth in this rule. All administrative remedies set forth in this rule must be exhausted before commencing a civil action.
- (2) This rule is not applicable to:
 - (a) Education services arranged by the local education agency. Complaints or appeals concerning such services shall follow rules adopted by the Ohio department of education and workforce.
 - (b) Services provided under part C of the Individuals with Disabilities Education Act. Complaints or appeals concerning such services shall follow rules adopted by the Ohio department of children and youth.
 - (c) Medicaid services, including home and community-based services and targeted case management. Complaints or appeals concerning such services shall follow rules adopted by the Ohio department of medicaid. A county board shall not require the use of the process set forth in this rule for issues regarding medicaid services.
 - (d) Performance of health-related activities and administration of medication by developmental disabilities personnel pursuant to section 5123.42 of the Revised Code or compliance with Chapter 5123-6 of the Administrative Code. Complaints or appeals concerning such matters shall be made to the department using the process established in rule 5123-11-02 of the Administrative Code.
 - (e) Services provided to a resident of an intermediate care facility for individuals with intellectual disabilities by that facility, or provided



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on behalf of or through a contract with an intermediate care facility for individuals with intellectual disabilities. Complaints or appeals concerning such services shall follow regulations governing intermediate care facilities for individuals with intellectual disabilities.

- (3) If a county board determines that a complaint or appeal of adverse action filed with the county board is not subject to this rule, the county board shall provide information to the individual or person filing the complaint or appeal, including the name and telephone number, if available, of the appropriate entity with which to file the complaint or appeal of adverse action.
- (4) An individual receiving non-medicaid supported living services shall follow the terms of the contract of the service provider, as required by section 5126.45 of the Revised Code, prior to beginning the process for resolution of complaints or appeals of adverse action established in this rule.

(C) Definitions

For the purposes of this rule, the following definitions apply:

- (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) "Contracting entity" means an entity under contract with a county board for the provision of services to individuals with developmental disabilities.
- (4) "County board" means a county board of developmental disabilities, including a county board when acting through a council of governments.
- (5) "Department" means the Ohio department of developmental disabilities.



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- (6) "Director" means the director of the Ohio department of developmental disabilities or that person's designee.
- (7) "Hearing" means the opportunity to present one's case regarding a complaint or appeal of adverse action.
- (8) "Home and community-based services" has the same meaning as in section 5123.01 of the Revised Code.
- (9) "Individual" means a person with a developmental disability who is eligible, or purports to be eligible, for services pursuant to Chapters 5123. and 5126. of the Revised Code and includes a parent of a minor child, an individual's guardian, or an adult authorized in writing by the individual pursuant to section 5126.043 of the Revised Code to make a decision regarding receipt of a service or participation in a program.
- (10) "Intermediate care facility for individuals with intellectual disabilities" has the same meaning as in section 5124.01 of the Revised Code.
- (11) "Person" has the same meaning as in section 1.59 of the Revised Code.
- (12) "Qualified medical professional" means a person who is specially trained and licensed by the respective state of practice to examine patients; conduct or refer for diagnostic testing; diagnose health conditions; treat illnesses, diseases, and conditions; and prescribe as applicable.
- (13) "Targeted case management" has the same meaning as in rule 5160-48-01 of the Administrative Code.
- (14) "Working day" means Monday, Tuesday, Wednesday, Thursday, or Friday, except when that day falls on a holiday as defined in section 1.14 of the Revised Code.

(D) General provisions

- (1) Complaints and appeals of adverse action must be filed in writing. When an individual or person expresses dissatisfaction with an outcome subject to complaint or appeal in accordance with this rule, the county 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 county board shall maintain the confidentiality of the identities of individuals unless an individual gives written permission to share information.



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- (3) An advocate may assist an individual at any time during the resolution of complaints and appeals of adverse action process.
- (4) The county board shall make all reasonable efforts to ensure information regarding resolution of complaints and appeals of adverse action, including all notices and responses made pursuant to this rule, is presented using language and in a format understandable to affected individuals and persons. All notices and responses made pursuant to this rule 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 timelines set forth in this rule may be extended if mutually agreed upon in writing by all parties involved.
- (6) Initiation of the formal process set forth in this rule does not preclude resolution of a complaint or appeal of an adverse action at any point, as long as the outcome is mutually agreed upon in writing by all parties involved.
- (7) When a county board and an individual agree that another Ohio eligibility determination instrument or children's Ohio eligibility determination instrument will be administered, the results of the original administration of the instrument will be discarded and the process for a complaint or appeal arising from the subsequent administration or outcome of the instrument will begin anew at step one of the formal process described in paragraph (G)(1) of this rule.
- (8) Service of notices and responses made pursuant to this rule is deemed to have occurred upon:
 - (a) For an individual or person who has selected electronic mail as the preferred method of communication, the date electronic mail was sent to the most recent electronic mail address provided by the individual or person;
 - (b) Personal delivery to an individual or person; or
 - (c) The date of certified mailing to an individual or person unless:
 - (i) The original certified mailing is refused, in which case service is deemed to have occurred on the date the notice or response is resent by ordinary mail to the individual or person; or
 - (ii) The original certified mailing is unclaimed, in which case service is deemed to have occurred on the date the notice or response is resent by ordinary mail to the individual or person unless within thirty



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calendar days after the date the notice or response is resent, the resent notice or response is returned for failure of delivery.

(E) Requirements for county boards to provide information about the process for resolution of complaints and appeals of adverse action and to give notice of adverse action

(1) General information about the process for resolution of complaints and appeals of adverse action.

(a) The county board shall give the "Complaint or Appeal of Adverse Action Explanation Form" contained in the appendix to this rule to an individual at the time of the individual's initial request for services, at least annually to each individual receiving or on a waiting list for non-medicaid services, and at the time a complaint within the scope of this rule is received or the county board proposes an adverse action. The county board will maintain documentation confirming the individual received the "Complaint or Appeal of Adverse Action Explanation Form" as required by this paragraph, including evidence of the date the individual received the form.

(b) Upon request, a county board or contracting entity shall provide a copy of this rule.

(c) The county board shall publicly post the "Complaint or Appeal of Adverse Action Explanation Form" contained in the appendix to this rule.

(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 in accordance with paragraph (E)(3) of this rule, the county board shall provide written notice to the affected individual of the county board's decision to deny, reduce, suspend, or terminate services at least fifteen calendar days prior to the effective date of such action. The notice shall include:

(i) An explanation of the county board's policy and/or authority for taking the adverse action;

(ii) A description of the specific adverse action being proposed or initiated by the county board;

(iii) The effective date for the adverse action;



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- (iv) 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 county board's decision to deny, reduce, suspend, or terminate services;
 - (v) An explanation of the individual's right to appeal the adverse action;
 - (vi) An explanation of the steps the individual must take to appeal the adverse action;
 - (vii) A statement that the individual has ninety calendar days to appeal the adverse action;
 - (viii) 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;
 - (ix) The name and contact information for the staff member of the county board who can assist the individual with the appeal; and
 - (x) The "Complaint or Appeal of Adverse Action Explanation Form" contained in the appendix to this rule.
- (b) The county board shall maintain a copy of the notice and written evidence that the notice was provided to the affected individual.
- (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) 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 county board shall:
 - (i) Determine what immediate steps are necessary to ensure the health and safety of the individual and other individuals; and
 - (ii) Provide written notice to the affected individual immediately. The notice shall include:
 - (a) An explanation of the county board's policy and/or authority for suspending the individual's services;



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of the county board's decision to terminate the individual's services at least fifteen 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 county board shall keep the individual's alternative services in place until the appeal process is completed.

(F) Informal process for resolution of complaints and appeals of adverse action

- (1) A county board will adopt a written policy describing an informal process that takes no longer than thirty calendar days for resolution of complaints and appeals of adverse action.
- (2) The informal process shall not be used in a manner that discourages individuals or persons from exercising their legal rights under the formal process set forth in paragraph (G) of this rule, nor unnecessarily delays the resolution of a matter beyond the timeline of the formal process.
- (3) An individual or person and the county board may mutually agree to waive the informal process and initiate the formal process.

(G) Formal process for resolution of complaints and appeals of adverse action

- (1) 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 the county board.
 - (a) An individual or person must file a complaint in writing with the supervisor or manager of the county board within ninety calendar days of becoming aware of the program, service, policy, or administrative practice that is the subject of the complaint.
 - (b) An individual must file an appeal of adverse action in writing with the supervisor or manager of the county board within ninety calendar days of notice of the adverse action or within ninety calendar days of conclusion of the informal process described in paragraph (F) of this rule. 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. An individual who appeals during the prior notice period may voluntarily consent in



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writing to the reduction, suspension, or termination of services during the appeal process.

- (c) The supervisor or manager of the county board will notify the superintendent of the county board (or the superintendent's designee) that a complaint or appeal has been filed within two working days of receipt of the complaint or appeal.
- (d) The supervisor or manager of the county board 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.
 - (i) When the complaint or appeal is related to the county board's determination that an individual does not have a qualifying diagnosis used to establish a "developmental disability" as defined in section 5126.01 of the Revised Code, and the individual claims to have a diagnosis that if confirmed would constitute a qualifying diagnosis, the county board will consult with a qualified medical professional selected by the county board at the county board's expense.
 - (ii) When the complaint or appeal is related to the administration or outcome of the Ohio eligibility determination instrument or the children's Ohio eligibility determination instrument, the supervisor or manager will convene a committee of no less than three persons. The committee will review and ensure the county board conducted the eligibility determination in accordance with rule 5123-4-01 of the Administrative Code and the "Children's Ohio Eligibility Determination Instrument and Ohio Eligibility Determination Instrument User Guide" (available at dodd.ohio.gov). At least two of the committee members reviewing the complaint or appeal must have successfully completed department-provided training in administration of the instruments.
- (e) Within thirty calendar days of receipt of the complaint or appeal, the supervisor or manager of the county board shall issue, and thereafter 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 county board (or the superintendent's 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



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step in the process if the individual or person is not satisfied with the decision of the supervisor or manager. When the complaint or appeal is denied, the written report and decision will include a justification that clearly demonstrates how the decision complies with applicable rules and is based on accurate and current information. The county board 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.

(2) Step two: filing a complaint or appeal of adverse action with the president of the county board.

(a) If the individual or person filing the complaint or appeal of adverse action is not satisfied with the outcome of the process set forth in paragraph (G) (1) of this rule, the individual or person may file a complaint or appeal with the president of the county board.

(b) The individual or person must file the complaint or appeal of adverse action in writing with the president of the county board within ten calendar days of notice of the decision of the supervisor or manager of the county board which has been reviewed and signed by the superintendent of the county board or the superintendent's designee.

(c) The president of the county board shall ensure a hearing is conducted within twenty calendar days of receipt of the complaint or appeal at a time and place convenient to all parties. At such hearing:

(i) The full county board may hear the complaint or appeal;

(ii) A committee of two 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. The committee shall issue a report and recommendation to the county board within ten calendar days of the conclusion of the hearing; or

(iii) 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 county board providing any service other than that of 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



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president of the county board may ask the department to decide if a person is qualified to be a hearing officer. The hearing officer shall issue a report and recommendation to the county board within ten calendar days of the conclusion of the hearing.

- (d) When the full county board or a committee of two 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 county board will be limited to the presentation of evidence at their allotted time.
- (e) The president of the county board shall ensure the individual or person filing the complaint or appeal has access to all records and materials related to the complaint or appeal no less than ten calendar days before the hearing.
- (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.
- (h) The individual or person requesting the hearing and the county board 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 county board who may have evidence upon which the complaint or appeal is based. The president of the county board will inform the individual of this right in writing upon receipt of the notice of appeal.
- (j) The president of the county board shall ensure the hearing is recorded by electronic transcription, 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. Upon request, the county board shall provide at no cost, one copy of an accurate written transcript to the individual or person requesting the hearing.
- (k) In making its decision, the county board 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



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- (iii) Take other action necessary to make a determination.
 - (l) When the president of the county board appoints a committee of two or more county board members or a hearing officer to hear the complaint or appeal, the county board must review and formally accept, reject, or modify the resulting report and recommendation.
 - (m) Within thirty calendar days of conclusion of a county board hearing or the county board's receipt of the report and recommendation from a county board-appointed committee or a hearing officer, the president of the county board or the president's designee shall provide notice of the county board'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 county board. If the matter was heard by a county board-appointed committee or a hearing officer, the notice must explicitly state whether the county board 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 county board'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 county board will maintain a copy of the notice and written evidence that the notice was provided to the affected individual or person.
- (3) Step three: filing a complaint or appeal of adverse action with the director.
- (a) If the individual or person filing the complaint or appeal of adverse action is not satisfied with the outcome of the process set forth in paragraph (G) (2) of this rule, the individual or person may file a complaint or appeal with the director.
 - (b) The individual or person must file the complaint or appeal of adverse action in writing with the director within fifteen calendar days of notice of the decision of the county board.
 - (c) The director shall send a copy of the complaint or appeal of adverse action to the superintendent and president of the county board.
 - (d) The president of the county board or the president's designee shall send the director a complete record of the complaint or appeal within fifteen calendar days.



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- (i) A complete record includes any written determinations provided to the individual, an accurate written transcript of the county board hearing, copies of any exhibits, and a copy of the county board's decision.
 - (ii) 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.
- (e) Upon request by an affected party or at the director's initiation, the director 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.
- (f) Within forty-five calendar days of receipt of a complete record of the complaint or appeal in accordance with paragraph (G)(3)(d) of this rule, the director shall provide notice with a copy of the director's decision to all affected parties. The director's decision shall include the rationale for the decision.
- (i) The director will uphold the decision of the county board if the director determines the county board provided notice and conducted the appeal in accordance with the process set forth in this rule and when applicable, the decision is in accordance with the "Children's Ohio Eligibility Determination Instrument and Ohio Eligibility Determination Instrument User Guide" and the "Life Activity Areas User Guide."
 - (ii) The director may remand a complaint or appeal back to the county board if the director determines the county board failed to comply with the process set forth in this rule or the "Children's Ohio Eligibility Determination Instrument and Ohio Eligibility Determination Instrument User Guide."
- (a) The remand order may instruct the county board to:
- (i) Re-administer the Ohio eligibility determination instrument or children's Ohio eligibility determination



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instrument with technical assistance from the department, if necessary;

(ii) Contract with another county board to independently administer the Ohio eligibility determination instrument or children's Ohio eligibility determination instrument;

(iii) Conduct a new hearing before the county board; or

(iv) Receive technical assistance from the department.

(b) When the director remands a complaint or appeal back to the county board, the county board will submit written documentation to the director within forty-five calendar days demonstrating that the county board has complied with the remand order.

(H) Failure of a county board to issue a notice or decision in accordance with this rule

(1) An individual or person may file a request for review with the director if a county board fails to:

(a) Issue a notice required by paragraph (E)(2) or (E)(3) of this rule or if an issued notice does not contain the required information to sufficiently inform an individual of the individual's legal rights; or

(b) Issue a decision in accordance with paragraph (G)(1)(e) or (G)(2)(m) of this rule.

(2) The individual or person must file the request for review in writing with the director within twenty-five calendar days after the day the county board failed to issue the notice or decision as required by this rule.

(3) Upon receipt of a request for review submitted in accordance with paragraphs (H)(1) and (H)(2) of this rule, the director will review the relevant information. When the director determines the county board failed to issue the notice or decision, the director may issue an order requiring the county board to:

(a) Issue or reissue the notice containing all required information and give the individual the opportunity to appeal the decision within ninety calendar days of the issued/reissued notice; or

(b) Permit the individual to reapply for county board services.



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(I) Other remedies

After exhausting the administrative remedies required by this rule, an individual or person may commence a civil action if the complaint or appeal of adverse action is not resolved to the satisfaction of the individual or person. This rule is not intended to provide any right or cause of action that does not exist absent this rule.