

## Complaints Against HICAP

### Purpose

To establish a process for handling complaints against the Health Insurance Counseling and Advocacy Program (HICAP), its staff, and volunteers. It is possible that complaints will be received from clients, insurance agents, and/or other individuals who may directly or indirectly be affected by HICAP actions and activities.

### Policy

Every attempt should be made to resolve complaints locally at the Program level. Complaints which can be resolved simply and quickly should be handled informally either by telephone or personal contact with the Program Manager. A complaint which cannot be resolved locally must be submitted in writing to initiate the formal complaint process. This section defines the **formal complaint process**.

### Procedure

- Complaint Against HICAP Definition – a complaint is an expression of dissatisfaction, resentment, discontent, or grievance. Any formal or informal complaint registered about HICAP services by a member of the public is a complaint against HICAP. All complaints should be given serious and immediate attention.
- Complaints against HICAP may be generated by:
  - A client or their representative who is dissatisfied with access to services or the quality of service received by the HICAP;
  - Another department, program, agency, or organization which is dissatisfied with the activities of the HICAP;
  - An insurance agent who feels the counseling services provided by HICAP have impacted his/her business activities in a negative or unfair manner; or
  - A HICAP counselor or counselor applicant who has a complaint regarding the local HICAP.
- A client or his/her representative may file a verbal or written complaint against HICAP, an employee, or volunteer for the following reasons:
  - Amount or duration of HICAP services
  - Denial or discontinuation of HICAP services
  - Dissatisfaction with the service provided or with the HICAP service provider or employee
  - Failure of HICAP to comply with any of the program requirements
- Complaints should be filed with the Program Manager within 90 days of occurrence. The Program Manager shall review the complaint and transmit his/her findings(s) to the complainant within 30 days of receiving the complaint. The complainant may appeal to the local Area Agency on Aging (AAA), if dissatisfied with the finding(s) of the HICAP

Program Manager. Such appeal shall follow the grievance process of the Orange County AAA, included as Exhibit A.

- There may be occasions when the Program Manager is certain a complaint is a form of harassment because of an action taken by HICAP. If this occurs, the Council on Aging - Southern California and AAA will be immediately notified. The California Department of Aging (CDA) will provide technical assistance as needed.
- HICAP shall abide by all confidentiality requirements while responding to a complaint against HICAP.
- All complaints, investigations, findings, and responses shall be filed and maintained by the local HICAP and AAA offices. Files shall be maintained until an audit or audit resolution has occurred within the AAA.

## OFFICE ON AGING POLICIES AND PROCEDURES

ORANGE COUNTY OFFICE ON AGING (OoA)  
GRIEVANCE PROCEDURES  
FOR  
COMPLAINTS AGAINST OLDER AMERICANS ACT, OLDER CALIFORNIANS  
ACT, OR OTHER OoA PROGRAMS AND SERVICES

Upon receipt of complaints regarding Older Americans Act programs, Older Californians Act programs, or other services administered by OoA that have not been filed with the contracted program Project Director, the OoA will refer the complaint to the contract Project Director for resolution.

**I. CONTRACTOR- First Level of Grievance Resolution**

1. The types of complaints subject to resolution by contractor's grievance process include, but are not limited to, any or all of the following;
  - (a) Accessibility of services to individuals with disabilities;
  - (b) Amount or duration of service;
  - (c) Denial or discontinuance of service; and
  - (d) Dissatisfaction with the service being provided or with contractor. If the complaint involves an issue of professional conduct that is under the jurisdiction of another entity, such as the California Medical Board or the State Bar Association, contractor shall refer the complainant to the proper entity.
2. Whenever any person or group of persons wishes to complain against any service received from an OoA contractor, efforts should be made at the contractor's level to resolve complaints as agreed upon by the OoA and contractor. (Contractor's grievance procedures on file at OoA)
3. If the contractor's resolution is unacceptable to the complainant, the contractor shall schedule a review of the complaint by a third party panel of impartial experts and professionals not affiliated with the contractor.
4. If after the review by the third party panel the complaint has not been resolved, the contractor shall inform the complainant of their right to file a protest of findings with the OoA Executive Director.

**II. OoA INFORMAL ADMINISTRATIVE REVIEW – Second Level of Grievance Resolution**

1. This shall be considered the first level of complaint resolution when the OoA is the service provider.
2. If contractor's resolution is unacceptable to the complainant, a protest of findings shall be filed with the OoA Director within 30 days from the time the complainant receives the contractor's report of findings.

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3. All complaints must be in writing to the OoA Director. If a complainant cannot submit a written complaint, the OoA shall take all of the following actions:
  - (a) Verbally accept the complaint.
  - (b) Prepare a written complaint.
  - (c) Have the complainant sign the written complaint, although not necessarily prior to the commencement of the informal administrative review.
4. Complaints shall include all of the following information:
  - (a) The name, mailing address and telephone number, if any, of the complainant or person authorized to act on behalf of the complainant.
  - (b) Type of service provided and name of service provider involved.
  - (c) The names of individuals involved.
  - (d) The issue of concern or dispute.
  - (e) The date, time, and place that the issue of concern occurred.
  - (f) The name of witnesses, if any.
5. The OoA shall inform complainant and contractor that an informal administrative review of the complaint and protest of findings will be completed within 45 days of the receipt of the protest of findings.
6. The OoA may contact the complainant and contractor in order to informally resolve the issues with the parties involved.
7. Upon completion of the impartial investigation of the complaint the OoA shall distribute a report of the decision in writing to all parties involved. Notification shall include advising the complainant of his/her right to an administrative hearing if dissatisfied with the results of the review.

**III. ADMINISTRATIVE HEARING- Final Grievance Resolution**

1. Any complainant dissatisfied with the results of the OoA informal administrative review shall have thirty (30) days from the receipt of the report in which to request a hearing to present his/her complaint orally before an impartial panel. The request shall be made either orally or in writing to the director of the OoA.
2. The notification of the hearing and the conduct of the hearing shall meet all requirements of the California Code of Regulations.
3. The holding of the administrative hearing shall be no later than 45 days from the OoA receipt of the request for hearing.
3. The OoA shall notify the complainant and the other parties involved of all of the following:
  - (a) The date, time and location of the administrative hearing.
  - (b) The complainant's and other parties' right to be present at the hearing and/or to have another person act on their behalf, including the right to have legal counsel present.

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- (c) The hearing will be recorded verbatim, either electronically or stenographically.
  - (d) Technical rules of evidence and procedure shall not apply to the hearing.
  - (e) All persons testifying at the hearing shall be placed under oath or affirmation.
4. The hearing shall be:
- (a) Conducted by an impartial hearing panel which shall be made up of at least one member of the Senior Citizens Advisory Council, one member of the community knowledgeable about older adult services, and include other relevant panel members.
  - (b) Conducted in an informal manner with testimony being restricted to the issues requiring resolution. All parties shall have the right to all of the following:
    - i. Be present at the hearing.
    - ii. Present evidence and witnesses.
    - iii. Examine witnesses and other sources of relevant information and evidence.
5. The hearing panel shall submit a proposed decision based upon all relevant evidence presented and in consideration of the policies, procedures, regulations and laws governing the program no later than thirty (30) days after the date the hearing was held.
6. The proposed decision shall contain at least the following:
- (a) A description of each issue.
  - (b) A statement as to whether the complaint was upheld or denied. In the case of complaints that are upheld, an explanation of the remedy for the complaint shall also be included.
  - (c) A citation of applicable laws and regulations.
7. The proposed decision shall be forwarded to one of the following:
- (a) The Director of the OoA, unless the complaint is against the Director.
  - (b) The Chairperson of the Board of Supervisors when the complaint is against the Director of the OoA.
8. No later than thirty (30) days after receipt of the proposed decision, the Director or the Chairperson shall either:
- (a) Adopt the proposed decision as the final decision.
  - (b) Write a new final decision.
9. The decision shall be:
- (a) Immediately transmitted to the parties involved.
  - (b) Final and not subject to appeal.

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10. The Director of the OoA or the Chairperson of the Board of Supervisors shall insure that within 21 days after receipt of the final decision a corrective action plan is submitted by contractor, if applicable. The OoA Director or Chairperson of the Board of Supervisors will monitor to assure that the plan is implemented.
11. Nothing in this procedure shall be construed as prohibiting older individuals from seeking other available remedies, such as presenting their complaints at an open meeting of the OoA's governing body, the Board of Supervisors.