

DCF Policy #86-002

Effective: 11/01/1986

Revised: 07/01/1989

Revised: 02/10/1998

Revised: 07/08/2008

APPEAL OF COURT ORDERS OR DECISIONS

This policy specifies procedures for appealing court orders or decisions.

POLICY

All Department staff must obey, or make all reasonable attempts to obey, all court orders and decisions *until and unless such order or decision is overturned* as the result of an appeal.

It is the policy of the Department that a decision to request an appeal may be initiated by social work staff, in consultation with legal staff. Consultation with legal staff is only for *advice* on such aspects as the strength/weakness of the case and legal principles which govern appeals, but is *not for permission* to pursue the appeal. Permission to pursue an appeal lies with the Deputy Commissioner and General Counsel, after joint consultation.

It is the policy of the Department that an appeal may be considered whenever a court order or decision is received which is believed to be:

- a) contrary to the best interests of the child; or
- b) impossible to perform; or
- c) in error as a matter of law.

However, in most cases before the Department actually appeals a court order, the social work and legal staff must develop an acceptable alternative plan and must request the trial court to reconsider and modify its order to accommodate the Department's alternative plan.

Providers under contract with the Department who wish to appeal a court order *directed to the provider* must utilize the provider's own attorney (the Department remains uninvolved in these appeals). Providers under contract with the Department who wish the Department to consider appeal from a court order *directed to the Department* may conference the matter with a Departmental Area or Regional Director and request that the Department appeal. Thereafter, the procedures below shall be followed.

PROCEDURES

1. **Copy of Written Order.** Whenever a Department Social Worker wishes to consider appeal from any court order or decision, that Social Worker shall:
 - a) obtain a copy of the written order or decision of the court, and thereafter,
 - b) conference the matter with her/his Supervisor.
2. **Area Director.** If both the Social Worker and her/his Supervisor believe the matter is appropriate for consideration for appeal, they shall further conference the matter with the Area Program Manager and the Area Director.
3. **Consultation with Legal/Regional Director.** If the Area Director, after conference, believes the matter is appropriate for consideration for appeal, she/he shall consult with a member of the legal staff. Thereafter, if the Area Director wishes to pursue an appeal, the Area Director shall consult with her/his Regional Director.
4. **Deputy Commissioner.** If a Departmental Regional Director decides that the matter is appropriate for consideration for appeal, she/he shall consult with a Divisional or Deputy Divisional Counsel. Thereafter, if the Regional Director wishes to pursue an appeal, the Regional Director shall consult with the Deputy Commissioner.
5. **General Counsel.** If, as a result of this Regional Director-Deputy Commissioner consultation the Deputy Commissioner wishes to pursue an appeal, the Deputy Commissioner and the General

Counsel shall consult, and their joint decision shall be final. The General Counsel must obtain the permission of the Attorney General's Office to proceed with the appeal.

6. The Deputy Commissioner and the General Counsel shall inform the involved members of the social work and legal staff of their decision.