

Foster Parent and Relative Caregivers

Know Your Rights:

**Understanding the
Appeal Process**



Foster Parent Law

Responsibility # 14:

It is your responsibility to know the child welfare agency's appeal procedure for foster parents and the rights of foster parents under the procedure.



Understanding the Appeal Process

This training is designed to give you a brief overview of:

- **What you as foster parents or relative caregivers may appeal or otherwise file a grievance.**
- **What you as foster parents or relative caregivers generally may not appeal.**
- **The various avenues and processes to resolving disputes or appealing decisions made by the agency (YSBIV) and/or the Department of Children and Family Services.**

AN OVERVIEW

Please note, the processes discussed in this presentation are meant to provide you with only a ***brief overview*** of the information. Detailed information on the different appeal processes, grievance procedures, and related policies, are available on the DCFS Website and/or the YSBIV Website.

A Resource Page will be available at the end of this presentation.

Foster Parents or Relative Caregivers and other child welfare team members, just like family members or co-workers, will sometimes disagree about:

- Services or supports for the child;
- Support requested for the foster or relative caregiver family;
- Service planning, including visitation, transportation, etc.;
- Foster family adherence to licensing standards;
- Moving or removing a child from the foster/relative caregiver home;
- Recommendations to the juvenile court about permanency goals, including who can adopt the child if at that point in the case.

If You Disagree....

- Start by treating your foster child's worker and the other agency staff or team members the way you would wish to be treated. Give the agency and the workers a chance to be your teammate. If you disagree, try to resolve your own disagreements, starting with the worker and their supervisor.
- Know the Agency and DCFS's Policies on grievances and appeals, and use the Chain of Command. Additionally, the Foster Parent Law requires agencies to establish a grievance procedure for issues specifically contained within the Foster Parent Law.
- If issues cannot be resolved, there is no substitute for knowing and understanding your rights, responsibilities, your authority and that of the other child welfare team members, including our agency and DCFS. It is your right to appeal or file grievances on a variety of concerns or issues.
- Use all the tools at your disposal! The IL DCFS Foster Parent Handbook is an excellent resource for understanding your rights and responsibilities, and can be found on the IL DCFS Website by clicking the link below:

[IL DCFS Foster Parent Handbook](#)



***WHAT YOU
MAY
APPEAL***

WHO CAN APPEAL

Individuals who are currently receiving child welfare services or are requesting services may appeal actions and decisions made by DCFS or contracted agency staff (YSB) directly to DCFS through the DCFS **Service Appeal process**. See Procedure 337 at this link: [PROCEDURES 337 \(illinois.gov\)](https://www.illinois.gov/proc337).

Individuals with the right to file an appeal are: Children in foster care, birth parents, and ***foster caregivers or relatives who are the current caretakers of the child/ren in foster care***. What issues are appealable depends on the role of the individual filing the Service Appeal.

Service Decisions that May Be Appealed

APPEAL

Foster Caregivers can appeal these service decisions to DCFS:

- A change in the child's placement provided the child has been ***placed in the home for at least 60 days***. This does not include placement with biological or adoptive parents or siblings, placements for the purposes of adoption as ordered by the court, or the child's return to an unrelated individual with whom the child resided prior to entering substitute care.
- Decisions that directly affect you. Example: Foster Care payment issues
- Decisions about services for the benefit of the child/ren in your care. Examples: daycare, medical, educational, or psychological services.
- Failure to provide services agreed to in the service plan for the benefit of the child in your care. Examples: counseling or medical equipment. *This does not include services for the biological family.*

Other Decisions that Can be Appealed: Indicated or Substantiated Findings of Investigations Involving Caregivers

Child Abuse or Neglect Investigation where the foster caregiver or family member is accused of abuse and/or neglect and is reported to the DCFS Hotline, and there is a finding of an “Indicated Report”.

Licensing Complaint Investigations for Licensed Foster/Relative Homes that result in a “Substantiated” finding(s) of violation(s) of the Foster Home Licensing Standards.

Please note: These 2 types of investigations can occur at the same time. You may have a DCFS Child Abuse or Neglect Investigation that is an “Unfounded Report”, but you are “Substantiated” in a Licensing Complaint Investigation.



***WHAT YOU
MAY NOT
APPEAL***

Service Decisions that May Not Be Appealed to DCFS

Foster Caregivers cannot appeal these service decisions to DCFS:

- Adjustments made in services by changes to state or federal law;
- Issues already previously determined through the service appeal process;
- When the issue is not defined as “services” under DCFS rules. Foster parents may be directed to other appeal processes within DCFS, such as Licensing Complaint Investigation findings and Child Abuse and Neglect Investigation findings;
- Issues that only regard the Medical Assistance Program;
- When a Court has made a judicial determination or has already entered an order, including an order on the issue being appealed.

Additional Supports

If you are unsure whether or not an issue is appealable or you feel you cannot resolve the issue with the Agency and/or DCFS, foster parents and relative caregivers can reach out to the following resources for additional support:

Illinois Foster Parent Helpline ([1-866-368-5204](tel:1-866-368-5204)) or the Office of Inspector General (OIG) Foster Parent Hotline: ([1-800-722-9124](tel:1-800-722-9124))

The DCFS Advocacy Office for Child and Families ([1-800-232-3798](tel:1-800-232-3798)) or Email: dcfs.advocacy@illinois.gov



Appeals and Grievances Processes

An Overview

- Service Appeals**
- Indicated Abuse and Neglect Investigations**
- Substantiated Licensing Investigations**
- Foster Caregivers Grievances**



Service Appeal Process

The Service Appeal Process is a 2 step process which consists of ***Mediation by a third party***, which is optional, and a ***Fair Hearing***. In some instances you may be able to get a temporary decision on some issues raised by you through an ***Emergency Review***.

When the issue is the removal or change of placement of a child, The Service Appeal Process consists of a ***Clinical Placement Review*** of the placement decision, first, and a ***Fair Hearing***.

The Service Appeal Process must be initiated by you, or your authorized representative such a lawyer, relative or friend, or an individual appointed by the court to legally act on your behalf.

Mediation

- Mediation is offered as the first step, and is an informal process where both you and the responsible staff for the decision discuss your differences with a neutral third party, a trained mediator, leading the discussion. *This generally occurs within 30 days of the date of the Appeal request.*
- Mediation gives you a chance to express your opinion through discussion, to take part in the decision making process, and be a part of the final decision.
- If you reach an agreement on the issues raised by you, all parties sign a **Memorandum of Agreement**, which spells out the terms of the agreement. If the Memorandum of Agreement is adhered, generally the process stops here.
- If the mediation process is not successful, or you choose not to continue or participate in the mediation, you may request your appeal go to a Fair Hearing.

Fair Hearing

Federal Law gives you the right to a Fair Hearing with the Department on the appealable issues you raised in service appeal request. *Generally within 45 days from the date of the Appeal request.*

This hearing will give you a chance to state your opinion and the reason for your opinion to an Administrative Law Judge (ALJ).

Likewise, the agency and/or DCFS making the appealed decision will be given a chance to state their opinion and the reasons for making the decision.

The Administrative Law Judge will then give a recommendation to the Director of DCFS as how to resolve the issue.

The Director will consider this recommendation and issue DCFS' Final Decision on the issue(s) in dispute. Generally within in 90 days of the Appeal request.

Emergency Review

- Sometimes the agency and/or DCFS takes action without telling you before they do it. This may happen when the agency or DCFS believes the **child to be at imminent risk of being harmed** if it does not act immediately, or if visits remain unchanged during the Appeal Process.
- An **Emergency Review** allows DCFS to make a temporary decision based on a concern that imminent risk of harm may come to a child while the case is proceeding through the Service Appeal Process.
- Either you or DCFS may request an Emergency Review. If you are requesting an Emergency Review, it must be done ***within 10 days*** of the Notice of Decision or action taken by the agency and/or DCFS.
- If the issue is the removal of a child, an Emergency Review is not an option. Instead you must file for a Clinical Placement Review.

Clinical Placement Review

If you are objecting to the removal or change of placement of a child in your care, you must complete a *Clinic Placement Review* before filing a request for an Appeal.

The request for a Clinical Placement Review must be made within 3 working days after receiving the Notice of Change of Placement. You may request a Clinical Placement Review by calling the Clinical Review Team immediately at 866-225-1431, or faxing your request to the DCFS Clinical Placement Team at 1-800-733-3308.

During the Clinical Placement Review there will be a review of the current placement, the reason for the change of placement, and the child's needs and appropriateness and stability of the proposed placement.

If you do not agree with the decision made as a result of the Clinical Placement Review, you may file an Appeal.

However, the child or children will remain in the placement decided by the Clinical Placement Review team while the appeal is pending.

Service Appeal Process

Requesting an Appeal

Should you choose to request an Appeal, your request must be in writing and must be mailed within 45 days of the date you receive a Notice of Decision to:

Administrative Hearings Unit
Department of Children and Family Services
406 E. Monroe Street
Springfield, IL 62701

What to Include in Your Appeal Letter

- ☐ Information about you: Name, address, telephone numbers (day and evening)
- ☐ Agency's Name
- ☐ Child or children's name, ID numbers, and dates of birth
- ☐ Caseworker's name and telephone number
- ☐ Your Request: Ask for Mediation, fair hearing and or emergency review, or ask for help in deciding which what to request
- ☐ Briefly list your issues, you will have an opportunity to provided more detailed information later in the Appeal Process.
List the decision and/or issue, and brief reason why you are appealing. For example: Service Plan states child is to receive counseling, it has been 3 months and no action has been taken or no counseling has been approved for the child.
- ☐ Attach copies of any previous agency or DCFS written Notices of Decision, if you have these documents.
- ☐ DO NOT attach "Evidence", keep this for later use in the process.

Indicated Abuse and Neglect Investigations

An Overview of the Appeal Process



Indicated Abuse and Neglect Investigation: Your Rights

If you have been **indicated** for child abuse and/or neglect, this means that a DCFS investigator conducted an investigation and determined that there was **credible evidence that a child was abused or neglected**. An indicated finding is a separate matter from any juvenile or criminal court proceeding.

During this investigation you have a right to:

- Know the exact allegation against you.
- Know the circumstances surrounding the allegation(s). This includes the what, where and when information surrounding the report. You will not be given the reporter's name as this information **must** remain confidential.
- Offer names of people who will substantiate your side of the story.
- Call someone for advise prior to answering questions, to have an attorney present during questioning (if able to do so in 24 hours), or a witness of your choosing to be present during questioning.

Indicated Abuse and Neglect Investigation: The Appeal Process

If you received Notice of an Indicated Finding of Child Abuse and/or Neglect, you have certain rights, including:

- The right to receive a copy of the investigative file, absent certain information that DCFS is prohibited from releasing by law;
- The right to request an Administrative Appeal Hearing of the indicated finding; also known as an expungement appeal, which includes the right to a hearing at which time the indicated perpetrator and the Department can present testimony and other evidence before a neutral Administrative Law Judge (ALJ) who makes a recommended finding to the DCFS Director.
- The right to seek a judicial review of the Director's final Administrative Decision after an Administrative Appeal hearing.

Indicated Abuse and Neglect Investigations: What Issues You Can Appeal

The following issues can be appealed through this appeal process:

- An indicated finding of child abuse and/or neglect;
- Failure to remove an unfounded report of child abuse and/or neglect for the State Central Register within the timeframes given in DCFS Rule 336.60, unless the report is being retained as a false report at the subject's request;
- Failure to expunge or remove information about an indicated report of child abuse and neglect that the appellant believes is maintained in a manner *inconsistent* with the Abused and Neglected Report Act;
- Issues of whether the DCFS' determined retention period assigned to the indicated report is in accordance with Confidentiality of Personal Information of Person Served by DCFS rules.

Indicated Abuse and Neglect Investigation: Appeal Rights and Deadlines

The process and timeframes for the Child Abuse and Neglect Appeal Process are different than the Service Appeal Process.

At the beginning and conclusion of an investigation, an **Appeal Brochure** will be included in the DCFS letter listing the subject's rights to appeal to DCFS and all deadlines, which are as follows:

- You must submit your appeal request **in writing** within **60 days** of the postmark on the DCFS' notice of investigative findings. This can be done by you or an authorized representative. **Written appeal letters must be sent to the address given in the notice from the State Central Register for child abuse and neglect reports.**
- A **Pre-Hearing Conference** will be scheduled at least 15 days before the first hearing date.
- A hearing date will be scheduled within **70 calendar days** after the date of receipt of the appellant's request for an **Administrative Hearing**, at a time and place reasonably convenient for all parties.
- Written notice to the parties will be provided within 10 calendar days after the receipt of a sufficient request for an Administrative Hearing, and will include information on the scheduled hearings, the nature of the appeal, the appeal process and the appellants rights.

Pre- Hearing Conference

The **Pre-Hearing Conference** is generally conducted by telephone, and the following issues will be addressed in the conference:

- Whether parties have exchanged a list of witnesses who will provide testimony during the Administrative Hearing.
- Whether minors under 14 years may testify, and if so, any restrictions or conditions regarding their testimony.
- Whether witnesses should be scheduled to testify at specific times.
- Whether parties have or will have exchanged records or documentation prior to the Administrative Hearing.
- Whether parties can agree upon any facts as true.
- Motion filed by any parties.
- The need for an interpreter for any party.

The **Administrative Hearing**, concerning child abuse or neglect reports, is led by an Administrative Law Judge (ALJ). In this hearing, DCFS carries the burden of proof of justifying the refusal to ***amend, expunge or remove*** the record.

DCFS must provide proof that a ***preponderance of evidence supports the indicated findings***, or that the record of the report is being maintained in a manner consistent with Abused and Neglected Reporting Act, and in accordance with DCFS rules.

Both parties (foster caregiver and DCFS) have the right to:

- Present witnesses
- Present any information that is relevant to the issues.
- Question or disapproved any information, including an opportunity to question opposing witnesses.
- Dispose of any disputed issue by mutually agreeing to a resolution any time prior to the conclusion of the hearing.

Administrative Hearing



Making the Final Administrative Decision

The Administrative Law Judge is responsible for overseeing the Administrative Hearing. Their recommendation is due within 90 days after the receipt of a timely and sufficient request for an Appeal, unless extended by action of the appellant.

Within this 90 day period, the Director shall receive and accept, reject, amend or return the recommendation to the Administrative Hearing Unit for further proceedings. The 90 day period may be extended by action of the appellant.

The Director's decision is the final Administrative Decision of the Department.

For more detailed information please see the ***Appellant's Rights and Responsibilities*** located on the DCFS website, as well as the Foster Parent Handbook.

Substantiated Licensing Complaint Investigations

An Overview of the Appeal Process



LICENSING COMPLAINTS

A **Licensing Complaint** is defined as any report claiming violations of the law or DCFS Rule 402, **Licensing Standards for Foster Family Homes**, which are related to foster parenting, and can include child abuse or neglect.

When a licensing complaint is reported, the agency or DCFS licensing staff are obligated to investigate the complaint.

Licensing Complaints typically come from:

- Written or verbal communication to the agency or DCFS;
- Agency or DCFS staff who observe licensing violations in the course of their work;
- “Indicated” reports of abuse or neglect within a foster home, this will automatically generate a licensing complaint and investigation;
- Child Protection Investigators who find no credible evidence for abuse or neglect in a foster home, but do observe what *may be* licensing violations.

Licensing Complaint Investigations

Timeframes

- Within **2 business days** of the Complaint the agency or DCFS licensing staff must begin a licensing investigation, and make an unannounced visit to the foster home.
- Within **30 calendar days** of the Complaint, the investigation **should be completed**, but can be extended another 30 calendar days upon written notice to the caregiver.
- Within **15 days after completing the investigation**, the agency must make a **formal determination** of whether or not a licensing violation has occurred.
- Within **5 calendar days after this determination**, the agency will send the caregiver(s) being investigated a certified letter, summarizing the findings of the licensing investigation.
- Finding can include: **Substantiated** (credible evidence exists to support a licensing standard violation) or **Unsubstantiated** (no credible evidence exists to support a licensing standard violation)



Licensing Complaint Investigations: Your Rights

According to the Foster Parent Law, Right # 6, you have a right to:

- To be provided a fair, timely, and impartial investigation of licensing complaint issues;
- Be provided the opportunity to have a person of their choosing present during the investigation and due process;
- Be provided the opportunity to request and receive **mediation** and/or an **administrative review** of decisions which affect licensing parameters;
- To have decisions concerning a **licensing corrective action plan** specifically explained and tied to the licensing standards violated.

In addition, caregivers have a right to an **Informal Supervisory Review** of the investigation decision, if the caregiver disagrees with this decision.

The caregiver must make a written request to the agency for an **informal supervisory review** of the decision within **10 days** of the postmarked letter of decision. The licensing worker, supervisor and caregiver must be present at this meeting.

After the informal supervisory review, if the licensing decision is overturned, the process stops.



Possible Outcomes Licensing Complaint Investigations

If the decision is **not overturned**, there are several possible outcomes and/or enforcement actions that can occur:

Corrective Action Plan:

If licensing violations are found and correctable, and the caregiver is willing and able to correct them in a short time period, then a written corrective action plan will be developed.

The written Corrective Action Plan will always include:

- What exact licensing violations were found;
- A clear statement of what is expected in correcting them;
- A specified time frame for completion

Post Complaint Monitoring Visit:

The caregiver will be given, in writing, a time period for compliance to licensing standards. After the allowed time period, an agency licensing worker will make an ***unannounced*** visit to the foster family home to determine whether the licensing violations have been corrected.

Caregiver Surrenders License:

During or after an investigation, a foster parent/caregiver may decide to ***voluntarily*** surrender their license.

Possible Negative Enforcement Actions of Licensing Standards

Agencies, in consultation with DCFS, are responsible for ensuring that licensing standards are met by the foster family homes under their supervision. DCFS issues all foster care licenses, even to private agency foster homes, and has the *final responsibility and authority* to enforce licensing standards.

If a prospective or current foster family **has not been willing or able** to comply with DCFS Licensing Standards, after reasonable steps have been taken to them comply, **negative enforcement actions** are usually the result, especially in serious licensing violations.

The following is a list of possible negative enforcement actions:

- Denial of Initial License
- Changing/Reducing Capacity of License (reducing the # of foster children allowed in the home)
- Refusal to Renew a License
- Revoking a License
- Administrative Order of Closure of License

Refer to the **DCFS Foster Parent Handbook** for a complete explanation of these Enforcement Actions, the **DCFS Procedure 383** or consult with your Licensing Worker.

Caregiver Rights Under Negative Enforcement Actions by DCFS

Prior to revoking, refusing to renew a license or issue a license, DCFS must notify the caregiver of this decision by registered mail. The DCFS letter contains information about how to request a hearing, if desired. This letter will be sent by the **DCFS Central Office of Licensing**. The following timeframes apply:

10 Days from Postmark to Request Hearing:

The caregiver has 10 days from the postmarked date of the DCFS letter to make a written request for a hearing. The caregiver, in the same letter, may also request a written statement of the charges from DCFS.

If the caregiver does not request a hearing within 10 days from the postmarked date of the DCFS letter, the license will be revoked or the renewal or issuance of the license will be denied.

Hearing within 30 Days of Postmark of Request/15 Day Notification of Hearing Date:

If the caregiver requests a hearing within 10 days from the postmark date time limit, the hearing date must be within 30 days of the postmark on the caregiver's request letter. DCFS must also notify the caregivers by registered mail at least 15 days in advance of the hearing date set.

Both DCFS and the caregiver may subpoena witnesses and provide relevant documents for the hearing. A Hearing Officer will be appointed by DCFS. An attorney may represent the caregivers, if they choose to hire one.

After the hearing, DCFS will either determine whether to revoke or not renew the license, or will decide that no action should be taken.



Voicing Other Types of Complaints or Concerns: Staff or Agency Performance

If you feel that the caseworker, supervisor or any staff member of the agency is not doing his or her job, or you are concerned about their actions or conduct, inform your agency's chain of command, beginning with the staff person's supervisor and moving up until the matter gets resolved.

You may also use the agency's general Client Grievance process, if you feel that you cannot resolve this concern with the involved staff and supervisor. The Client Grievance Policy and Client Grievance Form is located on the YSBIV Website at <https://www.ysbiv.org/about-us/agency-and-public-policies/>.

If your issue is not resolved once you have taken your concern up the appropriate Chain of Command or Grievance Process, your next step is to contact the DCFS Advocacy Office for Children and Families at 1-800-232-3798. Be prepared to explain your situation with specific examples.

Voicing Other Types of Complaints or Concerns:

Foster Parent Law Grievances

The Foster Parent Law **requires** agencies to have a procedure in place to address alleged violations of the Rights contained within the Illinois Foster Parent Law. This process can **only be used** for grieving **alleged violations of the Foster Parent Law** that are not covered by an already existing grievance or appeal process. For example: Service Appeals, Indicated cases of child abuse or neglect and licensing investigation findings, or licensing enforcement actions.

If you feel that the agency has violated a Foster Parent Right contained within the Foster Parent Law, you have a right to file a grievance and be free from acts of harassment and retaliation. **Your grievance should be resolved within 30 days of the agency receiving the grievance.** The agency's Foster Parent Grievance Policy and Procedure is located on the agency website at <https://www.ysbiv.org/our-programs/foster-care/>, and a copy is provided during the licensing process.

If you feel your grievance was not resolved sufficiently in this process or you perceive retaliation by the agency, you may contact:

DCFS Advocacy Office at 1-217-524-2029 or 1-800-232-3798 or dcfs.advocacy@illinois.gov

DCFS Office of Caregiver & Parent Support 1-217-782-2947 or at:
DCFS.StatewideFosterCareAdvisoryCouncil@illinois.gov



RESOURCES

Hopefully, you have found this training to be helpful in providing you with the basic information on the various appeal and grievance options available to you. Below are links or information for the various resources and policies or procedures referred to in this training:

- [IL DCFS Foster Parent Handbook](#)
- [PROCEDURES 337 \(illinois.gov\)](#).
- [Hearings and Appeals - Hearings and Appeals \(illinois.gov\)](#) (Child Abuse and Neglect Appeals)
- [PART ONE: MONITORING \(illinois.gov\)](#) Procedure 383 (Licensing Enforcement)
- [Procedures 402 \(illinois.gov\)](#) (Licensing Standards)
- [DCFS \(illinois.gov\)](#)
- [Youth Service Bureau - Youth Service Bureau Of Illinois Valley \(ysbiv.org\)](#)
- Illinois Foster Parent Helpline ([1-866-368-5204](#))
- Office of Inspector General (OIG) Foster Parent Hotline: ([1-800-722-9124](#))
- DCFS Advocacy Office for Child and Families (1-800-232-3798) or Email: dcfs.advocacy@illinois.gov