

ORC: § 5153.166.
OAC: 5101:2-33-20
COA: PA-CR 3
CFSR:
Board: Section III
Other:

Next Review Date: January 2022
Last Reviewed: January 2019
Review Responsibility: Office of Client Rights

FCCS PROCEDURE

NO.: 6A

SUBJECT: APPEAL OF CASE DISPOSITION

Approved by: Executive Council
Effective Date: September 13, 2012
Date(s) of Revision: Feb 23, 2016; Jan 15, 2019
Responsible for Implementation: Office of Client Rights

Pursuant to Ohio Administrative Code 5101:2-33-20, an individual who the agency has found to be a substantiated or indicated perpetrator of abuse and/or neglect after an investigation may file an appeal of agency's report disposition (investigative finding). Only the perpetrator (appellant) may file an appeal of the report disposition. The appellant must file an appeal no later than thirty-calendar days following mailing of said finding. In cases where a disposition letter cannot be located or a dispositional letter does not include appeal timeframes, the agency will allow an appeal within thirty calendar days of when the appellant becomes aware or should become aware of the agency's findings against them. Once filed, the appellant must be available to meet within thirty calendar days of filing an appeal. Exceptions to the time frames can be made for compelling reasons, and shall be noted in the hearing report.

The Agency employs a two-step process for an appeal.

1) Procedures for the first step:

- a) The Office of Client Rights (the Office) is the entry point for all appeals. The Office will determine if the appeal has been filed in a timely manner. No appeal can proceed until all cases in a criminal or juvenile court related to the investigative finding have been finalized. An appeal with pending judicial matters related to the finding will not be held until the

appellant notifies the Office that all judicial matters have been resolved. The appellant must notify the Office no later than thirty-calendar days following the resolution of related judicial matters. The Office will confirm that all judicial matters have been resolved prior to proceeding.

- b) When the Office receives an appeal, the Office will maintain an electronic file of all documents received and those that are generated by the Office related to the appeal. Original, hard-copy documents or materials will be maintained by the Office.
- c) In order to assure timeliness, the director of Intake and Investigation will be notified of an appeal as soon as possible. The Intake director may assign an administrative delegate to conduct the first-step of the appeal process. The administrator conducting this first appeal should not be in the chain of command or have had significant involvement in the investigation(s) that generated the appeal. Guidelines for conducting an appeal can be found at: Guidelines for Report Disposition Appeal Policy.
- d) The Intake director or the administrator delegated to conduct the administrative review will make every effort to complete the process within thirty-calendar days. The “Consumer Rights and Information” booklet given to those under investigation assures thirty-calendar days for this part of the process.
- e) If the Intake director or administrator maintains the investigative finding, the appellant will be notified of the same. The Administrative Review Appeal Response letter sent to the appellant shall reflect the appellant’s right to proceed to a final hearing if they do not agree with the conclusions presented in the letter.
- f) Upon conclusion of an administrative review conducted by Intake where the finding is affirmed:
 - i) the appellant shall receive notice within the timeframe identified above. A copy of the signed letter is sent to the Office along with;
 - ii) the Office shall receive a summary detailing the assessment/investigation information, information presented by the appellant, including exhibits, information and materials reviewed, the appeal outcome and rationale; and

- iii) originals, hard-copy documents or materials presented to the Intake director/administrator by the appellant for consideration shall be forwarded to the Office, records already a part of SACWIS, OnBase, Electronic files or microfiche need not be sent to the Office.
- g) If the Intake director or administrator modifies the investigative finding, the appellant will be notified of the same. Unless the finding has been modified to “unsubstantiated” the letter sent to the appellant shall reflect the appellant’s right to proceed to a final hearing if they do not agree with the conclusions presented in the letter.
- h) Upon conclusion of an administrative review conducted by Intake where the finding is modified, the Intake director or administrator will assure:
 - i) the appellant receives notice within the timeframe identified above. A copy of the signed notice is sent to the Office;
 - ii) the Office shall receive a summary detailing the assessment/investigation information, information presented by the appellant, including exhibits, information and materials reviewed, the appeal outcome and rationale.
 - iii) all principals to the original investigation shall be sent Administrative Review Appeal Notice concerning the modified finding;
 - iv) the disposition is changed in SACWIS, as a result of being allowed to change the disposition of a case only once per SACWIS, the Intake administrator hearing the case, who seeks to modify the finding will make a recommendation to modify that will stand until the appellant has exhausted administrative remedy or accepts the recommendation at the administrative review level; and
 - v) original, hard-copy documents or materials presented to the Intake director/administrator by the appellant for consideration shall be forwarded to the Office; records already a part of SACWIS, OnBase, Electronic files or microfiche need not be sent to the Office;

- vi) shall document the administrative review outcome and findings in the case record of the alleged child victim.
 - i) All documents forwarded to the Office shall be kept in files for this purpose.
- 2) Procedures for the second step:
- a) It is the responsibility of the appellant to notify the Office of his/her desire to proceed to a hearing with the Agency's hearing officer. The appeal can proceed if the notification is no more than thirty-calendar days since the appellant's receipt of the outcome of step one. Otherwise, the findings of the first step shall stand if the appellant has not made a timely notification of intent to appeal.
 - b) Upon receipt of such notification, the Office will schedule a hearing within thirty-calendar days. A hearing will involve:
 - i) the investigator and or the investigative unit supervisor, and or the investigative unit associate director;
 - ii) counsel for the agency if there is reason to believe the appellant has secured counsel for the hearing;
 - iii) the appellant; and
 - iv) the appellant's attorney.
 - c) Those providing testimony will take an oath of truthfulness administered by a notary.
 - d) The hearing will be audio recorded.
 - e) The hearing provides an opportunity for the appellant to:
 - i) hear a summary of how the investigation was conducted as provided by the investigator;
 - ii) question the investigator regarding the nature of the investigation within the limits of the law;
 - iii) provide explanation and rebuttal to the conclusions of the investigation; and
 - iv) provide evidence in the form of documents or witnesses in support of their position.
 - f) The hearing officer should refrain from discussing the case with any of the parties following the hearing, but may consult with the Chief Legal Counsel for the agency.

- g) A final report shall be issued no later than thirty-calendar days from the time of the hearing. The appellant shall have no further recourse within the Agency. This report shall state the agency's final position on the appellant's appeal. The final hearing report shall be delivered to:
 - i) the appellant and, or the appellant's counsel;
 - ii) the investigator and that chain of command;
 - iii) the administrator who conducted the first step of the appeal process; and
 - iv) counsel for the Agency.
- h) If the hearing officer modifies the finding, the Intake director or the administrator delegated will change the finding in SACWIS. The hearing officer will assure the findings of the appeal hearing are sent to those who were principals of the report/ investigation.
- i) The Office shall document the report disposition appeal hearing process and findings in the case record of the alleged child victim. An electronic copy of the hearing report shall be deposited in the electronic case file of the alleged child victim.
- j) The hearing officer has the discretion to uphold, modify or reverse the finding.