

10A NCAC 27G .7002 LOCAL MANAGEMENT ENTITY REQUIREMENTS CONCERNING COMPLAINTS

(a) A Local Management Entity shall respond to complaints received concerning the provision of public services pertaining to all provider categories, as defined in 10A NCAC 27G .0602, in its catchment area. This Rule does not govern complaints pertaining to utilization review decisions.

(b) The Local Management Entity shall:

- (1) establish a written notification procedure to inform each client of the complaint process concerning the provision of public services. The procedure shall include the provision of written information explaining the client's right to contact the Local Management Entity, the Division of Mental Health, Developmental Disabilities and Substance Abuse Services, the Division of Health Service Regulation, the Division of Social Services and The North Carolina Protection and Advocacy system known as Disability Rights North Carolina;
- (2) seek to resolve issues of concern through informal agreement between the client and the provider and document the attempts at resolution;
- (3) develop and implement written policies including those safeguards and procedures listed below:
 - (A) safeguards for protecting the identity of the complainant;
 - (B) safeguards for protecting the complainant and any staff person from harassment or retaliation;
 - (C) procedures to receive and track complaints;
 - (D) procedures to assist a client in initiating the complaint process;
 - (E) procedures for encouraging the complainant to communicate with the provider to allow for resolution of the issue;
 - (F) methods to be used in investigating a complaint;
 - (G) procedures for responding to complaints and options to be considered in resolving a complaint, including corrective action and referral to the Division of Mental Health, Developmental Disabilities and Substance Abuse Services, the Division of Health Service Regulation, the Division of Social Services or other agencies as required;
 - (H) procedures governing complaints and appeals made by a provider and a complainant;
 - (I) procedures for notifying the home Local Management Entity, if different, of the complaint and actions taken; and
 - (J) procedures for the Local Management Entity Director to convene an ad hoc appeal review committee to review client and provider appeals. The client rights committee, as defined in 10A NCAC 27G .0504, shall approve policy and procedures regarding the formation of the appeal review committee including assurance of the review committee's lack of conflict of interest, composition, disability affiliation(s) and other experience or qualifications relevant to the issue(s) in the complaint. The committee's recommendations shall be by majority vote;
- (4) review the complaint and communicate to the complainant within five working days of receipt whether the complaint will be addressed informally or by conducting an investigation; and
- (5) notify the complainant in writing of the results of the informal process in a letter dated within 15 working days from receipt of the complaint. If the need for an investigation is revealed during the informal process, the Local Management Entity shall begin the investigation or refer the matter to the appropriate State or local government agency. If the complainant is not satisfied with the informal process, the complainant may file an appeal in writing to the Local Management Entity Director. The appeal must be received within 15 working days from the date of the informal resolution letter. The Local Management Entity Director shall:
 - (A) convene an appeal review committee according to Part (b)(3)(J) of this Rule; and
 - (B) issue an independent decision after reviewing the appeal review committee's recommendation. The decision shall be dated and mailed to the appellant by the Local Management Entity within 20 working days from receipt of the appeal.

(c) When the Local Management Entity refers the complaint to the State or local government agency responsible for the regulation and oversight of the provider, the Local Management Entity shall send a letter to the complainant informing him or her of the referral and the contact person at the agency where the referral was made. The Local Management Entity shall contact the State or local government agency where the referral was made within 80 working days of the date the Local Management Entity received the complaint to determine the actions the State or local government agency has taken in response to the complaint. The Local Management Entity shall communicate

the status of the State or local government agency's response to the complainant and to the client's home Local Management Entity, if different.

History Note: Authority G.S. 122C-112.1(a)(29);
Eff. July 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019;
Amended Eff. September 1, 2021.