

OBJECTIVE E: Due Process

YES Defendant Agencies will develop and operate constitutionally and federally-compliant appeal and fair hearing systems, and also will create and operate a centralized complaint routing and tracking system that monitors and reports on individual and system compliance with due process and establishes a reliable process for resolving identified problems.

The work of this Objective will be led by IDHW in consultation with Idaho Deputy Attorneys General. A description of the appeals and fair hearing and centralized complaint systems, and links to rules 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 G to avoid a duplication of efforts with this Objective.

Expected Results of Accomplishing Objective E: 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. The complaint and due process procedural mechanisms and associated outcomes will be documented and tracked for compliance and continuous quality improvement.

Strategies to Accomplish Objective E

1. **Authoritative Due Process Protocol:** In order to ensure that Class Members are aware of and notified of their procedural due process rights – as guaranteed by the Constitution, federal and state law – and that those rights are provided to Class Members, counsel for the parties will develop and memorialize an “Authoritative Guidance for Due Process Requirements of State Fair Hearing System within the Context of YES” (hereinafter referred to as the “Authoritative YES Due Process Protocol”) by March 31, 2022.
 - a. The document will outline the notice requirements for agency actions and procedural due process requirements for state administrative hearings (also known as state fair hearings).
 - b. In developing the Authoritative Due Process Protocol, counsel will consider due process standards articulated in federal and state law, the Medicaid Act and regulations, United States Supreme Court and Idaho Supreme Court decisions, the Idaho Administrative Procedures Act and IDAPA rules, as well as the Settlement Agreement in this matter.
 - c. The Authoritative Due Process Protocol will be controlling.
 - d. Throughout the implementation period, the document will be reviewed annually for updates and any proposed changes must be agreed to by counsel for both parties.
2. **Notices of Agency Action:** A Due Process Work Group, led by IDHW and consisting of Idaho Deputy Attorneys General, Counsel for the Plaintiffs, Class Members, IDHW

employees, and other stakeholders meets regularly to assess Department and Department contractor notices.

- a. The Due Process Work Group evaluates standard IDHW and IDHW contractor notices against the Authoritative Due Process Protocol to ensure compliance with the notice and due process standards.
 - b. IDHW will require contractors to provide notices to IDHW for presentation to the Due Process Work Group and requires contractors to comply with the notice and due process standards.
3. State Fair Hearing Process. Appeals of agency actions are handled by the Fair Hearings Unit (FHU) of the Idaho Office of the Attorney General which is charged with operating a standardized administrative hearing system for IDHW.
 - a. The Authoritative Due Process Protocol sets out requirements for providing Class Members with due process rights leading up to, during, and after state fair hearings.
 - b. IDHW will provide the Authoritative Due Process Protocol to the Fair Hearings Unit of the Idaho Office of the Attorney General.
4. Informational Materials.
 - a. The Authoritative Due Process Protocol will be provided to the Communications work group, which is charged with development and implementation of Informational Materials. That work group will ensure the Practice Manual and all other informational materials are consistent with the Authoritative Due Process Protocol.
 - b. The Due Process Work Group will evaluate any revised informational materials against the Authoritative Due Process Protocol to ensure compliance with agreed upon standards.
5. Centralized Complaint System: IDHW will continue to operate a standardized complaint system to address and track complaints (or grievances).
 - a. IDHW, in coordination with Defendant Agencies, will continue to develop a centralized YES complaint system that provides an opportunity for community and Class Members to give their feedback, voice their concerns, and contribute to quality improvement efforts at every level of the YES SoC. Defendant Agencies will use this information to “provide effective, equitable, understandable, and respectful quality care and services that are responsive to diverse cultural health beliefs and practices, preferred languages, health literacy, and other communication needs.”

- b. IDHW will assess each Defendant Agency's complaint solicitation and response process by considering each agency's provision of the following on an ongoing basis:
 - i. Access
 - ii. Established Practices
 - iii. Reporting Time Limit
 - iv. Time for Acknowledgment of Complaint
 - v. Resolution Time Frame
 - vi. Informational Materials
 - vii. Letters/Forms
 - viii. Interpreter/Translator availability
 - c. No later than six (6) months following the Service Start Date of the new IBHP Contract, IDHW will have a centralized complaint tracking and reporting process in place that:
 - i. Provides the QMIA Council with information and authority to review all formal complaints for trends and identification of YES quality issues;
 - ii. Articulates and follows best practices for complaints management of YES Services, and periodically audits system performance;
 - iii. Provides an impartial process for responding to and resolving complaints, and establishes procedures to minimize the risk of retaliation against complainants or Class Members; and
 - iv. Tracks and reports complaints related to the YES SoC for all Defendant Agencies.
 - d. Establish an impartial informal process for youth and/or their families to expeditiously resolve concerns or complaints regarding the CFT process or its membership.
6. The provisions of this Objective may not apply to services provided to Class Members on an involuntary basis, such as services provided involuntarily to Class Members detained by the state or those services required by a Court Order.
7. Contractors: IDHW will ensure that its contracts with YES Providers and others:
- a. Require alignment with and incorporation of the due process standards described in the Authoritative Due Process Protocol.
 - b. Require alignment with and incorporation of the standardized complaint response system.

OBJECTIVE F: Governance and Problem-Solving

Establish the Interagency Governance Team (IGT) to collaboratively coordinate and oversee implementation of the Agreement. Manage disputes to minimize delay or disruption in successful implementation of the Agreement.

Expected Results of Accomplishing Objective F: Governance group provides leadership, problem-solving, information sharing, cooperation among Defendant Agencies, transparent decision-making, and accountability for meeting the Agreement outcomes. Problems with implementation are surfaced and resolved expeditiously and by consensus to the greatest extent possible.

Strategies to accomplish Objective F:

1. Governance. The IGT will:
 - a. Continue to:
 - i. Collaboratively coordinate and oversee the implementation of the court approved Agreement in the *Jeff D.* class action lawsuit;
 - ii. Advise the parties to the Agreement on implementation;
 - iii. Serve as a vehicle for communication among parties;
 - iv. Identify and remove barriers to implementation and compliance; and
 - v. Monitor implementation and compliance with the Agreement.
 - b. Use its Strategic Planning Process to set IGT priorities for the remaining implementation period. Develop a strategy or plan for communication, and collaboration during the sustained performance period of the Agreement before the implementation period ends. The strategy or plan will set forth roles and responsibilities of the IGT, and relationships with IDHW, other child-serving entities, and children's behavioral health stakeholders.
 - c. Secure staffing and funding resources from IDHW necessary to do its work no later than July 1, 2022. Administrator(s) for IDHW will confirm in writing to Plaintiffs that this provision has been met.