



Part V
Complaint Resolution, Hearing, and Appeal Procedures

Complaint and Fair Hearing (12 VAC 35-115-150)

The Agency recognizes each individual's right to:

1. Make a complaint that the Agency or its representative has violated their protected rights.
2. Receive a timely and fair review of the complaint.
3. Have someone file a complaint on their behalf.
4. Use these and other complaint procedures.
5. Complain under any applicable law.

The Program shall make every attempt to resolve complaints to the individual's satisfaction at the earliest step possible. Program employees/contractors shall provide assistance to individuals with the complaint process upon request. Further, no employee/contractor shall engage in any retaliatory action or otherwise prevent, disrupt, or obstruct an individual's filing of a complaint.

The Agency shall adhere to all State Human Rights Regulations governing the complaint resolution, hearing, and appeal procedures as outlined in Part V of Regulations 12 VAC 35-150.

Complaint Process (12 VAC 35-115-175)

Individuals served or their representative of choice may enter a complaint with the Sponsored Home Clinician, Director of Disability Services, President & CEO, the Regional Advocate, more than one of these individuals, or any other Agency employee of their choosing. The program recognizes the individual's right to invoke the complaint process at any time.

The Agency shall adhere to the following regarding the complaint process:

1. The complaint recipient shall immediately notify the President & CEO or designee and the Regional Advocate of the complaint. The complainant shall be notified immediately of their right to pursue his complaint through all available means.
 - a. In instances where the Regional Advocate concludes there is substantial risk of serious and irreparable harm, the Director of Disability Services, the Agency, the Agency Board of Directors, and the LHRC shall be notified. The complaint process shall be discontinued and the LHRC shall convene an emergency hearing on the issue in accordance with 12 VAC 35-115-190.
2. Within 24 hours of receipt of any complaint not meeting substantial risk criteria, the Director of Disability Services or designee shall meet with the individual, their chosen representative if any, and others as appropriate to resolve the complaint and/or initiate an investigation if warranted. The DDS or designee shall assure at this time the individual knows how to and has information needed to access the Human Rights Advocate during the complaint process.
 - a. The DDS or designee shall review, investigate, and resolve the complaint as soon as possible and provide to the individual and/or their representative and the Advocate



a written decision and action plan within 10 working days. This action plan will include information regarding appealing the decision and action plan to the LHRC.

- b. The DDS or designee will assure all steps are taken to ensure the individual receives all communications in the manner and format most easily understood by them and that the individual is protected from retaliation or harm as a result of making the complaint.
- c. In the event the DDS is not able or available to manage the complaint, the designee will be the Program's Clinical QA Supervisor.
- d. The DDS or designee shall investigate further as warranted and will prepare a final decision. The written final determination shall be distributed to the individual, his chosen representative if any, and the Regional Advocate within ten (10) days of receipt of the individual's response.

Specific Requirements for Potential Abuse and Neglect Investigations

In the event of a Human Rights complaint involving potential abuse, neglect, or exploitation, the DDS or designee shall :

1. Immediately notify the Regional Advocate of the allegation and assure the safety of the individual via any appropriate and necessary personnel or medical actions.
2. As appropriate, such allegations shall also be reported to APS, the Police Department, or other entities as required by law or regulation.
3. The individual's AR, Guardian, or preferred interested party, as applicable shall also be notified immediately.
4. Investigations will be prompt and conducted by staff experienced and trained in investigations who are not a part of the complaint.
5. All agency personnel, whether employee or contract shall cooperate fully with any abuse or neglect complaint investigation conducted by the agency, the department of social services, or other external entities as appropriate.

Local Human Rights Committee Hearing and Review Procedures (12 VAC 35-115-180)

The Agency will adhere to all State Human Rights Regulations governing LHRC hearing and review procedures as described in 12 VAC 35-115-180 as applicable to disputes regarding complaint resolutions, allegations of abuse, neglect, or exploitation, and allegations of discrimination.

The DDS or designee shall fulfill all duties and requirements under 12 VAC 35-115-180 to include the following:

1. Notify the individual of their right to file a petition for a hearing with the Chairperson of the LHRC in writing within ten (10) working days of receipt of the DDS' action plan and provide contact information to do so.
2. Notify the individual they may request the assistance of the Human Rights Advocate or any other person the individual chooses to file the petition.
3. Within 5 working days, provide a written response to the petition and a copy of the entire written record of the complaint to the LHRC.



4. Attend the LHRC hearing to represent the Program and present witnesses and evidence as warranted.
5. Provide the individual/AR, the Regional Advocate, and the LHRC a written action plan in response to the LHRC's findings and recommendations within five (5) working days of receipt of those findings. This response will include how the individual may object to the plan.
6. Implement the action plan six (6) working days after its submission if no objections are made. If objections are made to any part of the plan, those parts will not be implemented until or unless the DDS can resolve them to the individual's satisfaction. If the DDS cannot, the individual may appeal to the SHRC under 12 VAC 35-115-210.

Special Procedures for Emergency Hearings by the LHRC (12 VAC 35-115-190)

The Agency will adhere to all State Human Rights Regulations governing LHRC emergency hearing procedures as described in 12 VAC 35-115-190.

The DDS or designee will fulfill all duties and requirements under 12 VAC 35-115-190 to include the following:

1. Attend LHRC hearing to represent the Program and present witnesses and evidence as warranted.
2. Formulate, implement, and distribute to the individual/AR, the Regional Advocate, the LHRC, and the Agency Board of Directors a written action plan in response to the LHRC's preliminary recommendations within 24 hours of receipt of those recommendations.
3. When necessary, appeal LHRC decisions to the State Human Rights Committee (SHRC) as permitted under 12 VAC 35-115-210.

Special Procedures for LHRC Reviews Involving Consent (12 VAC 35-115-200)

The Agency will adhere to all State Human Rights Regulations governing LHRC procedures for consent review as described in 12 VAC 35-115-200. The DDS or designee shall recognize the decision of the LHRC on consent under the authority of 12 VAC 35-115-200 and shall take immediate action to rectify problems as directed by the LHRC.

The DDS reserves the right to appeal decisions to the SHRC under 12 VAC 35-115-210.

Special Procedures for State Human Rights Committee Appeals Process (12 VAC 35-115-210)

The Agency shall adhere to all State Human Rights Regulations governing SHRC appeal procedures as described in 12 VAC 35-115-210. The DDS or designee shall be responsible for compliance issues, including steps for filing an appeal and requirements for providing supportive documentation.