



GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT ON DISABILITY SERVICES

PROCEDURE	
Subject: Developmental Disabilities Administration (DDA) Formal Complaint System	Procedure No.: 2019-QAPMA-PROC002
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: 8
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); 6B DCMR §§ 3113.1-.14 (Personnel, Disclosure of Information); DDA Formal Complaint System Policy, 2019-QAPMA-POL01; DDA Provider Formal Complaint Process Procedure, 2019-DDA-PROC001; Imposition of Sanctions Policy, 2012-DDS-QMD-POL002; and Imposition of Provider Sanctions Procedure, 2014-DDS-PR001.	

1. PURPOSE

The purpose of this procedure is to implement the Department on Disabilities Services (DDS), Developmental Disabilities Administration (DDA) Formal Complaint System Policy, which 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. DDS shall have a Complaint System Coordinator who manages the DDA Formal Complaint System, and coordinates as needed with the DDA provider formal complaint processes.
- B. The Complaint System Coordinator shall make available a Formal Complaint Form on the DDS website and upon the request of any person.



- C. A person who wishes to file a complaint with the Complaint System Coordinator in the DDA Formal Complaint System may use the Formal Complaint Form in writing, or contact the Complaint System Coordinator to file an oral complaint, which the Complaint System Coordinator will commit to writing. A person using the DDA Formal Complaint System may grant consent to a third party to file a complaint for the person, or on his or her behalf. Consent may be assumed, or found to be implied, when a person receiving DDA supports is aware of the complaint, the complaint is filed by their family member, friend or advocate on their behalf, and the person makes no objection. The formal complaint shall provide available detail of the 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, giving rise to the issue with which the person disagrees.
- D. A person has a right to be assisted throughout the formal complaint resolution process by one or more informal supporters, a Supported Decision-Making Agreement supporter, a peer supporter, or attorney, advocate or other representative of the person's own choosing and at the person's own expense.
- E. When a person files a formal complaint with the Complaint System Coordinator they shall receive a copy of the formal complaint that includes the time, date and substance of the complaint, the person's suggested resolution, and a statement of "Consumer Rights." DDS will send the person written acknowledgement in plain language of the filed complaint within two business days of the complaint filing.
- F. When a person chooses to appeal a DDA provider Chief Executive Officer (CEO) final decision by filing a formal complaint with the DDA Formal Complaint System, the Complaint System Coordinator shall request a copy of the provider CEO final decision from the person. However, if a person does not have, or cannot supply, a copy of the CEO final decision, the Complaint System Coordinator will request the document directly from the provider.
 - 1. If a person appeals a DDA 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.
 - 2. The DDA Formal Complaint System shall begin when DDS receives from the provider the complaint file including the provider CEO final decision, or on the 6th business day, whichever is sooner.
- G. Once a person files a formal complaint with the Complaint System Coordinator, the Coordinator shall establish a digital complaint file, with:
 - 1. A copy of the formal complaint, dated upon receipt when the person files it orally or in writing;



2. A document which shows the stages of the DDA Formal Complaint System and the timeframes for each stage for the formal complaint;
 3. One or more documents which detail the passing of the formal complaint through the DDA Formal Complaints System process at DDS as well as a written record of attempts at resolution, DDS's decisions at each stage, and the status of the formal complaint at the conclusion of each stage of the process;
 4. A record of notifications to the person and their legal representative, if they have one, and their supporter, if they have filed a D.C. Supported Decision Making Agreement with the Complaint System Coordinator;
 5. If the formal complaint proceeds through Stage One, a copy of the decision at that stage;
 6. If the formal complaint proceeds through Stage Two, a copy of the external reviewer's recommendation(s) and the DDS Director's Stage Two decision;
 7. If the formal complaint proceeds through Stage Three, a copy of the external reviewer's report, the DDS' Director's final decision, and the notice of right to file an appeal with Office of Administrative Hearings (OAH); and
 8. If the person submits documents to the Complaint System Coordinator in support of their formal complaint, the documents will be included in Complaint File.
- H. Confidential personnel information and other legally privileged or protected information shall not be kept in a Complaint File nor be disclosed by DDS through the DDA Formal Complaint System.
- I. A person, or their representative with proper authorization, has the right to request and receive their Complaint File and any DDA policies, procedures, and protocols related to DDA Formal Complaint System. This also includes the right to have this information orally explained to the person, if needed.
- J. DDS will provide notices in writing and in plain language. A person has to tell DDS if they want to receive notices orally as well as in writing, and the person must tell the Complaint System Coordinator how to contact them to deliver oral notices.
1. The Complaint System Coordinator shall confirm the person's contact information listed in MCIS with the person. It shall be the person's responsibility to keep contact information with DDS up-to-date, which includes telephone (if receiving oral notices), mailing address and email address, if applicable, as well as their supporter(s) and representative(s) contact information. If the Complaint System Coordinator receives updated information, he or she should update this both in the electronic case system, IQ, as well as in MCIS.



2. It shall further be the person's responsibility to make herself or himself available to receive oral notices from the Complaint System Coordinator during DDS's normal business hours.
 3. The Complaint System Coordinator shall make reasonable efforts to honor the person's request for oral notices.
 4. If the person fails to share an updated telephone number with the Complaint System Coordinator and the updated number is not listed in MCIS, DDS's responsibility to provide oral notices regarding the formal complaint ceases until the person provides up-to-date contact information to the Complaint System Coordinator. However, DDS will continue to send required written plain language notices to the contact information provided.
 5. 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; and where the person filing the formal complaint with DDA states at the time of the filing that they are seeking expedited review for a health or safety concern, the Complaint System Coordinator, shall review the formal complaint and ensure that DDS issues a written decision within ten (10) calendar days. Regardless of whether the person requests expedited review, the Complaint System Coordinator must take immediate action, in coordination with other DDS units, to secure the person's health or safety, where indicated.
- K. Once a person files a formal complaint, the first step is Stage One: Internal DDS Review.
1. The length of Stage One shall be up to fourteen (14) calendar days, unless DDS, the DDA provider (if the issue is about a provider) and the person who files the complaint agree to extend the time.
 2. The Complaint System Coordinator shall screen formal complaints, to see if the complaint should proceed through the DDA Formal Complaint System starting with Stage One: Internal DDS Review, be placed on administrative hold (because the facts show it is or may be a Serious Reportable Incident (SRI)), or be administratively closed within seven calendar days for one of the reasons listed in the DDA Formal Complaint System policy.
 3. If the formal complaint is placed on administrative hold because it is an SRI and therefore must be handled by DDS's Incident Management Enforcement Unit (IMEU), the Complaint System Coordinator shall provide the person with notice, including in the person's preferred mode of communication, of the reason for placing the formal complaint on administrative hold within seven (7) calendar days. Once the IMEU process or investigation concludes, the Complaint System Coordinator shall contact the person within five (5) business days 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 DDA Formal Complaint System.

4. If the formal complaint is administratively closed, DDS shall provide the person with notice, including in the person's preferred mode of communication, of the reason for administrative closure, the right to seek reconsideration within 14 calendar days, and referral information.
 5. After a formal complaint is accepted by the Complaint System Coordinator into the DDA Formal Complaint System, DDS shall attempt to resolve the formal complaint to the mutual satisfaction of both the agency and the person.
 6. These efforts shall involve DDS/DDA staff working with the person and the DDA provider (if a provider is named in the formal complaint) to attempt to resolve the formal complaint to the person's satisfaction.
 7. At the conclusion of Stage One, the Complaint System Coordinator shall mail the person a letter explaining the resolution of the formal complaint, and notifying the person of how to request Stage Two, External Review, if the person is still not satisfied with the resolution of their formal complaint.
- L. A person who is unsatisfied with the resolution of their formal complaint at the conclusion of Stage One may request External Review, orally or in writing, from the Complaint System Coordinator within fourteen (14) calendar days of the date of the conclusion of Stage One as stated in the Internal DDS Review letter. DDS's receipt of that request begins Stage Two: External Review. This stage has Part A and Part B, which are led by the external reviewer.
1. Stage Two lasts up to forty-five (45) calendar days, but it may be extended at the recommendation of the external reviewer or by mutual agreement of the person who filed the formal complaint and DDS or the DDA provider, if the formal complaint is about a provider.
 2. Part A is Alternative Dispute Resolution (ADR). The external reviewer will use mediation to try to assist the parties to the formal complaint to reach consensual resolution. Mediation may be conducted via individual telephone calls or meetings with interested parties or via a joint meeting. The person has a right to representation during mediation, at his or her own expense. Necessary representatives from the provider (at the provider's expense) or from DDA, as determined by the external reviewer, shall be required to attend the mediation. The person may terminate the mediation at any time. Part A shall last no longer than fifteen (15) calendar days, unless DDS and the person agree to extend the time. If the formal complaint is not resolved to the person's satisfaction at the conclusion of Part A, the external reviewer shall automatically move the formal complaint to Part B.



3. Next the external reviewer shall move the formal complaint to Stage Two, Part B. The external reviewer shall conduct a fact-finding hearing with the person, the provider (if the complaint is about a provider) and DDA, where all interested parties can present evidence and witnesses. Necessary representatives from the provider or from DDA, as determined by the external reviewer, shall be required to attend the hearing. The person has the right to representation during the hearing and may call witnesses, all at his or her own expense. A DDA provider also has the right to representation and may call witnesses, all at its own expense. Once the hearing concludes, the external reviewer makes recommendations to the DDS Director. Part B shall last no longer than thirty (30) calendar days, unless DDS and the person agree to extend the time.
- M. If the person's formal complaint is not resolved during Stage Two, the complaint moves to Stage Three, which is called External Reviewer's Final Report and DDS Director's Decision.
1. Stage Three lasts up to sixty (60) calendar days, unless DDS, the DDA provider (if the issue is about a provider) and the person who filed the formal complaint agree to extend the time.
 2. Within twenty-one (21) calendar days of the end of Stage Two, the external reviewer shall write and submit a final written report with recommendations, if any, to the DDS Director, the person who receives DDA supports and services, the person who filed the complaint, and the provider, if the provider is a party to the complaint. This report may be redacted before being sent to the person who filed the complaint if not the person or their representative in order to protect the privacy of the person. The report shall include:
 - a. A summary of the evidence gathered;
 - b. Applicable federal or District laws and regulations and DDS policy and procedures;
 - c. Findings of fact;
 - d. Conclusions; and
 - e. Recommendations for how to resolve the formal complaint, if any.
 3. The External Reviewer or manages the feedback process in Stage Three.
 - a. Each party has seven (7) days to receive the report.
 - b. Upon receipt, each party should review the report and respond, in writing, within ten (10) calendar days of receipt of the external reviewer's final report. This is the opportunity for the person, the provider (if any) and DDA to provide any additional information, proposed corrections, or proposed changes to the external



reviewer's report and recommendations, if any, prior to the DDS Director's Final Decision on the complaint. The parties must send their comments to the external reviewer.

- c. DDS allows for seven (7) calendar days for receipt of the parties' responses to reach the external reviewer. The DDS Director will review the External Reviewer's Final Report and all responses submitted by the parties.
 - d. Then, the DDS Director shall issue the final decision, in writing and in plain language, within fifteen (15) calendar days of receipt of the last timely submission, to the person who receives DDA supports and services, the person who filed the complaint, and the provider, if the provider is a party to the complaint. Final decisions may be redacted before being sent to the person who filed the complaint if not the person or their representative in order to protect the privacy of the person. The DDS Director's Final Decision shall accompany the external reviewer's final report and clearly state whether DDS will comply with the external reviewer's recommendation(s), if any, and if so, specify what actions DDS plans to take and in what time frame. If the DDS Director determines that DDS will not comply with one or more of the external reviewer's recommendations, the final decision shall state that clearly and provide rationale for that decision, citing to any applicable laws, regulations, DDS policies or procedures supporting their final decision.
 - e. The Complaint System Coordinator will issue the DDS Director's Final Decision to all parties. Along with the DDS Director's Final Decision, the Complaint System Coordinator shall provide to a person notice of the right to appeal to OAH, as well as plain language information about how to file an appeal, appeals deadline(s), the right to have a representative of their own choosing, and information about possible free legal help to the person and their representative, if they have one.
 - f. This concludes Stage Three and the person's formal complaint in the DDA Formal Complaint System.
- N. If the person still feels their formal complaint was not resolved, then they will need to make a decision about whether or not to appeal their formal complaint. If the person chooses to appeal, they must do so to OAH and should file with OAH within 60 days.
1. When a person and their representative, if they have one, appeals a formal complaint to OAH, OAH may request copies of the DDS Complaint File as well as any governing DDS policies and/or procedures from the Complaint System Coordinator.
 2. DDS's General Counsel shall provide DDA Formal Complaint System files to OAH upon request.



3. DDS shall ask for the records of DDA Formal Complaint System appeals at OAH to be sealed by OAH in order to protect the confidentiality of people supported by DDA.
- O. DDS, working with people with intellectual disabilities who receive DDA supports and services, shall operate a peer support pilot program with trained peer supporters whose services may be used by people who have filed a formal complaint with the DDA Formal Complaint System.
1. Peer supporters shall be independent from DDS and providers and abide by all federal and local requirements for confidentiality.
 2. A peer supporter shall not assist a person with a complaint against a DDA provider from which the peer advocate is currently receiving supports or services or has received supports or services within one year, unless both the peer advocate and the person who is filing the complaint consents in writing to such assistance.
 3. DDS shall make available plain language informational materials about the peer support pilot program available on the DDS website, to people who receive DDA supports and to those who file formal complaints through the DDA Formal Complaint System.
 4. DDS, with input from the peer supporters, shall design and implement an evaluation or satisfaction survey to get feedback from users about the peer support pilot program.
 5. DDS shall publish an annual report regarding the peer support pilot program, which shall include agency learning about what worked with the peer support pilot program and what can be improved, as well as tracking and trending. The report will include an analysis of the evaluation or satisfaction surveys.
- P. DDS shall publish an annual report regarding tracking and trending of DDA Formal Complaint System complaints filed with the Complaint System Coordinator.
- Q. Where a formal complaint relates to Home and Community-Based Services Waiver for People with Intellectual and Developmental Disabilities supports or services, notices sent to the person shall include information about Medicaid due process rights.
- R. DDS shall provide a publicly-noticed annual training about the DDA Formal Complaint System designed for people interested in or receiving supports, their families, support teams and the general public.