

APPEALS POLICY

I. **Purpose:** It is the intent of San Andreas Regional Center to ensure that all service requests receive proper consideration and to facilitate every avenue for due process, in compliance with all state and federal laws, regulations, and court decisions.

II. **Definitions:**

- **Consumer, individual, and person served are used interchangeably in regional center policy and the Lanterman Developmental Disabilities Services Act and mean a person who has been found eligible and receives services from the regional center.**
- *Due Process* means the steps of appeal guaranteed by law. This includes hearing requests, informal meetings, mediations, and hearings.
- *Appeal Requests* are submitted using the Lanterman Appeal Request form (DS1821), available from SARC and the Department of Developmental Services. Requests for hearings for Early Start Due Process must use the DS1802 form, also available from SARC or DDS. The appeal may request an informal meeting, mediation, and/or a hearing, in-person or by teleconference.
- *Informal meetings* are an opportunity for the person and their family, advocates, or representatives to meet with the executive director's designee to discuss the denial of their request and the reasons for the request. The designee can overturn, modify, or affirm the regional center's decision. Informal meetings may be requested on the appeal form or at any point during the process. If the person is not satisfied with the informal meeting, they may request mediation and/or hearing.
- *Mediation* is a process where a neutral third-party acts as a facilitator of resolution of the appeal. Mediation is optional for the person and, if requested, the regional center must attend. Individuals wishing for mediation may make that request on their DS1821 form or at any point after during due process. Early Start mediations must be requested using the DS1808 form. Both forms are available from SARC and DDS. If mediation is not successful, the person may request a hearing.

- *Hearings* are informal judicial proceedings held in front of an impartial finder-of-fact known as an administrative law judge. The person or their representative may represent themselves or may engage an advocate or attorney to represent them. The regional center is represented by a non-attorney advocate known as the director's designee. Both sides will have the opportunity to provide evidence in the form of exhibits, testimony, and cross-examination.

III. **Policy:** Anyone aged 3 or older who has applied for regional center services, or who is currently receiving regional center services, can appeal regional center decisions they do not agree with. Regional center staff shall make every reasonable effort to research, evaluate, and consider eligibility and service requests made in keeping with regional center policies, including, if appropriate, the possibility of a director's exception. In the event the request cannot be fulfilled, a Notice of Proposed Action (DS1820) will be issued within five days of the decision being made. This Notice shall be in the applicant, recipient, or authorized representative's preferred language and shall be sent through the person's preference of standard, certified, or electronic mail. Each Notice shall be accompanied by the appropriate appeal request form and information regarding the appeal process sent in the recipient, applicant, or representative's preferred language.

If the recipient or representative wishes to appeal the decision, the request must be postmarked or received by the regional center within 60 days of receipt. It is the regional center's responsibility to assist the recipient or representative in completing and submitting the form, if requested. If the proposed action would change or end an existing service and the request is received by the regional center within 30 days, no change may be made until the appeal is resolved. The person has 60 days to appeal the proposed action.

The regional center may consult with but will not be represented by an attorney, unless the person requesting the appeal is represented by an attorney and the regional center deems it appropriate to have counsel attend. All persons and their authorized representatives have access to the person's regional center file free of charge for the purpose of their appeal. The regional center shall send the person's file, upon request, within three business days.

If an informal meeting is requested, one will be offered at a mutually agreed upon date and time within 10 working days.

Following an informal meeting, the designee will provide a written decision regarding their decision on each issue appealed, their reasoning, and cite which laws or policies upon which the decisions are based within five days. If mediation is requested, the regional center shall attend.

Should a hearing be necessary, the regional center designee shall provide a position statement, list of potential witnesses, and copies of all potential exhibits to the person or their representative at least two days before the hearing. The regional center shall facilitate the claimant's participation in the hearing as required. Should the final hearing decision be unfavorable to the claimant, the decision shall not be implemented for 15 days unless an application for reconsideration by OAH or DDS is received. Should reconsideration be requested, the decision shall remain in abeyance until the reconsideration is complete. The regional center reserves the right to request reconsideration of a proposed or final decision.

Board Adopted June 19, 2023