

Overview of the Complaints and Appeals Process



Complaint Process

- Early Start Complaints & Appeals
- Citizen Complaints
- Whistleblower Complaints
- Individual Rights (4731) Complaints and Appeals

Eligibility and Service Appeal Process

- Lanterman Act Appeals

Complaint Processes

Complaint Processes

Early Start

- For children aged 0-3 years of age

Citizen Complaints

- General issues of concern.
- Not to be used for disputes about eligibility for services or the nature, scope, or type of services an individual is receiving.

Whistleblower

- Whistleblower complaints are defined as the reporting of an “improper regional center or vendor/contractor activity.”

Individual Rights (4731)

- An individual served, or any representative acting on behalf of an individual served, believes a right (or rights) have been unfairly denied by a regional center, state operated facility, or a service provider. The complaint must be sent to the regional center or state operated facility.

Early Start Complaints

Early Start Complaints

If an individual thinks the regional center did not follow Early Start program requirements, they can submit a complaint.



Complaints may be submitted within 3 years of the issue



The Department has 60 days to review the complaint and send a written response

Early Start Due Process Appeals

Early Start Due Process Appeals

When a parent, agency, or organization believes there has been a violation of federal or state laws or regulations governing California's Early Start program (including eligibility and services), they can file an Early Start Due Process Appeal. The families may request a mediation meeting and/or a Due Process Hearing.

Mediation Meeting

- Impartial person helps the family and the regional center reach an agreement
- Occurs within 30 days of request

Due Process Hearing

- The family and regional center meet with an administrative law judge
- Occurs within 30 days of request
- The judge must issue a decision within 30 days of the request

Citizen Complaints

The Citizen Complaint Act (1997)

Allows the public to submit issues of concern



Complaints/comments are recorded on the [DS 2007 Citizen Comments and Complaints Form \(English\)](#) or [DS 2007 Citizen Comments and Complaints Form \(Spanish\)](#)



Complaints regarding the health and safety of individuals are of the highest priority and are immediately referred to the regional center



The person filing the complaint will receive an acknowledgment letter of the complaint and be notified when the complaint is closed

Whistleblower Complaints

Whistleblower Complaints

Whistleblower complaints are defined as the reporting of serious “improper regional center or vendor/contractor activity.”

- Complaints must provide a clear and concise statement of the improper activity and any evidence to support the allegation(s).
- Complaints may be filed anonymously, but if there is not enough information provided and we have no way to contact the person filing the complaint, the Department may not be able to investigate the complaint.



Whistleblower Complaints

When the Department receives a Whistleblower complaint:

- The Department will prioritize complaints that contain health and safety issues and may need to contact outside entities, such as Adult Protective Services, Department of Health Care Services, Community Care Licensing, and/or the California Department of Public Health, if serious allegations are included in the complaint.
- The Department may contact the individual about anonymity, and/or to obtain evidence to support the allegations, and any other information not already provided.
- The Department investigates the complaint, which may require regional center records, the individual's evidence, interviews with appropriate individuals, or onsite visits by the Department.

Individual Rights Complaints

Welfare & Institutions Code (WIC) Section 4731

Individual Rights Complaints (WIC Section 4731)

Rights for Persons with Developmental Disabilities

1. A right to treatment and habilitation services and supports in the least restrictive environment.
2. A right to dignity, privacy, and humane care.
3. A right to participate in an appropriate program of publicly supported education, regardless of degree of disability.
4. A right to prompt medical care and treatment.
5. A right to religious freedom and practice.
6. A right to social interaction and participation in community activities.
7. A right to physical exercise and recreational opportunities.
8. A right to be free from harm, including unnecessary physical restraint, or isolation, excessive medication, abuse, or neglect.
9. A right to be free from hazardous procedures.
10. A right to make choices in their own lives.
11. A right to a prompt investigation of any alleged abuse against them.

Welfare and Institutions Code section 4502 (b)(1)-(11)

Individual Rights Complaints (WIC Section 4731)

Rights for Persons with Developmental Disabilities Living in a State Operated Facility, Community Care Facility, or Health Facility

1. A right to wear their own clothes, to keep and use their own personal possessions, and to keep and be allowed to spend a reasonable sum of their own money.
2. A right to have access to individual storage spaced for private use.
3. A right to see visitors each day.
4. A right to have reasonable access to telephones, both to make and receive confidential calls.
5. A right to have ready access to letter writing materials, including stamps, and to mail and receive unopened correspondence.
6. A right to refuse electroconvulsive therapy.
7. A right to refuse behavior modification techniques which cause pain or trauma.
8. A right to refuse psychosurgery.
9. A right to make choices in areas of their daily living routines, including leisure and social activities, and program planning and implementation.
10. Other rights, as specified by regulation.

Welfare and Institutions Code section 4503 (a)-(j)

Individual Rights Complaints (WIC Section 4731)

COMPLAINT: *When an individual believes a right has been violated or denied by a regional center or provider*

Individual submits the complaint to the regional center director
(should use the DS 255: Welfare and Institutions Code Section 4731 Complaint Form Investigation Request)

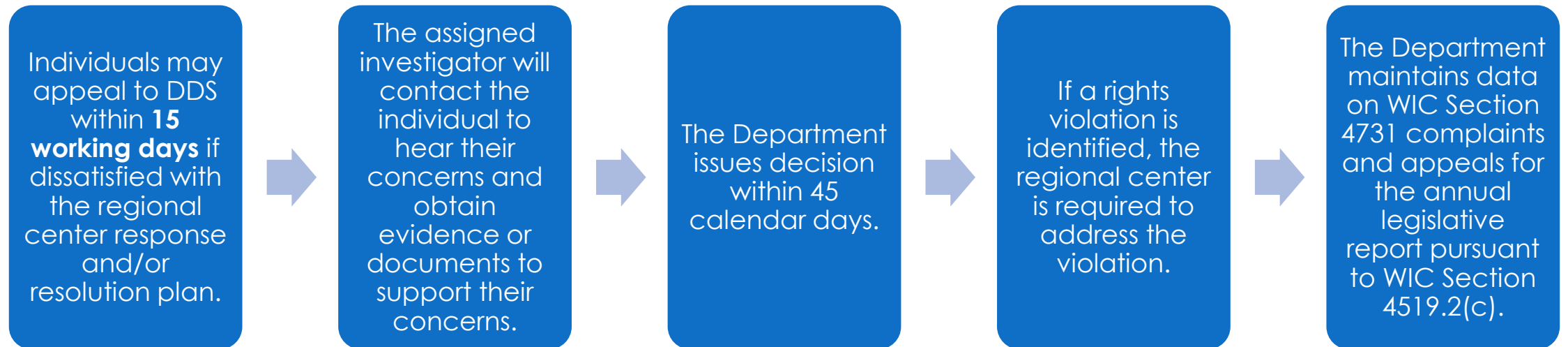


RC Director investigates allegations and issues a written response to the individual within **20 working days.**

The response **MUST** include a proposed resolution to address the complaint.

Individual Rights Complaints (WIC Section 4731)

APPEAL: *When an individual does not agree with the proposed resolution from the regional center, the individual or authorized representative can appeal to the Department.*



Lanterman Act Eligibility and Service Appeals

Lanterman Act Eligibility and Service Appeals

This process may be used when individuals want to:

- **Appeal a regional center's decision about eligibility for Lanterman Act services, or;**
- **Appeal a regional center's decision about the type or amount of services.**

Examples:

An individual applied for regional center services and the regional center said they were not eligible.

An individual asked the regional center to provide a new service, and the regional center said the service is not needed.

The regional center wants to reduce the number of hours for a service in an individual's individual program plan (IPP) and they want to keep their service hours the same.

Lanterman Act Eligibility and Service Appeals

Appeal: *If an individual disagrees with an action the regional center has taken*

Notice of Action (NOA)

The NOA will tell an individual:

- The decision and action the regional center plans to take.
- The reason for the decision.
- The facts and law or policy that support the decision.
- The date the decision will become effective.

The NOA also will:

- Tell the individual how to appeal
- Provide the individual a copy of the Appeal Request form.
- Include a copy of the individual's appeal rights.
- Explain how to get help with an appeal. The NOA will be in the individual's preferred language.

Lanterman Act Eligibility and Service Appeals

Notice of Action (continued)

The regional center will not send a NOA if the individual agrees with the regional center's decision that:

- Reduces, changes, or stops a service
- Denies a new service the individual wants

This is called mutual consent.

However, there are other reasons you may not receive a NOA. For example, your NOA might be sent to the wrong email or mailing address. Or the regional center may have made a mistake and did not send a NOA.

***Note: At anytime, if you disagree, you do not need a NOA to appeal.**



Mutual Consent

Written Mutual Consent exists when:

- You signed an Individual Program Plan (IPP) with the proposed change or denial in it. The IPP must be in your preferred language.
- You signed a list of services with the proposed change or denial in it. The list of services must be in your preferred language.
- You sent the regional center a written document, that says you agree with the decision to change or deny a service. The written document can be an email or letter or any other written document.
- Or regional center can establish a written mutual consent document by sending you a letter explaining why the regional center believes you agreed with their decision. This is called a **Good Faith Belief letter**.

Lanterman Act Eligibility and Service Appeals

The Good Faith Belief Letter

The Good Faith Belief letter must be sent within 5 business days of the day when regional center believes you agreed.

The Good Faith Belief letter must include:

- The facts showing why the regional center believes you agreed.
- The action the regional center plans to take.
- The reasons for the action.
- Information about the appeals process.
- Information about how to say you disagree.
- How to get other information about the appeals process, and
- An appeal request form.
- This letter must be in your preferred language.

***Note: If you tell the regional center you disagree, the regional center must send you a NOA.**

Lanterman Act Eligibility and Service Appeals

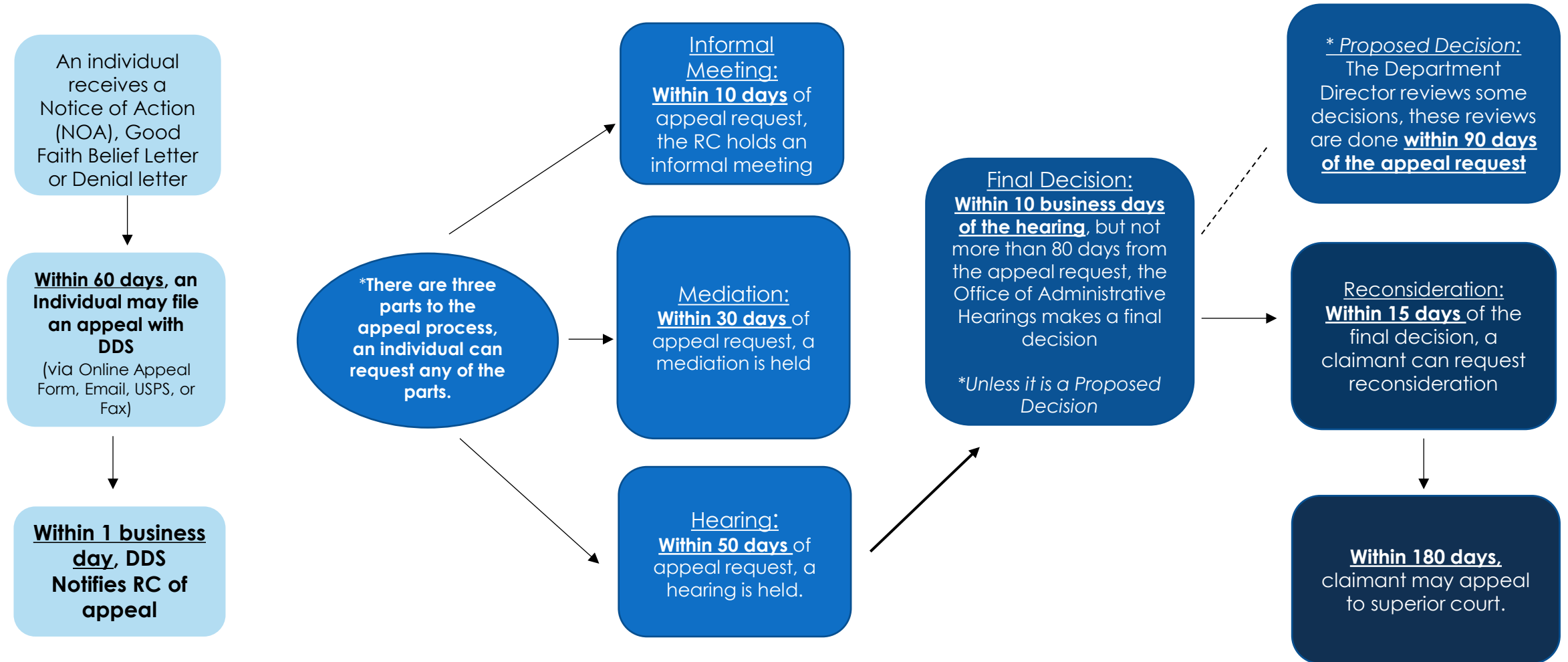
How to File an Appeal

Appeal Request Form

- Individual submits an [Appeal Request form \(DS 1821\)](#) to the Department:
 - Online [ACT CSM Service Catalog - Appeals Complaints Tracking](#)
 - Email: appealrequest@dds.ca.gov
 - Mail: 1215 O Street, MS 8-20
Sacramento, CA 95814
- The Department will send an email or letter stating that the individual's appeal request was received



Lanterman Act Eligibility and Service Appeals



Lanterman Act Eligibility and Service Appeals

Appeals Rights

During an appeal, individuals have rights to:

- “Adequate notice” in their preferred language
- Receive information by the method they choose
- Appeal the regional center’s proposed decision or action
- Keep their current services
- Access their records
- Decide their participation in the appeal process
- Choose a convenient time and place
- Help or support
- Request more time
- Request a different mediator or hearing officer
- Attend the informal meeting, mediation, and/or hearing
- Decide if the hearing is open to the public
- An impartial hearing
- An interpreter
- Provide the hearing officer with information
- Ask the regional center witnesses questions

Welfare and Institutions Code section 4701(a)

Lanterman Act Eligibility and Service Appeals

Appeals Process (continued)

Help or Support

- The individual has the right to have someone help or support them. It may be an attorney or another person. This person may be their authorized representative, or a friend or family member.
- If the individual agrees, their authorized representative will receive information about their appeal.

Deadlines for Completing Appeals

- Appeals must be finished **90 days after the Department receives your Appeal Request.**
- Deadlines may be extended if you or the regional center requests a continuance.

Welfare and Institutions Code section 4701(a)

Lanterman Act Eligibility and Service Appeals

After The Hearing Decision

Implementation of Hearing Decision

- The regional center has 30 days to implement the decision.
- If 30 days cannot be met, they must explain why and when the decision will be implemented.

Reconsideration

- May also include reconsideration of a denied request to change a Hearing Officer.
- A way to correct a clerical error or correct a mistake of fact or law in a hearing decision.

Aid Paid Pending

- When the individual receiving services wants to keep their current services during the appeal process.

Implementation of the Hearing Decision

Regional centers must implement the hearing decision no later than 30 days after the date of the final hearing decision. If the regional center can't implement the final hearing decision within 30 days, they must notify in writing, the person the hearing was about and any authorized representative and the Department of Developmental Services.

The regional center must explain:

- The specific exceptional circumstances that make it impossible to implement the decision within 30 days, and
- The date when the decision will be implemented.
- A regional center client or their authorized representative may ask DDS for help getting a hearing decision implemented. Informal agreements and Mediation agreements should also be implemented timely. If you need help getting your agreement or hearing decision implemented, you may email HearingImplementation@dds.ca.gov to ask DDS for help.

Lanterman Act Eligibility and Service Appeals

What is a Reconsideration?

After the hearing, you or the regional center may request “reconsideration.” Reconsideration is a way to correct a clerical error or correct a mistake of fact or law in a hearing decision. This also may include reconsideration of a denied request to disqualify a Hearing Officer. These are the only factors a reconsideration can address. You must ask for a reconsideration within 15 days of receiving the hearing decision.



Lanterman Act Eligibility and Service Appeals

Aid Paid Pending

What is Aid Paid Pending?

When you want to keep your current services during an appeal it is called, "aid paid pending."

- To keep your current services, the same during your appeal, your request must be postmarked or received by DDS no later than **30 days** from when you got your NOA and before the action takes place.
- All appeal requests must be postmarked or received by DDS no later than **60 days** from when you got your NOA. If your appeal request is filed 31 to 60 days from when you got your NOA, you will not get aid paid pending.

When does Aid Paid Pending end?

Current services will end:

- **15 days** after the final hearing decision unless the claimant or the regional center requested reconsideration , **OR**
- **15 days** after you received the reconsideration decision.

Additional Information and Resources

Information about complaints and appeals may also be found on the Department's website

Appeals and Complaints CA Department of Developmental Services

<https://www.dds.ca.gov/general/appeals-complaints-comments/>

Early Start Appeals Information Packet

https://www.dds.ca.gov/wp-content/uploads/2023/04/SIP_Early-Start_English.pdf

Citizen Complaints

https://www.dds.ca.gov/wp-content/uploads/2022/02/CitizenComplaintForm_CCA2007_2022.pdf

Whistleblower Complaints

<https://www.dds.ca.gov/general/appeals-complaints-comments/regional-center-or-vendor-contractor-whistleblower-complaints/>

Individual Rights Complaints and Appeals

<https://www.dds.ca.gov/general/appeals-complaints-comments/consumer-rights-complaint/>

Additional Information and Resources

Lanterman Act Eligibility & Service Appeals webpage

<https://www.dds.ca.gov/general/appeals-complaints-comments/fair-hearings-complaint-process/>

Lanterman Act Eligibility and Service Appeals Information Packet

<https://www.dds.ca.gov/wp-content/uploads/2023/03/Appeals-Info-Packet-Final-English.pdf>

Appeal Decision Implementation Delay Survey

<https://www.surveymonkey.com/r/HearinImpDelay-Consumers>

For more information on the Civil Rights Department and how to submit a complaint that may include allegations of retaliation, discrimination or bias to the California Department of Civil Rights:

<https://calcivilrights.ca.gov>

For more information on the Federal Civil Rights Department and how to submit a complaint:

<https://www.justice.gov>

If you need further assistance, you can contact the Office of the Ombudsperson at ombudsperson@dds.ca.gov or call (877) 658-9731.

THANK YOU!

