

DCF Policy #94-001

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## FAIR HEARING OFFICE AND GRIEVANCE POLICY

In accordance with **110 CMR 10.00-10.36**, the Department has established the Fair Hearing Office (also referred to as the Fair Hearing Unit). The purpose of the Fair Hearing Office is to enable clients, who are dissatisfied with certain actions or inactions by the Department or providers under contract with the Department, to receive a just and fair decision from an impartial fair hearing officer based on the facts and applicable regulations.

The Department's grievance process is intended to supplement the fair hearing process and provides opportunity to resolve disagreements concerning any matters which can not be appealed through a fair hearing. The grievance process was established in accordance with **110 CMR 10.37-10.39**, and related policy and procedural guidance follows the policy and procedures for fair hearings.

### **POLICY FOR FAIR HEARINGS**

For the purposes of this policy, the following definitions are used:

- **Client** - An applicant for or recipient of Department services; this includes foster, pre-adoptive and adoptive parents.
- **Aggrieved Party** - An individual who challenges a decision of the Department pursuant to *Regulations, 110 CMR 10.00 – 10.36*.
- **Authorized Representative** - Any person, such as a lawyer, advocate, relative or friend, who is authorized in writing by any party to represent that party.
- **Clinical Review Team** - A team of not less than 5 individuals, each of whom must have extensive social work experience, convened by a Regional Director for the purpose of reviewing a decision referred to the team.
- **Pre-adoptive** - A placement approved by the Department as the proposed permanent adoptive home for the child and where the child has been freed for adoption or where the Department has sought in a judicial proceeding to dispense with the consent of the parents to the adoption of the child.

It is the policy of the Department to allow an individual to have a fair hearing under the circumstances described below:

Applicants for services may request a fair hearing if the Department:

- fails to follow its regulations, which results in substantial harm to the applicant;
- calculates a fee, in excess of the minimum fee to which the applicant is subject, and the applicant believes this fee is incorrect;
- imposes the minimum fee, when the applicant believes she/he is exempt from that fee; or
- places, or fails to place, a child across state lines as required under the Interstate Compact on the Placement of Children. (See *Regulation 110 CMR 7.500* )

Biological parents may request a fair hearing to appeal a goal determination made at a Foster Care Review [See *Regulation 110 CMR 6.12 (10)* ] as well as those decisions relevant to applying for and receiving services.

Recipients of services may request a fair hearing if the Department:

- suspends, reduces or terminates services;
- calculates or recalculates a fee which the recipient believes is incorrect;
- imposes the minimum fee and the recipient believes she/he is exempt from the fee; or
- fails to follow its regulations, which results in substantial harm to the recipient.

Foster parents and foster parent applicants may request a fair hearing if the Department:

- denies her/his application to become a foster parent, except if the decision is based on the foster parent applicant's failure to make specified changes within the allotted timeframe after receiving notice from the Department;
- decides not to approve the foster parent as the legal guardian or pre-adoptive placement for a child who has been in her/his care for at least 6 months;
- decides to remove a child from the foster home except if the child is removed in order to be placed:
  - with her/his parents;
  - in an approved pre-adoptive home, unless the foster parent(s) have applied to become the child's pre-adoptive home and the Department has not rejected their application;
  - with a legal guardian, unless the foster parent(s) have applied to become the child's legal guardian and the Department has not rejected their application;
  - in a home where one or more of her/his siblings is residing;
  - in an independent living situation;
  - in the home of a relative, if the current foster parent is not a relative;
  - in a different foster home because the child-specific or kinship home was not approved as a foster/pre-adoptive home for the specific child, or was not re-approved after a reassessment; or
  - in a different foster home because the foster parent's license is either terminated or is not renewed after a reassessment.
- decides to close the foster home;
- fails to follow its regulations, which results in substantial harm to the aggrieved party; or
- determines a goal at a Foster Care Review with which the foster parent disagrees. [See Regulation 110 CMR 6.12 (10)]

Pre-adoptive parents, adoptive parents or adoptive parent applicants may request a fair hearing if the Department:

- denies her/his application to become a pre-adoptive placement;
- withdraws its sponsorship of a pre-adoptive placement;
- decides to remove a child from a pre-adoptive placement, except if the child was or will be placed with her/his parent(s), in an independent living situation or if the pre-adoptive parent is either not re-approved or their license is terminated or not renewed after an evaluation or reassessment;
- denies the adoptive parent(s)' request for, or reduces the amount of, the adoption subsidy;
- decides to close the pre-adoptive home;
- regarding the adoption subsidy program:
  - denies, reduces, suspends or terminates an adoption subsidy, except that there will be no right to appeal a decision to terminate a subsidy if the child is age 21 and has been receiving a Title IV-E subsidy or is age 22 and has been receiving a state adoption subsidy [*NOTE: The Department considers as a denial a request for a fair hearing on the ground that extenuating circumstances exist for an adoption subsidy after finalization of the adoption of a child with special needs.*]; or
  - decides to provide a deferred subsidy after a request for a re-determination.
- fails to follow its regulations, which results in substantial harm to the aggrieved party
- delays or denies placement of a child for adoption when the approved family is available out of state.

Children under age 14 (through their attorneys or through a representative of the child authorized by the attorney, parent or guardian) and adolescents (for the purposes of this policy, an "adolescent" is an individual 14 years of age or older) may request a fair hearing as applicants for or recipients of services if they disagree with a goal determination made at a Foster Care Review. [See Regulation 110 CMR 6.12 (10)]

In "support" decision situations, any caretaker, as defined by *Regulation 110 CMR 2.00*, who was identified as responsible for the incident addressed in a supported investigation and any reported adolescent who is dissatisfied with the Department's decision to support a report of child abuse or neglect may request a fair hearing.

Alleged perpetrators may request a fair hearing if the Department identifies the individual on the Department's Registry of Alleged Perpetrators.

To reverse a support decision or to remove an individual's name from the Department's Registry of Alleged Perpetrators, the aggrieved party must demonstrate by evidence presented at the fair hearing at least one of the following:

1. that, based on the information available during the investigation and/or new information not available during the investigation, the Department's or provider's decision was not in conformity with the Department regulations;
  - with regard to the request to remove an individual's name from the Registry of Alleged Perpetrators, the aggrieved party must demonstrate that the Department's action was not in accordance with *Regulation 110 CMR 4.33*;
  - with regard to a support decision, the aggrieved party must demonstrate that the decision was not in conformity with Department policies and/or regulations and that the decision resulted in substantial harm to the aggrieved party;
2. that the Department's or provider's procedural actions were not in conformity with the Department's policies and/or regulations and resulted in substantial harm to the aggrieved party.

Whenever a decision to list an individual on the Department's Registry of Alleged Perpetrators is reviewed, the related support decision is also considered as part of the review.

If a support decision is reversed by the director of the area office or provider that made the decision under appeal or by a fair hearing, the name of any individual(s) that was listed on the Department's Registry of Alleged Perpetrators is removed.

To reverse other decisions, the aggrieved party must demonstrate by evidence presented at the fair hearing:

1. that the Department's or provider's decision or procedural actions were not in conformity with the Department's policies and/or regulations and resulted in substantial harm to the aggrieved party; or
2. if there is no applicable policy, regulation or procedures that the Department or provider that made the decision under appeal acted without a reasonable basis or in an unreasonable manner and the action resulted in substantial harm to the aggrieved party.

The fair hearing officer will not recommend reversal of the clinical decision made by a trained social worker if there is a reasonable basis for the questioned decision.

Children will not be allowed to testify at a fair hearing, unless the aggrieved party provides to the fair hearing officer, in advance of the fair hearing, a compelling reason as to why the child's testimony is essential and it can be assured that testifying will not harm the child. The fair hearing officer decides whether or not the child will be allowed to testify.

## **PROCEDURES PRIOR TO THE FAIR HEARING**

1. **Notifying the Client Re: Appeal Rights.** At the time that the Department or provider notifies the client of certain actions or inactions, the Department or provider also provides written notice advising the client of her/his right to appeal and the procedures and timeframes for requesting a fair hearing. A request of a fair hearing must be made in writing within 30 calendar days after the date of the notification letter or within 10 calendar days if the aggrieved party is a foster or pre-adoptive parent appealing the removal of a child from her/his home.

Information regarding the notification of aggrieved parties of scheduled fair hearings is provided in Procedure 8 below.

2. **Continuation of Services Pending Appeal.** If the request for a fair hearing involves a decision to reduce or terminate services, service delivery will continue unchanged until the final decision takes

effect, provided the aggrieved party continues to pay the pre-established fee, if any, for the services in question.

3. **Area Director Review.** The director of the area office or provider that made the decision under appeal (or Foster Care Review Unit if the appeal involves a goal determination) conducts the first review of the decision. She/he conducts the review within 20 calendar days after receipt of the written request for a fair hearing or after completion of the assessment period, if the request is to review a support decision or to remove a name from the Registry of Alleged Perpetrators in a case which opened for assessment as a result of a supported 51A report.

The director of the area office or provider that made a decision (or Foster Care Review Unit if the decision involved a goal determination) may decide to reverse the decision even if a request for a fair hearing has not been received.

If the director of the area office or provider determines that fair hearings have been requested regarding both a support decision and decision to list an individual's name on the Department's Registry of Alleged Perpetrators in conjunction with that support decision, she/he so informs the Fair Hearing Office.

Prior to making a decision, the director of the area office or provider (or Foster Care Review Unit) may or may not choose to hold a meeting with the aggrieved party in order to reach an agreement which would eliminate the need for, or limit the issues to be resolved at, a fair hearing.

The director of the area office or provider that made the decision under appeal (or the Director of Foster Care Review, if the appeal involves a goal determination) reviews the request and the decision upon which it is based and makes one of the following determinations:

- to reverse the Department's decision; or
- NOT to reverse the decision.

If she/he reverses the decision, she/he so notifies the aggrieved party and the Fair Hearing Office.

If she/he decides to reverse a support decision, and that support decision had resulted in the listing of an individual's name on the Registry of Alleged Perpetrators, she/he ensures that the name is removed.

If she/he decides NOT to reverse the decision and the decision involves:

- the removal of a child from a foster or pre-adoptive home,
- the listing of an individual's name on the Department's Registry of Alleged Perpetrators,
- a Foster Care Review goal determination, OR
- any other matter at the discretion of the director of the area office or provider that made the decision under appeal,

the director refers the matter to the Clinical Review Team within the first 10 calendar days of the 20 calendar day review period and serves as a member of that team.

For all other decisions that the director decides NOT to reverse, she/he informs the Fair Hearing Office to proceed with the scheduled fair hearing.

4. **Documentation of Area Director Review.** The director of the area office or provider that made the decision under appeal documents the review and decision in the Fair Hearing Reviews/Decision screen. If the appealed decision involves the removal of a child from a foster or pre-adoptive home, the listing of an individual's name on the Department's Registry of Alleged Perpetrators, or a Foster Care Review goal determination and the area director review results in a decision to uphold, a tickler to the chair of the Clinical Review Team in the region which made the decision will be created, which will be due 10 calendar days later.

5. **Clinical Review Team.** Within 10 calendar days after receipt of the referral from the director of the area office or provider that made the decision under appeal (or Foster Care Review), the Clinical Review Team reviews the clinical/casework decision raised by the fair hearing request and makes a determination to:

- send the matter back to the area office or provider that made the decision for further information,

- uphold the decision, OR
- reverse the decision.

If the referral involves the listing of an individual on the Registry of Alleged Perpetrators, the Clinical Review Team also reviews the related support decision.

If the Clinical Review Team reverses a decision, and the director objects, the matter is referred to the Deputy Commissioner for Field Operations. Within the 20 day calendar review period set out in Procedure 3 above, the Deputy Commissioner determines whether the decision is reversed or the scheduled fair hearing should proceed and so notifies the Clinical Review Team.

6. **Notification/Documentation of Clinical Review Team Decision.** The Clinical Review Team sends written notification of the outcome of the Clinical Review, including the review by the Deputy Commissioner (if applicable), within 3 days, to the director of the area office or provider that made the decision under appeal (or the Director of Foster Care Review, when applicable) and to the Fair Hearing Office.

Whenever a review by the Clinical Review Team results in the reversal of a decision made by an area office or provider, the director of the area office or provider that made the decision under appeal (or the Director of Foster Care Review, when applicable) informs the aggrieved party of the Clinical Review Team's decision by letter within one day after receiving the written notification from the Clinical Review Team.

The Clinical Review Team documents its review and decision in the Clinical Review Team screens and notifies the director of the area office, or provider that made the decision, and the Fair Hearing Office.

7. **Other Case Record Documentation.** The director of the area office or provider that made the decision under appeal ensures that FamilyNet and all other case record materials reflect the outcomes of any decisions made during reviews by the director or the Clinical Review Team.
8. **Notification of a Scheduled Fair Hearing.** Within 10 calendar days after receiving a request for a fair hearing, the Fair Hearing Office schedules the hearing and sends written notification of the time, date and location of the fair hearing to the aggrieved party with a copy to the director of the area office or provider that made the decision under appeal (or to the Director of Foster Care Review, when applicable). This notification also advises that aggrieved party of her/his rights in the fair hearing process (See *Regulation 110 CMR 10.10* ):
  - the right to review relevant documents from the Department or provider's records, subject to any confidentiality requirements;
  - the right to representation by an attorney or authorized individual;
  - the right to bring and/or to subpoena witnesses for the fair hearing;
  - the right to request the Department's Fair Hearing Office to issue subpoenas to witnesses, pursuant to procedures established by the Fair Hearing Office, if the written request is made at least 10 calendar days in advance of the scheduled fair hearing;
  - for a fair hearing on a support decision, the right to request the presence of only one Department employee who was directly involved in making the decision;
  - the right to request a translator or interpreter and reasonable accommodations;
  - the right to request a rescheduling of the fair hearing; and
  - if the appeal involves a decision to reduce or terminate services, the right to have service delivery continue unchanged until a final decision is made, provided that the aggrieved party continues to pay the pre-established fee, if any, for the services in question.

9. **Scheduling the Fair Hearing.** The Fair Hearing Office schedules the hearing to occur within 70 calendar days after the request for a fair hearing is received. If the appeal involves a report of child abuse or neglect and an initial assessment must be completed, the fair hearing is scheduled to occur after the assessment period and the reviews by the director of the area office or provider and by the Clinical Review Team are completed.

**Exception:** If the appeal involves a decision by the Department to remove a child in Department care or custody from a foster or pr-adoptive home, the Fair Hearing Office schedules the fair hearing to occur as soon as possible after this disposition. The child remains in the aggrieved party's home until 10 calendar days following the issuance of a decision upholding the removal decision, unless the director of the area office or provider that has case management responsibility for the child determines that the child's physical, mental or emotional well-being would be endangered by leaving the child in the aggrieved party's home. [See *Regulation 110 CMR 7.116(2)(c) & (3)(b)* ]

In certain other situations, the Fair Hearing Office also may determine that it is necessary to expedite the scheduling of a fair hearing in order to ensure that the needs of a family or child are best met.

10. **Location of the Fair Hearing.** The fair hearing is held at the area or provider office that made the decision under appeal. If more than one office is involved, or the decision involves a goal determination, the Fair Hearing Office determines that location.
11. **Area Office/Provider Responsibilities.** The director of the area office or provider which hosts the fair hearing is responsible for:
  - providing a written response to an aggrieved party's written request for documentation (i.e. providing copies of requested information or a written explanation of why the request was denied);
  - providing a room for the fair hearing;
  - ensuring the attendance of at least one staff who was involved in making the decision under appeal (including staff assigned to other offices);
    - additional staff will attend if determined to be necessary by the director, or if the aggrieved party has requested a specific employee(s) to attend in accordance with *Regulation 110 CMR 10.13(1)* ;
    - when a support decision is reviewed, Department regulations permit the aggrieved party to subpoena only one employee who has direct knowledge of the decision to attend the fair hearing;
    - whenever an employee has been requested to attend by the aggrieved party but is unable to attend, the director designates another employee who was directly involved in making the decision to attend and so notifies the Fair Hearing Office at least 5 calendar days prior to the fair hearing. [See *Regulation 110 CMR 10.13(1)* ]
  - providing the fair hearing officer with a copy of each document related to the decision under appeal;
  - arranging for a translator or interpreter to be present at the fair hearing, or for other reasonable accommodations when requested by the aggrieved party; and
  - requesting that a department attorney be present at the fair hearing upon request by a staff person who is required to attend.
12. **Confirmation of the Scheduled Fair Hearing.** The fair hearing office contacts the aggrieved party and the area office or provider where the fair hearing is to be held at least one day prior to the scheduled fair hearing to confirm the hearing date and to answer any questions.

13. **Stays of Scheduled Hearings on Support Decisions and Registry of Alleged Perpetrator Listings.** If the Department receives a written request from any District Attorney, stating that in a particular matter referred to the District Attorney by the Department, formal charges have been instituted (i.e., indictments or complaints returned or issued), the Department stays its fair hearing on the matter for 6 months.

## **PROCEDURES AT THE FAIR HEARING**

1. **Duration of the Fair Hearing.** The fair hearing will be scheduled to last a maximum of 2 hours. The aggrieved party or the area office or provider that made the decision under appeal (or the Director of Foster Care Review, when applicable) may at any time request an extension of the hearing's duration, if needed for presentation of additional testimony.

**2. The Fair Hearing.**

- The fair hearing officer ensures that the rights of all participants are protected by providing opportunity for each participant to present testimony and evidence regarding the issue(s) under appeal, and to ask and respond to questions.
- The fair hearing is audio tape-recorded by the fair hearing officer.
- The fair hearing officer determines the order in which participating Department or provider staff, other witnesses, and evidence will be presented. Ordinarily, the Department or provider will proceed first.
- At the end of the fair hearing, the fair hearing officer:
  - determines if additional evidence is to be submitted, and if so, the fair hearing officer sets the date by which it must be received by the Fair Hearing Office;
  - informs the participants when the decision will be issued and that this decision may be appealed under MGL c. 30A; and
  - issues interim orders, when appropriate, regarding such matters as the status of service delivery during the period prior to the issuance of the decision, removal of children, etc.

**3. Decision Based Solely on Record Review.** The fair hearing decision is based on a review of submitted documentation rather than an in-person fair hearing, when the aggrieved party requests to waive the fair hearing and the director of the Fair Hearing Office grants the waiver.

The procedures governing such a decision are the same as for a fair hearing except that the written evidence is acquired as follows:

- The director of the area office or provider that made the decision under appeal (or the Director of Foster Care Review, when applicable) sends copies of the relevant documents to the aggrieved party and to the fair hearing officer assigned to the appeal;
- The aggrieved party reviews the documents, prepares a written response and sends copies of it to the director of the area office or provider that made the decision under appeal (or to the Director of Foster Care Review, when applicable) and to the fair hearing officer;
- The director of the area office or provider that made the decision under appeal (or the Director of Foster Care Review, when applicable) reviews the aggrieved party's response, develops her/his own written response and sends it to the aggrieved party and to the fair hearing officer.

When the fair hearing officer determines that all relevant evidence has been submitted and reviewed by all participants, she/he "closes the record" (i.e., permits no additional information to be added), reviews all documentation and develops the written decision.

4. **Dismissing an Appeal.** If the aggrieved party fails to respond to notices or to provide documentation within specified timeframes, or fails to attend the scheduled hearing and does not provide sufficient explanation of her/his absence, the Department has the right to dismiss the fair hearing. The fair hearing officer sends written notification to the aggrieved party and to the director of the area office or provider that made the decision under appeal (or to the Director of Foster Care Review, when applicable).
5. **Remanding for Further Information/Action.** At any point prior to the issuance of a written fair hearing decision (see "Procedures after the Fair Hearing", below), the fair hearing officer may remand (or send back) the matter to the Clinical Review Team or to the director of the area office or provider that made the decision under appeal (or to the Director of Foster Care Review, when applicable) for further information or action.

**PROCEDURES AFTER THE FAIR HEARING**

1. **Timeframe for Issuing the Written Decision.** The fair hearing officer issues a written decision within 21 calendar days after the fair hearing (or the date set by the fair hearing officer for permitting additional information to be included in the record of the fair hearing), unless she/he notifies the aggrieved party that a longer period of time is needed to reach a decision.

**Exception:** If the appeal involves the decision to remove a child in Department care or custody from a foster or pre-adoptive home, the fair hearing officer issues the written decision within 14 calendar

days after the fair hearing or the date established by fair hearing officer for submission of any additional information.

2. **Content and Approval of the Written Decision.** The fair hearing decision is based solely on the facts included in the fair hearing record, which comprises all of the documents and testimony accepted into evidence by the fair hearing officer.

The written decision includes a summary of the regulatory or case practice issue(s) to be decided; clear and concise findings of fact (i.e., the evidence used by the fair hearing officer to reach a conclusion, including credibility determinations); the reason(s) for the decision(s) reached; reference(s) to the statute(s) and/or regulation(s) on which the decision is based; an order of relief if appropriate (i.e., a statement as to any corrective action the Department has decided to carry out in implementing the decision); and a notice that this is the Department's final decision but the aggrieved party has the right to seek review under MGL c. 30A.

The fair hearing officer signs and dates the written fair hearing decision, which is subsequently reviewed and signed by the director of the Fair Hearing Office.

3. **Commissioner's Approval of Fair Hearing Reversals.** If the fair hearing officer seeks to reverse the decision of an area office or provider, the Commissioner must approve the reversal decision within the 21 calendar days allotted for completion of the hearing decision (or 14 calendar days if the decision involves removal of a child).
4. **Documentation of the Fair Hearing Decision.** The fair hearing officer ensures that information regarding the hearing and decision is recorded in FamilyNet.
5. **Distribution of the Written Decision.** The director of the Fair Hearing Office sends the original of the fair hearing decision to the aggrieved party (or to her/his attorney if the aggrieved party was represented by an attorney in the fair hearing process) and a copy each to the director of the area office or provider that made the decision under appeal (or Director of Foster Care Review, when applicable). If a Clinical Review Team reviewed the matter, she/he also sends a copy to that team. The Fair Hearing Office retains a copy of the written decision and the fair hearing record and audiotape.
6. **Effective Date of the Decision.** The fair hearing decision is effective on the date specified by the fair hearing officer in the cover letter, unless the aggrieved party files an appeal with, and a stay (i.e., an order that prevents an action from occurring) is granted by, a court of competent jurisdiction.
7. **Area Office Recordkeeping.** Upon receiving her/his copy of the fair hearing decision, the director of the area office or provider that made the decision under appeal designates an individual to ensure that information from the fair hearing process is recorded as described below in all relevant case and family resource records. If one of these records is maintained by a different area or provider office, the designee sends a copy of the fair hearing decision to that office.

#### **Family/Child Case Record**

If the fair hearing involves a family of child who receives services from the Department, the designated individual in the area office or provider agency files a copy of the fair hearing decision in the section of the case record just following the documentation of the appealed decision [e.g., the Department's notice to the client].

#### **Family Resource Record**

If the fair hearing involves a foster or pre-adoptive family resource, the designated individual in the area office or provider agency places a copy of the decision in the family resource record and the record of any child who was placed with the family resource and who was involved in the issue/matter for which the fair hearing was requested.

### **POLICY FOR GRIEVANCE REVIEWS**

The grievance process is intended to supplement the fair hearing process and provides opportunity to resolve disagreements concerning any matters that can not be appealed through a fair hearing.

The process is initiated by the client's filing of a "grievance" - i.e., a written complaint about a decision made by, or the conduct of an individual employed by, a Department Area, Regional, Foster Care Review, or contracted Provider agency office.

The grievance review consists of a review of written documents pertaining to the decision, or the employee's conduct, about which the client is complaining.

Grievance reviews are conducted either by an Area Program Manager, a comparable regional or provider agency staff member, or the Assistant Director of the Foster Care Review Unit, as applicable.

All grievance review activities are completed within 21 calendar days after receipt of the grievance request.

## **PROCEDURES FOR GRIEVANCE REVIEWS**

- 1. Notifying the Client Re: Grievance Rights.** The Department or provider provides written notice advising the client of the grievance process:
  - at the time that a client receives a copy of the Parents Guide and/or Appeals Brochure; AND/OR
  - whenever a client advises the Department, or provider agency, that he/she disagrees with and wants to dispute a decision or employee's conduct which can not be appealed through a fair hearing.

The information provided by the Department or provider agency includes:

- an explanation of the matters which can be reviewed and the activities involved in conducting a grievance review;
- a description of the written documentation that the client is required to send to request a grievance review;
- the timeframe for submitting a grievance request (i.e., within 30 calendar days after the decision was made, or the conduct occurred);
- the name of the Department or provider agency staff member to whom this request should be sent; and
- the timeframe within which the client will receive written notification of the Department or provider agency's decision (i.e., within 21 calendar days after receipt of the grievance request).

- 2. Client's Request for a Grievance Review.** The grievance request must be submitted:

- in writing;
- within 30 calendar days after the decision was made or the conduct occurred;
- to the director of the Department or provider agency office about whose decision, or employee conduct, the client is complaining; and

The grievance request must include:

- a description of the decision, or employee's conduct, about which the client is complaining;
- the date on which this decision was made or conduct occurred;
- the reason(s) why the client is complaining; and
- a copy of any written material that the client feels further explains, or is important to support, his/her complaint.

- 3. Grievance Review Activities.** Upon receipt of a grievance request, the director of the area, regional, Foster Care Review, or provider agency office assigns the grievance to an Area Program Manager, a comparable regional or provider agency staff member, or the Assistant Director of Foster Care Review, as applicable.

The assigned Department or provider agency staff member reviews the grievance request to determine whether:

- it was submitted within 30 calendar days after the decision was made or conduct occurred, and
- if it is a matter which can be appealed through the grievance review process.

If the matter is one which can be appealed through a fair hearing, the assigned Department or provider agency staff member refers the matter to the Director of Fair Hearings and to the director of the Department or provider agency office that is responsible for the decision or the employee's conduct about which the client is complaining.

If the matter is appropriate for a grievance review, the assigned Department or provider agency staff member conducts a review of the written documentation pertaining to the decision, or the employee's conduct, about which the client is complaining. This documentation includes:

- the client's written grievance request, including any other written material submitted by the client, and
- related Department or provider documentation that the assigned Department or provider agency staff member determines to be relevant for the purpose of the grievance review.

With the approval of the Director of the area, regional, Foster Care Review, or provider agency office, the assigned Department or provider agency staff member also may meet with the client and/or with other Department or provider agency staff in order to obtain additional information and/or resolve the dispute.

4. **Outcome of Grievance Review and Written Notice.** All grievance review activities, including written notification regarding the Department or provider's decision, are completed within 21 calendar days after receipt of the grievance request.

The written notification is prepared by the assigned Department or provider agency staff member and describes:

- The reason(s) for the complaint,
- The facts of the case,
- The basis/rationale for the Department or provider's decision, and
- Any action taken by the Department or provider as a result of the grievance review. (Actions pertaining to employee work performance are NOT specifically described in the written notification of the grievance outcome.)

5. **Distribution of the Written Grievance Review Outcome.** The assigned Department or provider agency staff member sends the written notification to the client and, as applicable, to the employee whose conduct is complained of.

A copy of the written notification also is retained in the client's physical case record.