

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
DEPARTMENT ON DISABILITY SERVICES



Title/Subject: <b>DDA Internal Problem Resolution Procedures</b>
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Policy (cross-referenced to): Internal Problem Resolution Policy
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All underlined words/definitions can be found in the **Definitions Appendix**.

### **1. PURPOSE**

The purpose of this procedure is to establish the standards and guidelines by which the Department on Disability Services (DDS), Developmental Disabilities Administration (DDA), review and process all possible complaints affecting individuals served by DDA.

### **2. APPLICABILITY**

The following procedures will govern how DDA will conduct an internal review process, and respond to complaints received by individuals served by DDA.

### **3. PROCEDURES**

The following are the standards by which DDA will evaluate compliance with this policy:

#### **A. Individuals who May File a Complaint**

1. All individuals shall be notified in plain language, in writing in their primary language and verbally, at the time of eligibility determination of the right to file a complaint and at each regularly scheduled Individual Support Plan (ISP) meeting.
2. An individual eligible for supports and services, his/her family members, friends, guardian, attorney, advocate, an employee of a provider agency, an employee of DDA or an interested person may file a complaint on behalf of the individual, with his/her permission unless the person knowingly objects.
3. A person may request to remain anonymous when filing a complaint on behalf of a person, except in the case of filing a complaint alleging abuse or neglect where staff persons are mandatory reporters.

#### **B. Filing a Complaint**

1. Individuals or their representative may contact the Rights and Advocacy Specialist (RAS) in DDA by phone, in person, email or by U.S. mail.
2. If a complaint is received by phone or in person, the RAS (or designee) will complete the Complaint Form and open a file (beginning the complaint process).
3. If a completed complaint form or other written communication is received in the mail/fax/email, the RAS (or designee) will date stamp the form and open a file (beginning the complaint process). The RAS will assist the person making a complaint as needed to gather the information needed to fully investigate the complaint.
4. All complaints must be filed within ninety (90) days of the alleged event/action. Exceptions to this 90-day limit include a) those persons who used the provider's compliant resolution process and were not satisfied, and b) those persons who lack capacity to knowingly exercise this right.

### **C. Contents of a Complaint**

All complaints are confidential and all identifying information of the complainant shall not be released to any person whose knowledge of that information is unnecessary for the resolution of the complaint. The RAS will assist in gathering the following information from the person making the complaint as needed.

All complaints shall contain the following information:

1. The name, address and telephone number of the person filing the complaint
2. A statement of facts upon which the allegation is based.
3. Type of complaint
4. The party allegedly responsible for a violation
5. A description of any steps taken at the provider level or DDA level to resolve the complaint, if any; and
6. A proposed resolution to the complaint.
7. Tracking Number (internal use): Upon receipt of a complaint, the RAS will assign a tracking number. The tracking number is defined as a 6 digit date and the numeric value of complaint in order received on that day. (A complaint received on July 29, 2010 will have the tracking number of 07.29.10-001).

### **D. Processing of Complaint**

- 1 On receipt of a complaint, the RAS shall:
  - (a) Provide a copy of the complaint to the person's advocate, attorney, guardian, and party(ies) identified in the complaint.
  - (b) Brief the DDS Deputy Director for DDA of the complaint for designation by the Deputy Director of the dispute resolution representative for the complaint. The dispute resolution representative is chosen depending on the type of complaint, and is either: the Rights and Advocacy Specialist located in the Quality Improvement Unit; the Quality Improvement Manager; a Service Coordinator Manager, or the Provider Resource Unit Manager.
  - (c) Notify the designated dispute resolution representative of the complaint and brief him/her on all information obtained to date.
  - (d) The dispute resolution representative will attempt to resolve the complaint by researching records, holding telephone conversations and/or meeting with the person eligible for supports and services, DDA or provider staff or any other party necessary to resolve the complaint to the satisfaction of the complainant within 5 business days of receipt of the complaint, unless the person does not consent to this informal communication.
  - (e) If this process fails to resolve the complaint, or if the person does not consent to DDA problem-solving, the dispute resolution representative will attempt to resolve the complaint through alternative dispute resolution techniques by:
    - (i) Holding a meeting with the relevant parties within 15 business days;
    - (ii) Ensuring that the meeting in subparagraph (a) of this paragraph is attended by a DDA representative with the authority to bind the DDA, the person, the person's support coordinator, and any other party necessary to resolve the complaint;

- (iii) Ensure that the complainant has reasonable access to records and documents which, in the judgment of the complainant, are needed to support the complaint and/or argue for an alternative resolution. DDA will also provide for interpreter services if needed;
  - (iv) At the request of the parties, drafting a written agreement between the parties to address the person's complaint which shall be signed by the Director of the DDS or the Director's designee; and,
  - (v) If this alternative dispute resolution does not satisfy the complainant, he/she may request a review by the DDS Deputy Director for DDA.
- (f) The alternative dispute resolution shall be completed within 30 days of the filing of the complaint.
  - (g) DDA will issue a written notice explaining the outcome of the meeting in plain language in the person's primary language, and clearly outline options to appeal decisions made by DDA.
  - (h) DDA shall report any individual, agency, or provider that retaliates against a person who files a complaint or requests a hearing to the Office of the Inspector General.
  - (i) Upon reasonable belief that a person who has filed a complaint or on whose behalf a complaint has been filed is at imminent risk of serious harm, DDA shall immediately take all steps necessary to protect the person. The affected person or his/her legal representative may request that he/she no longer be subject to a staff person, provider or service coordinator during the resolution of the complaint.
  - (j) The RSA shall track all complaints and all reports of retaliation against a person who files a complaint or requests a hearing. The problem resolution office shall share these aggregate data with the Quality Management Division and the public.
  - (k) If the time period provided in this procedure of any action or step by the dispute resolution representative, DDA, or other agency lapses without the action or step having been completed, the action or step shall be deemed as occurred and the person shall have the option of proceeding to the next step of the grievance process without waiting for completion of the action or step.
  - (l) A denial or termination of eligibility shall not be subject to the problem resolution system established by this section. If DDA finds a person not eligible for supports and services:
    - (i) The person, the parent of a minor, the person's guardian, or any individual chosen by the person may appeal a denial of eligibility in accordance with DDA's Intake and Eligibility Determination policy and procedures;
    - (ii) Nothing in this section shall affect:
    - (iii) The procedures for mediation of, or procedures for review through an impartial due process hearing of, determinations made by personnel of the District that affect the provision of vocational rehabilitation services to applicants or eligible individuals as required under the Rehabilitation Act of 1973, as amended, approved August 7, 1998 (112 Stat. 1116; 29 U.S.C.S. § 720 *et seq.*); or
    - (iv) The procedures for fair hearings and appeals for the Medicaid Program.

#### **E. Provider Performance**

DDA will monitor all cases where a dispute resolution process results in a provider agency agreeing to implement a resolution. When a provider engages in a pattern of untimely or

incomplete responses to complaints filed by individuals or fails to complete actions required by the provider, that performance will be subject to a Corrective Action Plan and will be weighed in Provider Certification Reviews for the Home and Community-Based Services Waiver Program. DDA shall report any individual, agency, or provider that retaliates against a person who files a complaint or requests a hearing to the Office of the Inspector General. Any substantiated finding of retaliation or coercion on the part of a provider agency will result in an immediate referral to the Department of Health Care Finance for termination of the Medicaid Provider Agreement and to the DDS Contract and Procurement Office for termination of the Human Care Agreement if applicable.

Attachments:

1. Internal Problem Resolution Policy
2. Complaint Form
3. Notice of Right to File a Complaint Fact Sheet