



GOVERNMENT OF THE DISTRICT OF COLUMBIA

DEPARTMENT ON DISABILITY SERVICES

PROCEDURE	
Subject: Developmental Disabilities Administration Provider Formal Complaint Process	Procedure No.: 2019-QAPMA-PROC001
Responsible Program or Office: Quality Assurance and Performance Management Administration	Effective Date: January 1, 2020
Date of Approval by Director: December 16, 2019	Number of Pages: 6
Supersedes: DDA Internal Problem Resolution Procedure (August 1, 2011).	Expiration Date: N/A
Cross References, Related Policies and Procedures, and Related Documents: Title I of the Disability Services Reform Amendment Act of 2018, effective May 5, 2018 (D.C. Law 22-93; D.C. Official Code § 7-761.13 (2018 Repl.& 2019 Supp.)); Final Rulemaking in Chapter 132, “Department on Disability Services Formal Complaint System” of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR); DDA Formal Complaint System Policy, 2019-QAPMA-POL01; DDA Formal Complaint System Procedure, 2019-QAPMA-PROC002; Imposition of Sanctions Policy, 2012-DDS-QMD-POL002; and Imposition of Provider Sanctions Procedure, 2014-DDS-PR001.	

1. PURPOSE

The purpose is to implement the Department on Disability Services (DDS) Developmental Disabilities Administration (DDA) Formal Complaint System Policy by setting the minimum requirements for the Provider Formal Complaint Process procedures required of all DDA residential and day providers. The DDA Formal Complaint System is administered by the DDS Quality Assurance and Performance Management Administration (QAPMA).

2. APPLICABILITY

This procedure applies to all DDS employees, and all DDA and QAPMA subcontractors, providers, vendors, consultants, and volunteers, as well as people receiving DDA supports and services, and their representatives and supporters.

3. PROCEDURES

- A. Each DDA provider has a continuing obligation to safeguard the welfare of people who receive DDA supports and services, including the filing of incident reports and other reports of allegations of abuse, neglect, or exploitation, and this obligation is not affected or in any way limited by the existence or operation of DDA provider formal complaint processes or the DDA Formal Complaint System.
- B. Each DDA provider of residential or day services shall adopt a provider formal complaint process policy and procedures necessary to establish and maintain a process that includes:



1. The DDA provider designating at least one person and an alternate to assist people with filing an oral or written formal complaint about the provider. An alternate must be used when the assigned person is named in the formal complaint.
2. A process for a person, or a third party acting with the person's consent, to file a formal complaint, orally or in writing with the DDA provider at any time during the provider's hours of operation, about:
 - a. The denial, delay, reduction or termination of DDA supports or services as it relates to a DDA provider;
 - b. The application of DDA policies, procedures or practices to the person as it relates to a DDA provider; and
 - c. The application of DDA providers' policies, procedures, or practices to the person as it relates to a DDA provider.

With respect to these three categories, the formal complaint may be about alleged action(s) by the DDA provider, or the alleged failure(s) of the provider to act when it should have taken action. The provider staff designated to accept formal complaints must provide the person filing the formal complaint with a copy of the complaint that includes the time, date and substance of the complaint, as well as the person's suggested resolution.

3. In the formal complaint, the person shall provide available detail of who, what, when and where of the event or action that took place, or did not take place when the person believes it should have.
4. A formal complaint filing time limit that is not shorter than ninety (90) calendar days from the final day of the events which the person says took place, or did not take place when the person believes they should have, giving rise to the issue. A person must be able to file a formal complaint with the DDA provider while a situation is ongoing.
5. The opportunity for a person, or a third party acting for the person with their consent, to request from the DDA provider's Chief Executive Officer (CEO), or his or her designee, a waiver of the ninety (90) calendar day filing requirement for the following reasons:
 - a. The events that form the basis of the formal complaint could not reasonably be expected to be known within the ninety (90) calendar day filing period;
 - b. Illness or incapacitation of the person;
 - c. The person is not able to effectively communicate their issue or have their issue understood;
 - d. The person did not have notice of the right to file a formal complaint; or
 - e. Any other reasonable basis determined by the provider CEO, or his or her designee.



The provider CEO, or his or her designee, shall grant the waiver for items (a-d), and may grant the waiver in the case of item (e).

6. The prompt review of formal complaints to ascertain whether the facts alleged show the DDA provider should take immediate action to ensure the person's physical safety.
 7. The DDA provider must continue to provide supports and services without limitation, reduction or termination pending the resolution of the person's formal complaint regarding those supports and services.
 8. Where the facts of an issue demonstrate urgency for resolution by identifying health or safety concerns for the person, but does not rise to the concern of a Serious Reportable Incident (SRI), and where the person filing the formal complaint with the provider states at the time of the filing that they are seeking expedited review for a health or safety concern, the provider shall review the formal complaint and issue a written decision within ten (10) calendar days. Regardless of whether the person requests expedited review, the provider must take immediate action to secure the person's health or safety, where indicated.
 9. The DDA provider will attempt to resolve a formal complaint, and if those attempts are unsuccessful, the provider CEO, or his or her designee, shall, within 30 calendar days, write and issue to the person a final decision on the formal complaint.
 10. The right of a person, or their representative with proper authorization, to request and receive their Complaint File, including copies of any DDS, DDA or provider policies, procedures, and protocols used to decide their formal complaint as well as the CEO final decision. This also includes the right to have this information orally explained to the person, if needed.
 11. Prohibitions on retaliatory actions by the provider such as reprisal, restraint, interference, coercion, or discrimination by the provider against a person who files a formal complaint. An allegation of reprisal, restraint, interference, coercion or discrimination shall be treated and filed as a new formal complaint if and when requested by a person.
- C. Each DDA provider shall foster understanding of their formal complaint process, supplying information in plain language about how to file formal complaints to people receiving DDA-funded services, and their legal representative and any formal supporters named as the person begins to receive services from them and at least annually. To this end, each provider is required to:
1. Develop and distribute to people served by the provider, at provider intake meetings and at least annually during people's Individual Support Plan meetings, a fact sheet, pamphlet or wallet card with key information about how to file a formal complaint in



the provider formal complaint process that includes names, telephone numbers and hours of operation.

2. Post plain language notices about their formal complaint policies and information in corporate offices, and day habilitation and employment readiness facilities.
3. Deliver competency-based training about the DDA provider formal complaint process to every staff member who interfaces directly with people who receive supports and their families.
4. Within 90 days of the effective date of this procedure, inform people already receiving services about the provider formal complaint policy and procedure. For new people entering services, the provider must inform them about the provider formal complaint process when they begin to receive services. Additionally, providers shall inform each person annually about the provider formal complaint process, including how to file formal complaints and the right to appeal to the DDA Formal Complaint System.
5. Update the provider's telephone number and email address in MCIS so that DDS has accurate contact information to use so the agency can tell a person how to reach the provider to file their formal complaint.
6. Provide a list of alternative options for filing a formal complaint, including the fact that the person is not required to utilize the provider formal complaint process to address their dissatisfaction but may pursue other legal, administrative, or informal relief including by using the provider's informal anonymous complaint process.
7. Provide orally and in writing, information about the person's right to representation, at his or her own expense, the right to have informal or formal supporters, at his or her own expense, and about the availability of free legal and advocacy services.
8. Send the person dated, written acknowledgement in plain language of the filed formal complaint within two business days of the complaint filing.
9. Provide the written final decision in plain language; and include a summary of the formal complaint, governing policies and procedures, the resolution (if any), and provide a brief summary of the reason(s) for the decision. The notice shall specify appeal rights, delineate time frames and deadlines for appealing, and include information about free legal assistance. The written decision shall be transmitted by the provider, with oral explanation, to the person (and representative) along with a notice of the person's right to appeal the formal complaint to the DDA Formal Complaint System. CEO final decisions may be redacted before being sent to the person who filed the formal complaint if it is not the person or their representative, in order to protect the privacy of the person.



D. Administratively Close A Formal Complaint

The provider may administratively close a formal complaint and provide notice of closure to the person and their representative, if any, within seven (7) calendar days when:

1. A formal complaint is not of the type that may be filed through the provider formal complaint process as specified at section B.2., above.
2. Third party has filed a formal complaint on behalf of a person and the provider determines that the person does not consent to the third party filing the formal complaint. The provider will notify both people that the formal complaint is closed.
3. The provider determines that the issue is about DDA policies, procedures or practices rather than the provider's, in which case the provider administrative closing letter will state that fact. The provider will send a copy of the letter to the DDA Complaint System Coordinator as well as the person and their representative, if any. The letter to the person shall contain information about how the person can file a formal complaint with the DDA Formal Complaint System.
4. DDS confirms that a person has filed a formal complaint substantially similar to a case the person previously initiated in the Superior Court of the District of Columbia or the Office of Administrative Hearings. The provider may seek confirmation from DDS within seven (7) calendar days from the filing. If DDS confirms, then the provider shall administratively close the formal complaint.
5. The provider determines whether the facts alleged show the provider should take action to ensure the person's physical safety; and whether the issue alleges facts that amount to a Reportable Incident (RI) or an SRI as defined by DDS. If an RI, the provider must report the matter to DDS and handle it under DDS's IMEU policy and procedures, investigating the complaint. If an SRI, the provider must report the matter to DDS to be handled under DDS's IMEU policy and procedures. In either case, the provider shall place the formal complaint on administrative hold until the provider's RI investigation or DDS's SRI investigation concludes.

The provider shall give notice to the person, including in their preferred mode of communication, that the formal complaint is on administrative hold and explain why within seven (7) calendar days. Once the provider's RI investigation concludes, the provider shall contact the person to determine whether the person is satisfied and the formal complaint should be administratively closed, or whether the person wants the formal complaint to proceed through the provider's formal complaint process.

E. Administrative closure is considered a provider CEO final decision that may be appealed to the DDA Formal Complaint System. The CEO final decision sent to the person must be sent with a notice of appeal rights, including to the DDA Formal Complaint System. Where a complaint relates to Home and Community-Based Services Waiver for People



with Intellectual and Developmental Disabilities services, notices sent to the person shall include information about Medicaid due process rights.

F. Provider Compliance

1. DDS shall ensure provider compliance with this procedure, including through Provider Certification Review and the Issue System.
2. If a DDA provider does not send a decision to the person within 30 calendar days of the person filing the formal complaint with the DDA provider formal complaint process, the person may file a formal complaint with the DDA Formal Complaint System regarding the alleged failure of the provider to issue a timely decision.

G. Provider Complaint Files and Records

1. When a person appeals the provider CEO final decision by filing a formal complaint with the DDA Formal Complaint System, DDS shall request a copy of the provider CEO final decision from the person.
 2. If a person appeals a provider CEO final decision to DDS, the provider is required to supply records to DDS, including the provider's Complaint File and provider CEO final decision, within five (5) business days of DDS's request.
- H. DDS has a right to request and receive from providers, as well as review any records or information about, providers' formal complaint policies, adherence to the formal complaint policies, and formal complaint files and decisions. DDS may elect to request and, if it does, providers are required to provide quantitative and/ or qualitative information about their formal complaint policy in practice.
- I. Provider Sanctions – DDS may impose sanctions on a provider who does not comply with this procedure or its corresponding policy, including but not limited to in circumstances such as:
1. DDS substantiates an allegation that the DDA provider retaliated against a person, or third party, for filing a formal complaint with the provider or with DDA;
 2. The DDA provider fails to develop, implement or revise its provider formal complaint policy or procedure when required to do so by DDS in accordance with law, regulations or DDS policy or procedure;
 3. The DDA provider fails to abide by or implement a DDS Director's Final Decision by DDS in response to a formal complaint; or
 4. The DDA provider evidences a pattern of untimely or incomplete responses to complaints from the people DDA supports, or fails to complete action agreed to by the DDA provider in response to a formal complaint.