

118 CMR 14.00: FILING OBJECTIONS AND ADMINISTRATIVE REVIEW

Section

14.01: Scope and Purpose

14.02: Objections Filed Regarding an Investigation Report: Petitions for Review

14.03: Objections Filed Pursuant to M.G.L. c. 66A

14.01: Scope and Purpose

118 CMR 14.00 governs the petition process available to certain parties to a M.G.L. c. 19C investigation and the objection process available to data subjects.

14.02: Objections Filed Regarding an Investigation Report: Petitions for Review

(1) Parties Who May File Petitions for Review. The identified victim, the identified abuser, or their respective legal representatives, who are aggrieved by the disposition of an investigation conducted pursuant to M.G.L. c. 19C may file with the Commission an objection to the conclusion contained in the M.G.L. c. 19C investigation report, except for decisions regarding the screening of an intake, the assignment of an investigator or the deferral of an investigation pursuant to M.G.L. c. 19C, § 12.

(2) Grounds for Objection to an Investigation Report. The grounds for filing a Petition for Review are:

- (a) The investigation report is based on an investigation that was not conducted in accordance with 118 CMR 5.02(1): *Minimum Requirements of Abuse Investigations*;
- (b) The preponderance of evidence does not support the conclusions reached in the investigation report; or
- (c) The preponderance of evidence supports conclusions not reached in the investigation report.

(3) Petition Process.

(a) Petition for Review.

- 1. An objecting party shall file a Petition for Review which:
 - a. shall be in writing;
 - b. shall set forth with sufficient specificity, including supporting evidence and documentation, the grounds for the petition; and
 - c. shall be filed with the Executive Director of the Commission, or his or her designee.
- 2. Said Petition for Review shall be filed with the Commission within ten business days of the petitioner's receipt of a copy of the investigation report from the Commission, but in any case no later than six months after the issuance of the investigation report.

(b) Action Upon Petition for Review.

- 1. Within a reasonable time from the filing of the Petition for Review, the Executive Director or his or her designee shall:
 - a. render a decision in writing including a statement of the nature of the decision and the reasons underlying said decision; and
 - b. amend the M.G.L. c. 19C investigation report if an objection is found to be meritorious.
- 2. A decision rendered by the Executive Director or his or her designee shall be the final and conclusive determination of the objection raised in the filed petition in each case.

(c) Time Frames. The time periods contemplated herein may be extended by the Executive Director or his or her designee for good cause shown. The Commission's good faith failure to meet the time frames set forth in 118 CMR 14.00 shall not confer any rights, either expressly or impliedly, upon the petitioner.

14.03: Objections Filed Pursuant to M.G.L. c. 66A

(1) Objections by Data Subjects Regarding Data Held by the Commission.

- (a) A data subject who objects to the accuracy, completeness, pertinence, timeliness, relevance or dissemination of personal data held by the Commission regarding him or her, may file an objection with the Executive Director of the Commission pursuant to M.G.L. c. 66A.
- (b) The objection shall:
 - 1. be in writing; and
 - 2. set forth with specificity the reason(s) for the objection.
- (c) Within a reasonable time after the receipt of such an objection, the Executive Director or his or her designee shall review the objection and:
 - 1. correct or amend the personal data if there is no disagreement with the data subject as to whether the change or amendment should be made; or
 - 2. if there is disagreement with the data subject as to whether the change or amendment should be made, assure the data subject's claim is noted and included as part of the data subject's personal data and included in any subsequent disclosure or dissemination of the disputed data; and
- (d) notify the data subject in writing of a decision and the reasons underlying said decision.

(2) Objection by Data Subjects to Denial of Access to Data Held by the Commission.

- (a) A data subject who objects to the Commission's denial of access to that person's own data held by the Commission may file an objection with the Executive Director of the Commission pursuant to M.G.L. c. 66A.
- (b) Such objection shall be:
 - 1. in writing; and
 - 2. filed within 30 days of the data subject's receipt of notification of said denial to access to data held by the Commission.
- (c) Within a reasonable time after the receipt of such an objection, the Executive Director or his or her designee shall review the objection and send written notification of his or her decision to the objector, including a statement of the nature of the decision and the reasons therefore. Said objection and decision shall be retained by the Commission.
- (d) The action taken by the Executive Director or his or her designee pursuant to 118 CMR 14.03 shall be the final and conclusive administrative determination concerning denied access to the data held by the Commission.

(4) Time Frames. The time periods contemplated by 118 CMR 14.00 may be extended by the Executive Director or his or her designee for good cause shown. The Commission's good faith failure to meet the time frames set forth within 118 CMR 14.03 shall not confer any rights, either expressly or impliedly, upon the objector.

(5) Judicial Relief. Any data subject who wishes to challenge any decision of the Executive Director of the Commission regarding personal data may seek judicial review of said decision pursuant to M.G.L. c. 214, § 3B. In the event of any civil action filed pursuant to M.G.L. c. 214, § 3B, the failure to exhaust available administrative remedies shall be an absolute defense.

REGULATORY AUTHORITY

118 CMR 14.00: M.G.L. c. 19C, §§ 3, 3(b), 3(g), 3(i); c. 66 and M.G.L. c. 66A.