PROVIDER INSTRUCTIONS DEFICIENCY DISPUTE PROCESS

Office for People With Developmental Disabilities
Division of Quality Improvement
Implemented: October 03, 2022, Revision April 2024, Revision February 2026

Process for Formal Review of DQI Survey Findings and Activities

OPWDD strives for consistency and transparency in its survey processes and oversight activities and expects these activities to be conducted consistently and respectfully by its employees. Committed to these principles, the Division of Quality Improvement (DQI) is implementing a process so that provider agencies will contact DQI management with questions and concerns regarding surveys, oversight activities, and experiences with DQI staff, with confidence that the concerns will be appropriately reviewed and addressed and that DQI will implement quality improvement strategies where there are trends.

QUESTIONS and CLARIFICATION of SURVEY FINDINGS

The DQI Survey protocols and guidance on the criteria that surveyors consider in the determination of whether a survey standard is met or not met is available on the OPWDD website at: **https://opwdd.ny.gov/providers/prepare-your-survey.** Providers should be using the protocols and the accompanying guidance for their own self-assessment and quality improvement activities. **Any agency staff member may ask questions regarding OPWDD's surveys/reviews and/or survey process:**

- Questions are welcome at any time. The most effective and expected approach is to discuss findings with the surveyor/survey team while the review/survey is occurring and during the exit conference. If there are additional questions upon review of an Exit Conference Form (ECF) or Statement of Deficiencies (SOD), a provider agency staff member should contact the DQI survey team or the Area Director assigned oversight for your agency/program, via phone or email. If you have a question regarding the dispute process, please email **quality@opwdd.ny.gov.**
- Communications between the agency and DQI is essential to the process and provides the opportunity for both parties to collaboratively discuss survey findings and share further information for learning purposes to foster quality improvement.
- *Exit Conference Form Deficiencies:* ***The process outlined below is not applicable to ECF level deficiencies.*** Agency concerns with ECF level deficiencies must be addressed and resolved directly between the provider and the **BPC Area Director or the CQI CCO Quality Review Team Director.**
- The dispute process is intended to assess the deficient practice, not the level of deficiency issued. The committee does not review disputes that indicate a SOD should have been an ECF. For those conversations, discuss any concerns with the persons identified on the SOD issuance letter.
- *Statement of Deficiencies (SOD):* If the agency wishes to dispute a citation that was issued to the agency on a SOD, the agency should follow the process below.

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Provider Process to Dispute Survey Findings

When a Provider Agency disagrees with a citation issued on a Statement of Deficiency, the Agency must communicate with OPWDD-DQI via the following process:

NOTE: This process does not include Exit Conference level deficiencies (ECF), Intermediate Care Facility citations or for Immediate Jeopardy Deficiencies issued during the completion of a survey/review.

1. The agency Executive Director must be the agency representative to communicate the disagreement and initiate the deficiency dispute process. The Executive Director, in this process, also applies to executives titled CEO or DDSO Director.

2. **The dispute request must be submitted in writing via an email to quality@opwdd.ny.gov. An email to this centralized mailbox is the ONLY acceptable method for an agency to submit a deficiency dispute request.**

3. Email subject line must state, “Secure: Deficiency Dispute”.

4. The email must be sent within:
    a. 5 business days by (COB 5:00pm EST) of receipt of the Statement of Deficiencies, or
    b. 3 business days (COB 5:00pm EST) of receipt of a 45-day, Adverse Action, Statement of Deficiencies.

5. The communication must come from the Executive Director’s email account. Disputed deficiencies will not be reviewed if the request is received from other agency personnel.

6. When disputing a survey/review deficiency, the following information must be provided for DQI review by using the required ***Provider Report of Deficiency Dispute F*orm.**

    a. Agency Legal Name
    b. Date of Review/Survey as appears on Statement of Deficiency (SOD)
    c. Type of review/protocol completed (Agency, Person Centered, or Site)
    d. Site/Program/Service/Individual reviewed/surveyed, including Program ID/Operating Certificate # of service; include address if it’s a certified site
    e. Date Statement of Deficiencies was received electronically by the agency
    f. *Although it is optional, DQI strongly recommends that agencies discuss concerns with the BPC Survey Team and Area Director (AD) or CQI CCO Quality Review Team and Director prior to submitting a deficiency dispute.* If the agency discussed issues/concerns with DQI (BPC or CQI) prior to

g. submitting the dispute request, record the name(s) of the personnel and the date that the agency communicated with DQI on the form.
h. General Protocol Topic Area of the deficiency being disputed (e.g., Health Care, Service Planning, etc.)
i. Specific Deficiency Standard(s) disputed
j. Brief narrative describing the evidence supporting the agency's conclusion that the deficiency is not warranted or is incorrect. The conclusion must be based on the documentary evidence that was available to surveyors during the completion of the survey/review. Documentation to support the agency's rationale for the dispute must be submitted with the dispute form. Supporting documentation must have been in existence and available to the survey team at the time of the survey and cannot be new information created after the survey. Documentation created after the survey or documentation not available to surveyors during the survey will not be considered. Such documentation may include, but is not limited to, any information applicable to the deficiency being disputed such as: a Plan of Protective Oversight, Life Plan, Behavior Support Plan, staff training records, staffing schedule, Fire Evacuation Plan etc.
k. Executive Director Name and Signature
l. Executive Director Telephone number
m. Executive Director Email address

7. A copy of the SOD issued to the agency must be submitted with the deficiency dispute form along with the agency's supporting documentation.

8. The deficiency dispute must be submitted via the required process described above. OPWDD will ONLY review deficiency disputes that are submitted by the required process.

9. Unless otherwise informed by the DQI Unit Director, a dispute will not extend the date in which the agency's written Plan of Corrective Action (POCA) is due. The POCA must be received by OPWDD within the time frame identified in the cover letter accompanying the Statement of Deficiencies.

10. Agency is responsible for appropriately addressing all remaining undisputed deficiencies in the agency's POCA, regardless of the panel's determination for a disputed deficiency, within the required timeframe.

11. If the panel determines that the disputed deficiency will remain, the agency must address the deficiency in an amended POCA, which is due within 3 business days after the agency is informed of the panel's determination.

12. If the agency disagrees with the panel's determination, the agency may request a second level review within 5 business days of receipt of the panel's decision. Requests must be made via the required process detailed in #1 and #2 above.

DQI Actions Upon Receipt of Deficiency Dispute Request

1. The dispute is reviewed by a panel of DQI Leadership personnel.

    a. The final determination is communicated to the agency Executive Director via email typically within 10-14 business days of receipt of the dispute request.

2. The email includes the following narrative and one of the following responses:

    Dear Executive Director:

    Your request for reconsideration regarding a deficiency issued to your agency has been completed. The outcome of this review is as follows:

    a. *The deficiency remains based on review of the available evidence and no further action will be taken.*
    b. *The deficiency remains but will be revised.*
    c. *The deficiency will be rescinded based on review of the available evidence.*

The rationale for the decision is provided in the email correspondence.

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DQI Area Assignments and Area Office Phone Numbers

Schenectady Office

North Area: Colette Fifield - Area Director Email:

colette.m.fifield@opwdd.ny.gov

Phone: (518) 388-1441

Counties served: Albany, Broome, Clinton, Delaware, Essex, Franklin, Fulton, Herkimer (V.O.), Montgomery, Otsego, Rensselaer, Saratoga, Schenectady, Schoharie, St. Lawrence, Tioga (S.O.), Tompkins (S.O.), Warren, Washington

South Area: Dianne Church - Area Director Email:

dianne.e.church@opwdd.ny.gov

Phone: (518) 388-1092

Counties served: Broome, Chenango, Columbia, Delaware, Dutchess, Greene, Orange, Otsego, Putnam, Rockland, Sullivan, Ulster

NYC Office

Area B: Lisa Jones-Belkin - Area Director Email:

Lisa.C.Jones@opwdd.ny.gov

Phone: 646-766-3467

Counties served: Bronx, New York (Manhattan), Westchester

Area X: Jonathan Reid - Area Director Email:

jonathan.m.reid@opwdd.ny.gov

Phone: 646-766-3467

Counties served: Brooklyn, Staten Island (Richmond)

Newark Office

Central Area: Denise Truchon-Borek - Area Director Email:

denise.truchon-borek@opwdd.ny.gov

Phone: (315) 331-8646

Counties served: Cayuga, Chemung, Cortland, Herkimer (S.O.), Lewis, Livingston, Madison, Oneida, Onondaga, Ontario, Oswego, Seneca, Schuyler, Steuben, Tompkins (V.O.), Wayne, Wyoming (V.O.), Yates

West Area: Raymond Lincoln- Area Director Email: Raymond.s.lincoln@opwdd.ny.gov

Phone: (315) 331-8646

Counties served: Allegany, Cattaraugus, Chautauqua, Erie, Genesee, Monroe, Niagara,
Orleans, Wyoming (S.O.)

NYC Office

Area A: Therese Chevannes-Area Director Email:

therese.o.chevannes@opwdd.ny.gov Phone:

(646) 766-3467

Counties served: Nassau, Suffolk

Area D – Carmela Fiore - Area Director Email:

Carmela.R.Fiore@opwdd.ny.gov

Phone: 646-766-3467

Counties served: Varied, includes programs from all 5 boroughs, Westchester, and Long Island

CCO Quality Review Team Director - Jennah Turner – Email:

Jennah.M.Turner@opwdd.ny.gov

Phone: 607-644-4133