



50 West Broad St., Suite 1400
Columbus, Ohio 43215-5923
Tel. 614-466-7264 / 800-282-9181
TTY 614-728-2553 / 800-858-3542
Fax 614-644-1888
Web: disabilityrightsohio.org

Disclaimer: This publication is intended to provide information only, and is not intended as legal advice. You should consult a lawyer if you need legal advice.

Created: June 2014

Frequently Asked Questions: **Filing a complaint with a county board of developmental disabilities**

Under Ohio law, if you are an individual with a developmental disability, and you have a problem or issue with a county board of developmental disabilities ("county board"), you have a right to file a **complaint**.

If you have a more specific problem or issue with the non-Medicaid services you receive or hope to receive through a county board (for example, if it denies your request for services or terminates, reduces, or suspends your services), or if it finds you ineligible for its services, then you generally have a right to receive advance written notice of the county board's decision and a right to file an **appeal** if you disagree. In most cases, if you file an **appeal** before the effective date of the county board's decision, the services in question must be maintained until the administrative process has been completed.

Notably, whether filing a **complaint** or an **appeal**, the administrative process described below is practically identical.

Importantly, the law in Ohio regarding complaints or appeals to a county board changed on May 1, 2014. This Frequently Asked Questions document provides updated information on the administrative process for filing a complaint or appeal with a county board, including the subject matters which are and are not covered by this administrative process, an explanation of how you can begin the administrative process and the requirements and timelines at each level in the process, and the rights to which you are entitled under Ohio law.

If you have any questions about this administrative process, please do not hesitate to contact Disability Rights Ohio.

What types of issues are covered by this administrative process?

You may file a complaint with a county board for a wide variety of reasons. This includes any issue or problem involving the county board's programs, services, policies, or administrative practices. For example, you may be experiencing a problem with your service and support administrator, which could be the subject of a complaint.

If you are experiencing a problem with the level or type of non-Medicaid services you receive through a county board, you may file an appeal. This includes a denial of a request for non-

Medicaid services, or a suspension or reduction or termination of these services. Furthermore, a decision that you are not eligible for a county board's services could be the subject of an appeal. With one very important exception (discussed below), the county board must send you advance written notice of any decision regarding a termination, reduction, or suspension of your non-Medicaid services or your eligibility for services, and allow you an opportunity to appeal this decision and maintain your services until the administrative process has been completed.

What types of issues are not covered by this administrative process?

The administrative process described in this document generally only covers non-Medicaid services coordinated by a county board. Issues or problems in other areas will need to be addressed with different agencies or entities. For example:

- disputes involving Medicaid services, including home and community-based services provided through a Medicaid waiver program (for example, the Individual Options, Level One, SELF, or Transitions DD waivers), should be pursued through the Medicaid state hearing process;
- disputes involving educational services arranged by a local school district or provided under the Individuals with Disabilities Education Act (IDEA) should be pursued through the administrative processes established by the state of Ohio;
- disputes involving the administration of prescribed medication, performance of health-related activities, and performance of tube feeding should be made to the Ohio Department of Developmental Disabilities; and
- disputes involving one's non-Medicaid supported living services require one first to pursue the process contained in the contract with the service provider.

What if my issue or problem is not covered by this process?

If you begin the complaint or appeal process with a county board, and the county board was not the correct agency or entity with which to file the complaint or appeal, it must provide you with the name of the appropriate agency or entity with which you must file the appeal. However, if you miss the timeline with the other agency or entity, it may not be a defense that you mistakenly filed a complaint or appeal with the county board first.

Therefore, you should always act as quickly as possible when you have a problem or issue. If you are uncertain of whether to file a complaint or appeal with a county board or another agency or entity, you may contact Disability Rights Ohio for advice.

Who may file a complaint or appeal with a county board?

If you are an individual with a developmental disability, you have the right to file a complaint or appeal with a county board.

If you are a minor, your parent may do so on your behalf. If you have a guardian, he or she may do so on your behalf. If you have authorized another person in writing to make decisions

regarding your services or your participation in a program through a county board, this person may also file a complaint or appeal on your behalf.

What are the requirements for filing a complaint or appeal? Can someone help me?

A complaint or appeal must be in writing. If you express dissatisfaction with any service or program or issue covered by this administrative process, the county board must assist you in filing a complaint or appeal. If you are unable to write because of your disability, you should ask the county board to assist you with this as a reasonable accommodation for your disability under the Americans with Disabilities Act.

You have the right to be assisted by an advocate who can speak for you on your behalf during the entire administrative process. Also, the county board must maintain the confidentiality of your appeal or complaint, unless you provide written permission to share the information.

What do I do if a county board proposes to deny, terminate, reduce, or suspend my services?

If a county board decides to deny, terminate, reduce, or suspend the non-Medicaid services you receive, it must provide you advance written notice of this proposal. Although there is an important exception explained below, the county board must provide this written notice of its proposed decision to you at least fifteen (15) calendar days prior to the date the decision will be effective. If you file an appeal within this timeframe, your services cannot be changed until the entire administrative process is completed.

This written notice must contain certain information, including an explanation as to why the county board is changing your services, the date on which the proposal will be effective, and the name of the staff member at the county board who can assist you with your appeal.

Is there any situation where a county board could change my services without providing me advance written notice?

Yes. In a change to the law in Ohio, a county board may determine that it must suspend your services immediately to protect your health and safety or the health and safety of others. Under this situation, the county board must decide what immediate steps should be taken to protect you or others and must arrange any needed alternative services. It must provide you notice explaining why it is taking this action, and within five (5) calendar days of this notice, it must convene a team meeting to identify any measures that may eliminate whatever risks to your health and safety or others' health and safety exist.

If this type of situation occurs, you should submit a written appeal immediately and contact Disability Rights Ohio for further advice.

When must I file a complaint or appeal?

If you want to file a complaint with the county board, you must do so within ninety (90) calendar days of becoming aware of the program, service, policy, or administrative practice of the county board which is causing your problem or issue. This is a change from the previous law in Ohio.

If you receive a written notice that your services will be terminated, reduced, or suspended, or you are found ineligible for a county board's services, you must also file an appeal within ninety (90) calendar days of the written notice. Importantly, however, if you appeal the county board's proposed decision within the fifteen (15) days of the notice (in other words, before the decision becomes effective), then your non-Medicaid services generally cannot be terminated, reduced, or suspended until the entire appeal process has been completed.

Ideally, you should act as quickly as possible to file a complaint or appeal.

How do I file my complaint or appeal?

You must submit your written complaint or appeal to the supervisor or manager responsible for the program, service, policy, or administrative practice with which you experience your problem or issue. If you do not know the name or address of this person, you should ask the county board.

The supervisor or manager must complete an investigation of the complaint or appeal, and he or she must meet with you personally to discuss the complaint or appeal.

Within fifteen (15) calendar days of the receipt of your complaint or appeal, the supervisor or manager must provide to you a written report and decision explaining whether your complaint or appeal will be upheld or denied. The supervisor or manager must be available to discuss it with you.

What do I do if I am dissatisfied with the decision of the supervisor or manager?

If you are dissatisfied with the supervisor or manager's decision regarding your complaint or appeal, you may then file another complaint or appeal with the superintendent of the county board. You must do this within ten (10) calendar days of the notice of the decision of the supervisor or manager.

If the supervisor or manager does not timely provide you a decision under the first step of the administrative process, you have twenty-five (25) calendar days from the date you filed your complaint or appeal with the supervisor or manager to file a further complaint or appeal with the superintendent.

Within ten (10) calendar days of receiving your complaint or appeal, the superintendent must meet with you and conduct a review of your complaint or appeal. The superintendent may ask you questions to try to learn more about why you disagree with the supervisor or manager's decision and must give you an opportunity to explain why you are correct.

Within fifteen (15) calendar days of your further complaint or appeal to the superintendent, the superintendent must send you by certified mail a copy of his or her decision, which must include an explanation for the decision.

What do I do if I am dissatisfied with the decision of the superintendent?

If you are dissatisfied with the superintendent's decision, you may file another complaint or appeal to the president of the county board. This must be accomplished within ten (10) calendar days of the notice of the decision of the superintendent. If the superintendent does not timely provide you a decision, you must file your complaint or appeal with the president of the county board within twenty-five (25) calendar days of the date you filed the complaint or appeal with the superintendent.

The president of the county board will then schedule a hearing, which must occur within twenty (20) calendar days of the complaint or appeal to the county board president. The hearing will take place in front of the board members of the county board or a committee of at least two board members, or the county board may appoint a hearing officer to preside over the hearing. The hearing must take place at a time and place convenient to you.

What are my rights at the hearing?

You have a right to access to all of your records and materials which relate to your complaint or appeal, no less than ten (10) calendar days before the hearing.

You have the right to a private hearing, unless you want the hearing to be open to the public.

At the hearing, you may present evidence to support your position. You may be represented by an attorney or advocate or anyone else (the county board may be represented by an attorney).

You have the right to have in attendance at the hearing any person from the county board who may have evidence concerning your complaint or appeal, and you may ask this person questions at the hearing.

Evidence and testimony at the hearing must be recorded at the county board's expense, and you have the right, upon request, to one copy of the written transcript of the hearing, at no cost to you.

When must I receive the hearing decision?

The president of the county board must send you a decision by certified mail within fifteen (15) calendar days of the conclusion of the hearing or within fifteen (15) calendar days of the recommendation from the committee or hearing officer (which must be submitted to the county board within ten (10) calendar days of the hearing).

What do I do if I am dissatisfied with the hearing decision?

If you are dissatisfied with the hearing decision, you may appeal in writing to the director of the Ohio Department of Developmental Disabilities (DODD). You must do this within fifteen (15) calendar days of the notice of the decision of county board. If the president of the county board does not provide you a hearing decision in a timely manner, the complaint or appeal to the DODD must be filed with the director within fifty-five (55) days of filing the complaint or appeal with the county board president.

The director of the DODD must then send a copy of the complaint or appeal to the superintendent and the county board president. The county board president must then, within twenty-two (22) calendar days, send the director of the DODD the written transcript of the hearing, copies of any exhibits, and a copy of the county board president's decision.

You may request that the director of the DODD consider additional or new information or evidence or that you be permitted to make a presentation in person to the director.

Within forty-five (45) calendar days of receipt of all documents from the county board president, the director must provide you a copy of his or her decision by certified mail. The director's decision constitutes the final step in the administrative process. If the complaint or appeal is still not resolved to your satisfaction, you may file a lawsuit.

How do I make sense of all of the confusing timelines?

The word "notice" has a very important meaning, primarily because the various timelines are dependent on when "notice" occurs.

Under this administrative process, notice may occur in one of three (3) ways:

- if an individual has selected email as his or her preferred method of communication, then notice occurs upon electronic confirmation that he or she has read the email;
 - personal delivery to the individual; or
 - generally, the date of certified mailing to an individual.
- Also, the timelines in this administrative process may be extended if you and the county board both agree.

Disability Rights Ohio is funded by the U.S. Dept. of Health & Human Services, the U.S. Dept. Of Education, & the Social Security Adm. Disability Rights Ohio does not discriminate in provision of service or employment because of race, color, religion, sex, sexual orientation, national origin, handicap or age.

© 2014 Disability Rights Ohio. All rights reserved.

This work is protected by copyright under United States law and by international copyright laws and treaty provisions. You may copy and distribute the work, provided you: use the work for personal, noncommercial use; do not add the work to a collection or use it with any other text, photographs, artwork, etc; do not modify or alter the work in any way or delete or modify any copyright; and, do not publish or post all or any part of the work on any Internet site or in or on any other media without obtaining the prior written consent of Disability Rights Ohio.