

OBJECTIVE 5: Due Process— The agencies will develop and operate constitutionally and federally-compliant fair hearing systems, and also will create and operate a centralized complaint routing and tracking system. Furthermore, the agencies will implement a process for reviewing compliance to applicable regulations, rules, and policies regarding due process requirements, and periodically report on the metrics of operating this system. The work of this objective will be led by IDHW in consultation with Idaho Deputy Attorney General. The work of this Objective does not apply to services provided to Class Members on an involuntary basis, such as services provided involuntarily to Class Members in the custody of the state or those services required by a Court Order. See Agreement paragraph 3 and Appendix B, third introductory paragraph. This entire process will be included in the Practice Manual and will be coordinated with the Quality Management, Improvement, and Accountability (QMIA) goals, plans, or results listed in Objective 7 to avoid a duplication of efforts with this Objective.

***Expected Results of Accomplishing Objective 5:** Due process mechanisms exist and afford Class Members' and their families' due process of law in exercising their rights under the Agreement and federal and state laws and regulations. Class Members' and their families' concerns or complaints relating to informing, access, service appropriateness, service effectiveness, quality, and accountability are timely and fairly heard and resolved. Due process procedural mechanisms and associated outcomes will be documented and tracked for compliance and continuous quality improvement.*

Strategies to Accomplish Objective 5

- A. Operate a standardized complaint and administrative hearing system beginning October 1, 2018.
 1. Develop and implement notices.
 - a. Review requirements for notice of agency action as found in current state or federal law, and in any state or federal law related to services/supports addressed in Objective 1.
 - b. Draft and finalize notice of agency action and any other relevant notice or document, to send to applicants or participants of services/supports addressed in Objective 1. Class Members and their families will be afforded procedural due process safeguards including proper notice consistent with the requirements of paragraph 45 of the Agreement. As part of this process, a standardized template or model notice will be developed and implemented.
 - c. Enter into contractual or other arrangements to implement sending the finalized notices or other documents to applicants and participants of services/supports addressed in Objective 1.

- d. Modify agencies' contracts, in instances where noticing activities are delegated to an agency contractor, to integrate the template or model notice and any other requirements discovered pursuant to the activities conducted in Strategy A, Task 1.b into contractor's system.
2. Finalize and implement a standardized complaint response system for services/supports addressed in Objective 1.
- a. Review current complaint response system(s) related to agency action.
 - b. Compare current complaint response system(s) related to agency action, to state and federal law and case law relevant to the services/supports addressed in Objective 1, and note any differences.
 - c. Develop and finalize the complaint response system for services/supports addressed in Objective 1, so they will be in compliance with current state law, and with any relevant state and federal law and paragraph 43 of the Agreement.
 - d. Coordinate the finalized complaint response system to work in conjunction with the administrative hearing rights and procedure.
 - e. Draft statutes and/or administrative rules as needed to implement the finalized complaint response system for services/supports addressed in Objective 1 and present such to the Idaho legislature for adoption.
 - f. Modify agencies' contracts in instances where complaint system activities are delegated to an agency contractor, to align and incorporate the contractor's functions into the standardized complaint response system.
3. Finalize and implement standardized administrative hearing rights and procedures for services/supports addressed in Objective 1.
- a. Adopt a uniform definition of agency action to include:
 - i. determination that the individual is not a Class Member;
 - ii. denial or limitation of a requested service or services;
 - iii. reduction, suspension, or termination of a currently authorized service;
 - iv. substitution of an alternative service for a prescribed service;
 - v. termination, suspension, or delay of services; or
 - vi. denial, in whole or in part, of payment for a service.
 - b. Develop and finalize the administrative hearing rights and procedures for services/supports addressed in Objective 1, so they will be in compliance with the Idaho Administrative Procedures Act, current state law, and with any relevant state and federal law and paragraphs 44, 45, and 46 of the Agreement.
 - c. Develop and finalize the administrative hearing rights and procedures for services/supports addressed in Objective 1, so the process is

- standardized across agencies. The Class Members and their families will be accorded a meaningful opportunity to be heard which includes a hearing, the right to present evidence and confront and cross-examine witnesses, prehearing disclosure of the evidence on which any decision was based, the right to have the assistance of an advocate or legal counsel to represent them and a timely decision.
- d. State agencies will coordinate the finalized administrative hearing rights and procedures so they work in conjunction with the finalized complaint response system developed in accordance with Strategy A, Task 2.
 - e. Draft statutes and/or administrative rules as needed to implement the finalized administrative hearing rights and procedure for services/supports addressed in Objective 1 and present such to the Idaho Legislature for adoption.
 - f. Develop a sufficient amount of contractual or other necessary arrangements with the Idaho Attorney General's Office (or private hearing officers as applicable), to allow processing of additional administrative hearing requests related to services/supports addressed in Objective 1.
4. Develop and implement informational materials.
- a. Identify and review federal requirements and media platform options to inform participants of rights related to complaints and administrative hearing rights and procedures related to services/supports addressed in Objective 1.
 - b. Determine depth of information needed for each identified media platform and any other mechanisms identified pursuant to Strategy A, Task 4.a. As part of this process, agencies will consult with and consider input from Plaintiffs through Young Mind Advocacy as representative for Plaintiffs.
 - c. Identify which media platforms for which to develop informational materials for rights relevant to complaints and administrative hearing rights and procedures related to services/supports addressed in Objective 1.
 - d. Develop and adopt informational materials that will be standardized to the extent possible across agencies.
 - e. Incorporate or implement the finalized informational materials into each media platform and provide such materials to Class Members and their families through other mechanisms identified pursuant to Strategy A, Task 4.b.

- f. Develop protocol and written guidance for agency staff, contractors and providers on informing potential and actual Class Members and their families about their due process rights.
- B. Conduct system tracking and reporting beginning October 1, 2018.
1. Review the current complaint tracking system(s).
 2. Compare current complaint tracking system(s), to standards for complaint tracking systems found in state or federal law relevant to services/supports addressed in Objective 1, and note any changes.
 3. Review current feedback processes regarding outcomes from administrative hearings.
 4. Develop and finalize a complaint tracking system in conformance with the Agreement, and in conformance with state or federal law.
 5. Compare current feedback processes regarding outcomes from administrative hearings, to standards for feedback processes from administrative hearings found in state or federal law relevant to services/supports addressed in Objective 1, and note any changes that are needed.
 6. Develop and finalize a feedback process regarding outcomes from administrative hearings in conformance with the Agreement, and in conformance with state or federal law.
 7. Implement current services/supports addressed in Objective 1 into finalized complaint tracking and administrative hearing feedback systems.
 8. Implement results of tracking and fair hearing feedback system into QMIA plan as outlined in Objective 7.
 9. Use finalized process to periodically report on compliance with the due process protocols as defined in the Agreement.