

**Guide to the
Persons with Developmental Disabilities (PDD)
Appeals Process**

Alberta Seniors & Community Supports

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Preamble

The Ministry of Seniors and Community Supports is committed to ensuring that adults with developmental disabilities are assured of a fair, unbiased process through which they can appeal a decision of a PDD Community Board and that issues are heard, understood and resolved fairly.

It is in the interest of everyone to work through issues collaboratively. It is also recognized that service provision, regional differences, and unique individual circumstances can become very complex.

The Appeal process for PDD is established through the *Persons with Developmental Disabilities Community Governance Act*. The Act and its regulations set out the rules by which an appeal may be submitted, the make-up of the Appeal Panel, the decision making powers of the Appeal Panel, and the designated authority to make decisions relative to the PDD appeals process.

The following manual describes the appeals process to guide parties and members of the Appeal Panel as they fulfill their roles and responsibilities in this process.

I. General Information

1. Introduction

The Appeal Panel is established under Section 15 of the *Persons with Developmental Disabilities Community Governance Act*. The Appeal process provides an unbiased avenue for individuals, or their guardians or representatives, to resolve disputes with a PDD Community Board. Decisions by a Community Board may be appealed by an individual who is receiving services or has applied to receive services by means of funding or resources allocated by a Community Board and has been affected by a decision made by a Community Board. A notice of appeal must be filed within 30 days of an individual being notified of a decision and the right to appeal that decision.

2. Goals

The appeals process has three goals:

1. To encourage resolution of disputes at the regional level.
2. To provide efficient, effective and timely problem solving.
3. To provide a fair, unbiased and user-friendly appeal process.

3. Principles

The following principles are the foundation for dispute management and resolution processes:

- Individuals will have access to a transparent, efficient and user-friendly dispute resolution and appeal process.
- There is a commitment to empower people at the regional level to resolve conflict wherever possible.
- People receiving or applying for services have a right to be consulted prior to any significant decisions affecting them.
- Everyone involved will be informed of their rights in a clear and concise way, including their right to appeal.
- Decision makers will seek and assess feedback after significant decisions, as part of a commitment to continual learning.
- The necessary training and resources will be provided to those involved in managing and resolving disputes.

4. Regional Resolution of Issues

Disputes will be resolved at the Community Board or regional level wherever possible. Individuals are encouraged to access the Community Board's dispute resolution process before filing an appeal. Decisions made by a service agency cannot be appealed through this process.

Once an appeal is filed, it is the responsibility of the Community Board to ensure that individuals are given full information on a Community Board's dispute resolution

process and the Ministry's Appeal Process. The Community Board will also ensure that an individual is given adequate support to access both dispute resolution and appeal processes.

5. Scope of the Manual

This manual outlines the principles, policies and legislative parameters governing the PDD appeals process.

II. Definitions

“Act” means the *Persons With Developmental Disabilities Community Governance Act*.

“Adjourn” means that the Appeal Hearing has concluded unless the Appeal Panel specifically requests additional information or sets other dates in order to make its decision.

“Appeal Hearing” means the formal process through which the Appeal Panel hears evidence respecting a specific issue or issues in order to make a decision.

“Appeal Panel” means three individuals who have been designated by the Minister to hear and decide an appeal.

“Appeal Panel Member” means an individual designated by the Minister to sit on an appeal panel to hear a specific matter.

“Appeal Secretariat” is the administrative office responsible for handling appeals and supporting the appeal hearing process.

“Appellant” means an adult, and/or the adult’s personal representative(s), who has filed a notice of appeal under section 15 of the Act.

“Chair” means the Chair of the Appeal Panel, as designated by the Minister.

“Community Board Representative” means a staff person designated by the community board to represent it at an Appeal.

“Manager” means the Manager of the Appeal Secretariat.

“Minister” means the Minister of Alberta Seniors and Community Supports.

“Notice of Appeal” means the form that is used to submit an appeal to the Minister.

“Party” means a person whose services or benefits will be varied or affected by the exercise of the Panel’s power (i.e., the Appellant or the Community Board).

“Recess” means that the Appeal Hearing has taken a break for a specified period of time, to provide for a rest, continue the Hearing at another date and/or time, and/or to allow for further information to be made available by either of the Parties, or any other reason that may be determined by the Appeal Panel.

“Service Provider/Service Agency” means a non-governmental agency that receives funding from a PDD Community Board to provide services and supports directly to individuals with a developmental disability.

III. Managing the Appeals Process

The Manager of the Appeal Secretariat is responsible to manage the appeals process on behalf of the Ministry of Seniors and Community Supports. In carrying out this responsibility, the Manager is responsible to ensure that the process carried out for each and every appeal meets legislative requirements and established policies and procedures.

The Manager is delegated by the Minister to make certain decision with respect to the processing of appeals. The Manager will:

- manage the entire appeals process, including working with appellants, Community Boards, and Appeal Panel members to ensure smooth communication and processing of the Notice of Appeal;
- select Appeal Panel members in consultation with the Chair for each appeal hearing. Selection will be based on availability and determination that there is no bias related to the matter before the Panel;
- manage contracts with qualified mediators to undertake formal mediation where recommended;
- review the Notice of Appeal for compliance with legislative requirements;
- provide advice and support to Appeal Panel members participating in the appeal process;
- work with the Chair to establish procedures, develop tools and resources, etc. to support the appeals process and Appeal Panel members;
- provide information to Appellants and Community Boards during the appeals process and in preparation for the appeal hearing;
- provide, facilitate and/or coordinate ongoing training for Appeal Panels;
- support the Appeal Panel during the appeal hearing;
- provide administrative support to the Appeal Panel following the Appeal Panel's decision making process;
- advise the Chair of issues that arise.

IV. Notice of Appeal

1. Who Can Appeal

Section 15 of the Act defines those persons who may appeal decisions to the Ministry. It says:

“(2) An individual who is receiving services or has applied to receive services by means of funding or resources allocated by a Community Board and is affected by a decision of that Community Board respecting those services may appeal that decision if the decision is not exempt from appeal under the regulations.

(3) A request for an appeal must be made in writing to an appeal panel within 30 days from when the individual was notified of the decision and the right to appeal.

This means an adult must meet two conditions to make an appeal. The adult must:

1. Be receiving services or must have applied to receive services by means of funding allocated by a community board; and
2. Be affected by a decision of that community board.

An appeal is filed by completing the “Notice of Appeal” form and submitting it to the Appeal Secretariat.

The Act’s regulations outlines matters that are exempt from appeal. The following decisions of a PDD Community Board cannot be appealed:

- (a) refusal to enter into a contract with a service provider;
- (b) termination of a contract with a service provider, or
- (c) amendment of a contract with a service provider.

2. What Happens When an Appeal is Filed

On receipt of a notice of appeal, the Minister (or designate) reviews it to determine if the notice of appeal has been properly completed and if the matter can be appealed.

Once the notice of appeal has been reviewed, the Minister (or designate) may, with the agreement of the appellant, attempt to resolve the matter through the dispute resolution process of the Community Board. If the matter is not resolved at this level, the matter is referred to a person designated to mediate and who will attempt to resolve the matter.

The Minister (or designate) may extend the time for requesting an appeal if the Minister is satisfied that there are apparent grounds of appeal and that there is a reasonable explanation for the delay.

A decision made by an agency under contract with a Community Board is not a decision which can be appealed under this process.

3. Dismissal of Applications/Appeals

The Appeal Panel has the power to refuse an appeal after hearing evidence if:

- the Appeal Panel or the Secretariat has determined that the Appellant does not have standing;
- the Appeal Panel does not have jurisdiction; or,
- the Appeal Panel considers that the appeal is not properly before it.

If the Appeal Panel refuses an appeal, the Appeal Panel will state its reasons in writing to the Appellant as soon as practicable after the decision is made.

4. Amendments to Notice of Appeal

A Notice of Appeal may be amended if information is brought in writing to the attention of the Appeal Secretariat prior to a Hearing. If a date for the Hearing has been set it may need to be postponed in order to ensure both the Regional Board and the Appellant have been notified of the amendment so that they may prepare accordingly.

5. Abandonment/Withdrawal of Notice of Appeal

Appellants may abandon or withdraw an appeal at any time. If an appeal is abandoned or withdrawn, the file will be closed.

V. Dispute Resolution & Mediation

1. Dispute Resolution

Section 4(2) of the appeals regulation states that “After the Minister determines that the notice of appeal is a proper notice of appeal, the Minister may, with the agreement of the appellant, attempt to resolve the matter including through a dispute resolution process of the Community Board and, if the matter is not resolved, refer the matter to a person designated to mediate and attempt to resolve the matter.”

2. Mediation

Subsection 15(3) of the Act allows for mediation to occur if both parties agree to it. Mediation is pursued when both parties feel that the matter may be resolved without an appeal hearing. Mediation may be used for any issue that has been properly appealed.

The Appeal Secretariat, in consultation with the Chair, will identify a mediator who is appropriately qualified and experienced to undertake this process. A mediator may be an individual who has been appointed by the Minister to participate on appeal panels or someone else available locally.

The process for mediation is not dictated by the Secretariat or the Appeal Panel, but left to the mediator and the parties.

When the mediation process is finished, the mediator will immediately submit written notification advising that mediation was or was not successful. If successful, the Notice of Appeal is resolved. If unsuccessful, the matter proceeds to a formal Appeal Hearing.

VI. Appeal Hearing

1. Preparing for the Appeal Hearing

a) Notice of Hearing & Submissions

The Appellant and the Community Board must be given adequate written notice of the hearing. A Notice of Hearing letter will be provided to both parties far enough in advance so that the parties and anyone assisting them can prepare for the hearing.

Notice may also be given to any other persons who may be affected by the Appeal Panel's decision.

Notices will be in writing and state the date, time, place and purpose of the Hearing, as well as the individuals who will be hearing the appeal.

The Appeal Panel will receive information (submissions) about the dispute one week prior to the Appeal Hearing, allowing panel members to review the matter and consider the information provided by each party.

Each party will be required to submit written documentation to the Manager two weeks in advance of the Appeal Hearing. The Manager will then distribute this information to the Appeal Panel members to read and prepare for the hearing. This information will also be distributed to both parties to the Appeal.

b) Communication Between Appeal Panel Members and Other Parties

The Appeal Panel members will have no contact with the Appellant or any other party before or after the Appeal Hearing.

c) Adjournments

The Appeal Panel has the power to adjourn any matter that is set down before it.

d) Location of the Hearing

The hearing will be conducted in the region where the Appellant resides, and wherever possible, in a neutral and accessible location.

e) Written Submissions

The Appeal Panel will receive written submissions prior to the hearing. All written information is to be submitted two weeks before the hearing. Additional information (verbal, visual and written) may be submitted during the hearing but notice should be given to the Panel and other parties in advance.

2. Conducting the Appeal Hearing

a) Authority of the Appeal Panel

The Appeal Panel is responsible for its own procedures and has control over hearings.

b) Jurisdiction of the Appeal Panel

The Appeal Panel is limited to hearing the issue at hand, that is, the issue outlined in the Notice of Appeal, and nothing else.

c) Conduct of the Panel

In general terms, the goals of the Appeal Panel in conducting an Appeal Hearing are the following:

- Be, and appear to be, impartial, unbiased and objective.
- Provide a full and fair hearing to all parties. This includes the obligation to allow parties to present all relevant information, and to respond to questions information given by other parties.
- Obtain sufficient information to allow the Appeal Panel to make a thorough and informed decision.

An Appeal Panel member, who is aware of any circumstance that might lead a reasonable person to think that the Panel member might not deal with any matter before the Panel in an impartial way, must raise the issue with the Hearing Chair. The Hearing Chair must then raise the issue with the Parties at the Hearing. The Hearing Chair will then make a determination as to whether the Panel member may continue to be a member of the panel.

All attending Appeal Panel members will be present throughout the entire Hearing and decision making process.

d) Members of the Appeal Panel

The Appeal Panel consists of three individuals from a group of potential panel members, who have been appointed by the Minister. The three individuals selected to sit on an Appeal Panel will be unbiased, and not connected with the Appellant or the Community Board.

- Appeal Panel members designated to hear the appeal must not have been involved in, nor have had access to information about the dispute, through other means about the issue, or have a personal or business relationship with one of the parties or their witnesses. In such instances, the conflict will be declared and the panel member will remove him/herself from the panel.

e) Hearing Chair

The Minister has the authority to designate a Chair of Appeal Hearings. The Chair may further delegate other Appeal Panel members to assist with chairing appeal hearings. The Chair will designate an alternate on a case-by-case basis.

f) Hearing Participants

Appellants can be accompanied by family members, friends, or other interested people. If someone speaks on behalf of the Appellant, the Appeal Panel will normally make sure that it knows what that person's relationship is to the Appellant.

If the Appellant or the guardian is not able to attend the hearing, a written letter is to be provided to the Appeal Panel giving permission for another representative to speak on the appellant's behalf.

g) Closed Hearing

Because of the confidential and personal nature of appeal hearings, the hearings are not open to the public. Parties to the appeal may decide who attends the hearing with them or on their behalf.

h) Opportunity to be Heard

The Appeal Panel will give all the Parties an opportunity to be heard.

i) Opening Statements

Unless the Appeal Panel directs otherwise, at the beginning of every hearing each party may give a brief opening statement describing the issues that will be addressed at the hearing.

j) Order of Presentation

Unless the Appeal Panel directs otherwise, the evidence at a hearing may be presented by the parties in the following order and based on the following schedule:

1. The Hearing Chair will introduce the members of the Panel, and all other parties present.
2. The Hearing Chair will advise the parties that the hearing will be closed to the public.
3. The Hearing Chair will review the jurisdiction of the panel, and identify the decision being appealed. It is essential at the beginning of the hearing that the Panel members and the parties have a clear understanding of the decision under appeal.
4. The Hearing Chair will briefly identify the procedure that will be followed in the hearing.
5. Appellants will be invited to present their case first. At the end of each presentation, the other party will be given the right to cross-examine or ask

- questions. After that questioning, Panel members will then have an opportunity to ask questions.
6. When Appellants have finished presenting their information, the Community Board will then present its case. The procedure as described above will be followed.
 7. If necessary, the Hearing Chair will call a brief adjournment to allow the members of the Appeal Panel and the parties to read any documents to be provided during the course of the hearing.
 8. After both parties have made their presentations, the Hearing Chair will invite the Appellant to make any final statements or respond to the Community Board's presentation. The Appeal Panel will be flexible and receive any further information to ensure it has given the parties full opportunity to present their cases.
 9. If an adjournment to another day is required to allow the parties an opportunity to obtain further relevant information, the Appeal Panel will decide whether an adjournment should be granted.
 10. The Appellant and Regional Board representative will then be asked whether they wish to make a closing statement.
 11. The Hearing Chair will then close the Appeal Hearing.
 12. Prior to and during the course of the hearing, any documents received will be stamped as "Exhibits" and recorded in the order in which they are received. Copies will be maintained on the Appeal Secretariat's appeal file.

From time to time, an appeal hearing may not finish, or it may be necessary to adjourn and schedule another date to complete the Appeal Hearing. That may be necessary because one of the parties needs more time to obtain further relevant information or the Appeal Panel has asked for further information. In such cases, the Appeal Panel, as part of its obligation to conduct a fair hearing, will consider the adjournment request, and if granted, set a date for continuation of the hearing. The same members must be present when the Appeal Hearing re-convenes.

k) Evidence

The rules of evidence that apply to judicial hearings do not apply to hearings before the Appeal Panel. The Appeal Panel must consider any evidence that is, in its opinion, reliable and relevant to the matter being heard and weigh it accordingly.

Witnesses other than the Appellant may, at the Appeal Panel's discretion, be excluded from the hearing room until the Appeal Panel hears their evidence.

A witness whose testimony is presented by a written statement must be available for cross-examination.

l) Cross Examination

There is a right to ask questions of the other party.

m) Closing Statements

Each of the parties will be invited by the Hearing Chair to provide closing comments to the Appeal Panel. Closing comments should be a summation of the information presented and reflect the viewpoint of the respective party. Closing comments should not enter new evidence to the Appeal Panel.

n) Confidential and Sensitive Information

The Appeal Panel will take steps to ensure that the confidentiality of information provided through the appeals process is protected.

VII. Appeal Panel Decision

Any member who participates in the final decision must be present throughout the entire hearing and decision making process.

After the appeal hearing:

1. The three Appeal Panel members will meet privately immediately on conclusion of the hearing.
2. Subsection 15(4) of the Act states that the Appeal Panel may, subject to the Act and the regulations, confirm, reverse or vary the decision that is the subject of the appeal.
3. Where the Appeal Panel makes a decision, the written decision will contain:
 - a statement of the issues considered;
 - the findings of fact on which it based its decision;
 - the decision;
 - the reasons for the decision.
4. The written decision will be signed by the Appeal Panel and sent to the parties present at the Appeal Hearing.

The Appeal Panel strives to complete the decision making process and issue a signed, written decision as quickly as possible.

Previous Appeal Panel decisions may show some consistency but are not binding on an Appeal Panel and do not necessarily set a precedent.

1. Effective Date of Decision

Appeal Panel decisions may be effective retroactively to the date of the decision of the Community Board that was appealed.

2. Costs

The Appeal Panel does not generally award costs.

1 My name is _____, name

My address is _____, address

My telephone number is _____, telephone number

2 Person Appealing Decision

(Check one)

I am a person who has been affected by a decision of a Community Board.

the guardian under the *Dependent Adults Act* of _____, name of dependent adult
who is a person who has been affected by a decision of a Community Board.

the agent under the *Personal Directives Act* of _____, name of maker of personal directive
who is a person who has been affected by a decision of a Community Board.

3 Decision to be Appealed

I am appealing a decision of _____, name of board

The decision I am appealing is _____, set out date of decision and a summary of the decision being appealed

I received the decision and the right to appeal on _____ / _____ / _____, date
yyyy mm dd

My reasons for appealing the decision are: _____

4 Dispute Resolution

I understand that before proceeding with a formal hearing of my appeal this matter can be referred to a dispute resolution process to attempt to resolve the matter.

I agree to having my appeal referred to a dispute resolution process.

I do not agree to having my appeal referred to a dispute resolution process.

Signature of person affected by the decision or guardian or agent, whichever is applicable
_____ / _____ / _____, date
yyyy mm dd

**Mail or fax completed
Notice of Appeal to:**
Persons with Developmental Disabilities
Appeals Secretariat
Alberta Seniors and Community Supports
3rd Floor, Standard Life Centre
Suite 350, 10405 Jasper Avenue
Edmonton, AB T5J 4R7
OR Fax to: 780-644-2521

PERSONS WITH DEVELOPMENTAL DISABILITIES COMMUNITY GOVERNANCE ACT

Chapter P-8

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Preamble

WHEREAS the people of Alberta honour and respect the dignity and equal worth of adults with developmental disabilities;

WHEREAS it is important that adults with developmental disabilities have opportunities to exercise self-determination and to be fully included in community life;

WHEREAS the individual needs of adults with developmental disabilities are most effectively met through the provision of services that are based on equitable opportunity, funding and access to resources;

WHEREAS the Government of Alberta recognizes, values and supports the ability of communities to respond to the needs of adults with developmental disabilities;

WHEREAS the Government has ongoing responsibility to ensure and oversee the provision of statutory programs, resources and services to adults with developmental disabilities; and

WHEREAS statutory programs, resources and services are best provided to adults with developmental disabilities in a manner that acknowledges responsibility to the community and accountability to the Government through the Minister;

THEREFORE HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

Definitions

1(1) In this Act,

- (a) “Board” means a Community Board;
- (b) “Community Board” means a Community Board established under section 5;
- (c) “developmental disability” means a state of functioning that
 - (i) began in childhood, and
 - (ii) is characterized by a significant limitation, described in the regulations, in both intellectual capacity and adaptive skills;
- (d) repealed 2006 c25 s3;
- (e) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (f) repealed 2006 c25 s3;

- (f.1) “region” means an adults with developmental disabilities region established under section 4;
- (g) “service provider” means a person or organization that provides services to adults with developmental disabilities pursuant to funding allocated by a Board.

(2) In this Act, a reference to “services” means programs or services provided to or for an adult with developmental disabilities.

RSA 2000 cP-8 s1;2006 c25 s3

2 and 3 Repealed 2006 c25 s4.

Establishment of regions

4(1) The Minister may, by order, establish regions within which adults with developmental disabilities are to receive services.

(2) An order under subsection (1) must give the region a name that contains the phrase “adults with developmental disabilities region” and describe its boundaries.

(2.1) Each region is to be administered by a Community Board.

(3) The *Regulations Act* does not apply to an order under this section.

RSA 2000 cP-8 s4;2006 c25 s5

Establishment of Community Boards

5(1) On establishing a region, the Minister must establish a Community Board for the region.

(2) A Community Board is a corporation consisting of not more than 9 members appointed, subject to subsection (3) and the regulations, by the Minister for a term prescribed by the Minister.

(3) Each member of a Community Board must be a resident in the region for which the Community Board is established.

(4) After the appointment of the initial membership of a Community Board, the Minister must, in accordance with the regulations, appoint members from nominations submitted to the Minister.

(5) The Minister may establish a panel to review nominations for members submitted in accordance with the regulations and to make recommendations to the Minister concerning the appointment of members to a Community Board.

- (6) The chair of a Community Board is to be designated by the Minister.
- (7) The Minister may, with respect to members of a Community Board, authorize and provide for the payment of remuneration and travelling, living and other expenses incurred by members in the course of their duties.
- (8) The Minister may, on the recommendation of a Community Board, appoint a chief executive officer of the Community Board and may establish the terms and conditions of service, including remuneration and expenses, applicable to the chief executive officer if the person appointed as chief executive officer is not an employee as defined in the *Public Service Act*.
- (9) The Minister may provide administrative and other support services required by a Community Board.

RSA 2000 cP-8 s5;2006 c25 s6

Community Board powers

6(1) Subject to this Act and any other enactment, a Community Board has the rights, powers and privileges of a natural person.

(1.1) The business and affairs of a Community Board are to be governed by its members appointed under section 5(2).

(2) A Community Board may not enter into any transaction directly or indirectly

- (a) to borrow money, or
- (b) to engage persons as employees.

(3) A Community Board may not operate for profit and must use all its funds to carry out its powers and duties under this Act.

RSA 2000 cP-8 s6;2006 c25 s7

7 and 8 Repealed 2006 c25 s8.

Minister's role

9(1) The role of the Minister is to

- (a) provide strategic direction, set goals and evaluate results with respect to services for adults with developmental disabilities;
- (b) set standards for the provision of services to adults with developmental disabilities;

- (c) repealed 2006 c25 s9;
- (d) work with other ministers and governments and public and private bodies to co-ordinate the provision of services to adults with developmental disabilities;
- (e) ensure that there is reasonable access, comprehensiveness and portability across regions in the delivery of services to adults with developmental disabilities;
- (f) promote the inclusion of adults with developmental disabilities in community life;
- (g) oversee and evaluate the implementation of plans developed and approved under section 11(b);
- (h) co-ordinate the activities of Community Boards;
- (i) establish policies for the provision and consistency of services;
- (j) allocate funding and resources to the Community Boards;
- (k) monitor and assess the Community Boards in the carrying out of their activities.

(2) Notwithstanding the regulations, if the Minister considers that it is in the public interest to do so, the Minister may provide or arrange for the provision of services in any region, whether or not those services are also being provided in that region by a Community Board.

RSA 2000 cP-8 s9;2006 c25 s9

Ministerial directions

9.1 The Minister may give Community Boards written directions

- (a) on how they are to carry out their powers and duties,
- (b) that set priorities and guidelines for Community Boards to follow in carrying out their powers and duties,
- (c) on how to co-ordinate the work of the Community Boards with the programs, policies and work of the Government, other Community Boards and other public and private bodies in order to achieve the efficient provision of services, and
- (d) on how to avoid duplication of effort and expense in the provision of services.

2006 c25 s10

10 Repealed 2006 c25 s11.

Community Board role

11 A Community Board must, within the region for which it is established,

- (a) provide services;
- (a.1) determine community priorities in the provision of services to adults with developmental disabilities and allocate funding accordingly;
- (b) develop, in accordance with the regulations and subject to the approval of the Minister, a plan for the delivery of services to adults with developmental disabilities;
- (c) oversee and evaluate the implementation of the plan developed under clause (b);
- (d) assess on an ongoing basis the needs of the region for services for adults with developmental disabilities;
- (e) manage the provision of services to adults with developmental disabilities in a way that is responsive to the needs of those adults;
- (f) ensure reasonable access to services for adults with developmental disabilities;
- (g) co-ordinate, with other Community Boards and public and private bodies, the provision of services to adults with developmental disabilities.

RSA 2000 cP-8 s11;2006 c25 s12

12 Repealed 2006 c25 s13.

Bylaws

13(1) Subject to this Act and the regulations, a Board may make bylaws respecting the conduct of its activities.

(2) Repealed 2006 c25 s14.

(3) A Board bylaw does not become effective until it is approved by the Minister.

(4) The *Regulations Act* does not apply to the bylaws enacted under this section.

RSA 2000 cP-8 s13;2006 c25 s14

Meetings

14 A meeting of a Board must be open to the public, but the Board may close part or all of a meeting to the public if the Board is of the opinion that if the meeting or that part of the meeting were open to the public

- (a) the Board's ability to conduct its activities would be impaired, or
- (b) personal information about an individual could be released.

1997 cP-4.06 s14

Appeals

15(1) The Minister may, in accordance with the regulations, establish one or more appeal panels to hear appeals under this Act.

(2) An individual who is receiving services or has applied to receive services by means of funding or resources allocated by a Community Board and is affected by a decision of that Community Board respecting those services may appeal that decision if the decision is not exempt from appeal under the regulations.

(3) A request for an appeal must be made in writing to an appeal panel within 30 days from when the individual was notified of the decision and the right to appeal.

(4) An appeal panel may, subject to this Act and the regulations, confirm, reverse or vary the decision that is the subject of the appeal.

(5) The decision of the appeal panel is final.

(6) The Minister may extend the time for requesting an appeal under subsection (3) if the Minister is satisfied that there are apparent grounds of appeal and that there is a reasonable explanation for the delay.

RSA 2000 cP-8 s15;2006 c25 s15

Inspection powers

16(1) The following are inspectors for the purposes of this Act:

- (a) persons appointed by the Minister with respect to premises owned or operated by a Community Board or a service provider;

- (b) the members of a Community Board and the persons appointed as inspectors by a Community Board, with respect to the premises of a service provider that receives funding allocated by that Community Board.
- (2) Subject to subsection (3), for the purpose of ensuring compliance with this Act and the regulations, an inspector within the area of the inspector's jurisdiction may
- (a) enter premises,
 - (b) require the production for examination of any documents or records in the possession of the Board or service provider and make copies of them or temporarily remove them for the purpose of making copies, and
 - (c) inspect and take samples of any material, food, medication or equipment being used in the provision of services to adults with developmental disabilities.
- (3) Before exercising any powers under subsection (2) with respect to a service provider, an inspector must obtain the permission of the service provider.
- (4) An inspector who removes documents or other records or samples of any material, food, medication or equipment under subsection (2) must
- (a) give a receipt for the items to the person from whom the items were taken,
 - (b) on request, provide a copy of the documents or records removed to the person from whom they were taken or to a person who is entitled to custody of them, and
 - (c) forthwith return the items to the person from whom they were taken when they have served the purposes for which they were taken.
- (5) If anyone prevents an inspector from or obstructs or hinders an inspector in exercising powers under subsection (2), or if the permission required under subsection (3) is refused or cannot reasonably be obtained, a judge of the Court of Queen's Bench may, on the application of the inspector, make any order that the judge considers necessary to permit the inspector to exercise those powers.
- (6) An application under subsection (5) may be made ex parte if the judge considers it proper in the circumstances.

Inquiry

17(1) The Minister may appoint a person to conduct an inquiry with respect to any matter concerning

- (a) the provision of services to adults with developmental disabilities pursuant to funding allocated by a Board, or
- (b) the carrying out of a Board's activities under this Act.

(2) In conducting an inquiry under this section, the appointed person has all the powers, privileges and immunities of a commissioner under the *Public Inquiries Act*.

(3) The Minister may authorize and provide for the payment of remuneration and travelling, living and other expenses incurred by the appointed person in the course of that person's duties.

1997 cP-4.06 s17

Dismissal of Boards

18(1) The Minister may by order dismiss all the members of a Board and appoint an official administrator in the Board's place if the Minister considers that the Board is not properly carrying out its activities under this Act or if for some other reason the Minister considers it to be in the public interest to dismiss the members of the Board.

(2) Notwithstanding section 5(2), a Board continues as a corporation consisting of an official administrator appointed under subsection (1).

(3) An official administrator appointed under subsection (1)

- (a) has all the powers of the Board including the power to hear appeals,
- (b) must perform all the duties and assume all the contractual obligations of the Board, and
- (c) may be paid, as an operating expense of the Board, the remuneration and expenses determined by the Minister.

(4) If in the opinion of the Minister an official administrator is no longer required, the Minister may appoint a new Board, but subsequent appointments are subject to section 5(4).

RSA 2000 cP-8 s18;2006 c25 s17

Crown agent

19 Community Boards are agents of the Crown.

RSA 2000 cP-8 s19;2006 c25 s18

Liability exemption

20 No action for damages may be commenced against a member of a Board or an official administrator for anything done or not done by that person in good faith while exercising powers and performing duties under this Act.

1997 cP-4.06 s20

Fiscal year

21 The fiscal year of a Board begins on the date the Board is first created and continues to the following March 31 and after that is April 1 to the following March 31.

1997 cP-4.06 s21

Personal information

21.1 The Minister, Community Boards and appeal panels may collect, use and disclose personal information for the purposes of carrying out their powers and duties under this Act.

2006 c25 s19

Information

22(1) Repealed 2006 c25 s20.

(2) The Community Boards must, on the request of the Minister, provide to the Minister any records, reports or other information specified by the Minister in the form specified by the Minister.

(3) In addition to any other reporting requirements in this section, as soon as practicable after March 31 each year Community Boards must prepare and submit to the Minister an annual report that shall include an audited financial statement for the preceding financial year.

(4) On receipt of an annual report under subsection (3), the Minister shall table that report in the Legislative Assembly.

RSA 2000 cP-8 s22;2006 c25 s20

Regulations

23(1) The Lieutenant Governor in Council may make regulations

- (a) describing the limitations in intellectual capacity and adaptive skills for the purposes of the definition of developmental disability;
- (a.1) prescribing services that may be provided by a Community Board;

- (b) respecting the membership of a Board and the terms of office of Board members;
- (c) respecting the nomination of members for a Board;
- (d) respecting limiting the natural person powers of a Board;
- (e) respecting the dissolution of and the winding-up of the activities of a Board.

(2) The Minister may make regulations

- (a) respecting to whom a Community Board must give notice of its meetings;
- (b) respecting Boards' plans;
- (c) respecting the standards to be followed by Boards in the management and provision of services to adults with developmental disabilities;
- (d) requiring Boards to keep records, how they must be kept and what they must contain;
- (e) respecting the types of electronic systems to be used by Boards for data transmission and storage and the standards that those systems must meet;
- (f) respecting the sharing of information among Boards and service providers;
- (g) respecting the notice of appeal form;
- (h) respecting appeal panels, appeals and the decisions of a Community Board that are exempt from appeal;
- (i) respecting conflict of interest matters affecting members of Community Boards;
- (j) respecting the functions, powers and duties of
 - (i) the chair of a Community Board, and
 - (ii) the chief executive officer of a Community Board;
- (k) respecting the collection, use or disclosure of information, including personal information, for the purposes of administering this Act.

RSA 2000 cP-8 s23;2006 c25 s21

Review

24 The Minister must begin a comprehensive review of this Act within 3 years after June 18, 1997 and must submit to the Legislative Assembly, within one year after beginning the review, a report that includes any amendments recommended by the Minister.

1997 cP-4.06 s24

Expiry

25(1) Notwithstanding section 82 of the *Financial Administration Act*, this Act expires on March 31, 2004 unless it is continued for a further period by an order of the Lieutenant Governor in Council.

(2) If this Act is continued for a further period by an order of the Lieutenant Governor in Council, section 82 of the *Financial Administration Act* applies to this Act.

1997 cP-4.06 s25

(NOTE: Order in Council O.C. 76/2004 has extended the date specified in section 25(1) of the Persons with Developmental Disabilities Community Governance Act to December 31, 2008.)

(no amdt)

ALBERTA REGULATION 181/2006

**Persons with Developmental Disabilities
Community Governance Act**

**PERSONS WITH DEVELOPMENTAL DISABILITIES
COMMUNITY GOVERNANCE (MINISTERIAL) REGULATION**

Table of Contents

- 1 Interpretation
- 2 Exemption from appeal
- 3 Notice of appeal
- 4 Dispute resolution
- 5 Appeals
- 6 Appeal decision
- 7 Repeal
- 8 Expiry

Schedule

Interpretation

1(1) In this Regulation, “proper notice of appeal” means a notice of appeal that has been determined by the Minister under section 4(1) to have been properly completed and that the decision sought to be appealed can be appealed.

(2) In this Regulation, a reference in a provision to the Minister includes a person designated by the Minister to act in the Minister’s place.

Exemption from appeal

2 A decision to

- (a) refuse to enter into a contract with a service provider,
- (b) terminate a contract with a service provider, or
- (c) amend a contract with a service provider

is exempt from appeal.

Notice of appeal

- 3(1)** The form of a notice of appeal is set out in the Schedule.
- (2)** A notice of appeal shall be addressed to the Minister.
- (3)** The form of notice of appeal set out in the *Governance (Ministerial) Regulation* (AR 212/2004) may be used until August 31, 2006.

Dispute resolution

- 4(1)** On receipt of a notice of appeal, the Minister shall review it to determine if the notice of appeal has been properly completed and if the decision sought to be appealed can be appealed.
- (2)** After the Minister determines that the notice of appeal is a proper notice of appeal, the Minister may, with the agreement of the appellant, attempt to resolve the matter including through a dispute resolution process of the Community Board and, if the matter is not resolved, refer the matter to a person designated to mediate and attempt to resolve the matter.

Appeals

- 5(1)** The Minister must establish a pool of persons from whom persons may be designated to hear appeals.
- (2)** If the matter is not resolved under section 4(2) or if the appellant has not agreed to have the matter dealt with in accordance with section 4(2), the Minister must, within 45 days after a proper notice of appeal has been received,
 - (a)** set a date for hearing the appeal, and
 - (b)** designate up to 3 persons from the pool referred to in subsection (1) to form an appeal panel to hear the appeal.
- (3)** The person who reviewed the notice of appeal under section 4(1) and the person designated under section 4(2) are not eligible to be designated under subsection (2)(b) of this section to hear the appeal.
- (4)** If the appellant has agreed to have the matter dealt with in accordance with section 4(2), on the agreement of the appellant and the Community Board, the time period referred to in subsection (2) of this section may be extended for the time period agreed to.
- (5)** A hearing before an appeal panel may be held in private unless the appeal panel determines otherwise, taking into account the wishes of the applicant and the guardian or agent, if applicable.

Appeal decision

6(1) Notice of the decision of the appeal panel, including reasons for the decision, shall be in writing and provided as soon as possible to the person who signed the notice of appeal and to the Community Board.

(2) A summary of the decision of the appeal panel may be published in a manner determined by the Minister, but in no case may the summary disclose the name of any appellant, including a guardian or agent, or other individual affected by the decision.

Repeal

7 The *Governance (Ministerial) Regulation (AR 212/2004)* is repealed on August 31, 2006.

Expiry

8 For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on September 30, 2011.

Schedule

Notice of Appeal
(section 15 of the Act)

1 My name is _____ (name)

My address is _____ (address)

My telephone number is _____ (telephone number)

- 2 I am (check one):
- a person who has been affected by a decision of a Community Board.
 - the guardian under the *Dependent Adults Act* of (name of dependent adult), who is a person who has been affected by a decision of a Community Board.
 - the agent under the *Personal Directives Act* of (name of maker of personal directive), who is a person who has been affected by a decision of a Community Board.

3 I am appealing a decision of _____ (name of Board) _____

The decision I am appealing is _____
(Set out date of decision and a summary of the decision being
appealed)

I received the decision and the right to appeal on

(year/month/day)

My reasons for appealing the decision are: _____

4 I understand that before proceeding with a formal hearing of
my appeal this matter can be referred to a dispute resolution
process to attempt to resolve the matter.

___ I agree to having my appeal referred to a dispute
resolution process

___ I do not agree to having my appeal referred to a dispute
resolution process

(year/month/day)

(signature of person affected by the decision or guardian or agent,
whichever is applicable)

APPENDIX

Persons with Developmental Disabilities Community Governance Act

DEVELOPMENTAL DISABILITIES REGULATION

Table of Contents

- 1 Definition
- 2 Developmental disability
- 3 Intellectual capacity
- 4 Adaptive skills
- 5 Expiry
- 6 Coming into force

Definition

1 In this Regulation, “Act” means the *Persons with Developmental Disabilities Community Governance Act*.

Developmental disability

2 This Regulation describes a significant limitation in intellectual capacity and a significant limitation in adaptive skills for the purpose of section 1(1)(c)(ii) of the Act.

Intellectual capacity

3(1) In the case of a service applied for on or after July 1, 2009, a significant limitation in intellectual capacity is an intellectual capacity that

- (a) on a full-scale score is 2 standard deviations or more below the mean for a standardized intellectual assessment, or
- (b) is so diminished the individual is unable to complete a standardized intellectual assessment

as determined in accordance with the Developmental Disabilities Guidelines published by the Minister as amended from time to time.

(2) In the case of a service applied for prior to July 1, 2009, a significant limitation in intellectual capacity is a below average intellectual functioning compared to a peer without a disability that



significantly affects the ability to learn and perform daily living skills.

Adaptive skills

4(1) In the case of a service applied for on or after July 1, 2009, a significant limitation in adaptive skills is the inability to perform 6 or more adaptive skills

- (a) without the assistance of another person, and
- (b) at a level comparable to a peer without a disability

as determined in accordance with the Developmental Disabilities Guidelines published by the Minister as amended from time to time.

(2) In the case of a service applied for prior to July 1, 2009, a significant limitation in adaptive skills is a significant limitation in at least 2 of the following adaptive skill areas: communication; home living; community use; health and safety; leisure; self-care; social skills; self-direction; functional academics; work.

Expiry

5 For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on June 30, 2018.

Coming into force

6 This Regulation comes into force on July 1, 2009.