

## **HAVE A COMPLAINT?**

If you have a complaint with the Office of Children's Services and cannot resolve your complaint informally with your social worker, there is a grievance procedure which you may access. The Grievance Procedure is a formal way to ensure your complaint is considered at higher levels. If you decide to go forward with the grievance procedure, complete the attached Complaint Form and mail or fax it to the address/phone number provided on the form.

### **NOTE**

An aggrieved individual may file a grievance only on the following grounds:

- the application of a division policy or procedure. This includes substantiated findings of abuse or neglect;
- an action or failure to act by the division; or
- a division licensing investigation, *only* after the investigation is complete.

The grievance procedure is not available:

- to a resident of a state-operated juvenile correctional facility for which procedures developed by the superintendent under 7 AAC 52.095 apply;
- to a state employee unless the employee is also a client of the division, a client's parent or guardian, or a service provider for the division;
- for contract or agreement for services disputes;
- to appeal late payments or to contest paid rates;
- to complain of child placement or removal decisions of the division as a result of intervention under Alaska Statute 47.10;
- to complain of a denial, involuntary conditioning, suspension, or revocation of a license for which an appeal is available under Alaska Statute 44.62;
- to appeal a decision regarding grant programs for which an appeal is available under 7 AAC 78.310; and
- to appeal a decision regarding civil rights actions covered under the department's civil rights complaint procedures.

## **To Appeal a Substantiated Child Abuse and Neglect Finding**

If AS 47.17 does not give a complainant the right to seek a court review of a substantiated child protection finding made against the complainant, the complainant may have the finding reviewed by either submitting a request to the OCS that the appeal be:

1) Reviewed as a grievance through the procedures under 7 AAC 54.220 - 7 AAC 54.240 as described above; or

(2) heard through the Office of Administrative Hearings as provided for in AS 44.64.

**Note:** An individual who appeals a substantiated child protection finding under (1) above waives the right to an appeal heard by the Office of Administrative Hearings.

An appeal referred to the Office of Administrative Hearings is processed under AS 44.64.060, except that the hearing is closed to the public and the administrative law judge's proposed decision and record are confidential and not public records. The administrative law judge shall serve the commissioner with the proposed decision. The commissioner will adopt, revise, modify, or amend the proposed decision, or return the proposed decision to the administrative law judge for further proceedings under AS 44.64.060.

To initiate an Office of Administrative Hearings appeal, you must fill out the attached Request for Appeal of a Substantiated Child Abuse or Neglect Finding and mail or fax it to the address/phone number provided on the form.

## COMPLAINT (Under Grievance Procedures)

A written statement is to be completed by the aggrieved individual and submitted to the Supervisor of the person whose actions are being grieved or to the Children's Services Manager, if the complaint is against a person directly supervised by the Children's Services Manager.

**Today's Date:** \_\_\_/\_\_\_/\_\_\_

**Date Incident Occurred or Complaint  
Originated:** \_\_\_/\_\_\_/\_\_\_

**Who are all the persons involved in the situation?**

Name	Address	Phone

**Statement of complaint:**

**Steps already taken to resolve the complaint:**

**Remedy expected:**

(Attach additional pages if needed)

**Signed** \_\_\_\_\_

\_\_\_\_\_ Date

**Please mail or fax attention to:**

Naomi Harris, Public Relations Manager (Or Designee)  
Office of Children's Services, State Office  
130 Seward Street, Suite 400  
Juneau, AK 99811  
Fax: (907) 465-3397  
Ph: (907) 465-3170

## Request for Appeal of a Substantiated Child Abuse or Neglect Finding

(Through the Office of Administrative Hearings)

In accordance with Alaska Statute 44.64.060, I request a hearing to be scheduled with the Department of Administration's Office of Administrative Hearings for the purpose of appealing a substantiated finding of child abuse or child neglect against me as determined by the Office of Children's Services.

Today's Date: \_\_\_/\_\_\_/\_\_\_      Approximate Date of Substantiated Finding: \_\_\_/\_\_\_/\_\_\_  
Investigating OCS Office \_\_\_\_\_

### Requestor (Appellant)

Name:	
Address:	
Telephone:	Fax:
Email:	

### Requestor's Attorney/Representative (if applicable)

Name:	
Address:	
Telephone:	Fax:
Email:	

### Statement of complaint:

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Signed \_\_\_\_\_

\_\_\_\_\_  
Print name and Relationship to Agency

**Please mail or fax this request attention to:**  
Naomi Harris, Public Relations Manager (Or Designee)  
Office of Children's Services, State Office  
130 Seward Street, Suite 400  
Juneau, AK 99811  
Fax: (907) 465-3397  
Ph: (907) 465-3170

## ALASKA ADMINISTRATIVE CODE

### TITLE 7 HEALTH AND SOCIAL SERVICES

#### ARTICLE 02 GRIEVANCE PROCEDURE

##### Section:

- 205. Purpose.
- 210. Applicability and exemption.
- 215. Substantiated child abuse and neglect findings.
- 220. Grievance procedure.
- 222. Informal meeting.
- 224. Review of decision by supervisor for child protection services.
- 226. Review of a decision by supervisor for juvenile justice services.
- 228. Foster parent grievances.
- 230. Panel review and resolution of child protection services complaints.
- 240. Resolution of juvenile justice complaints.

**7 AAC 54.205. Purpose.** The purpose of the grievance procedure in 7 AAC 54.210 - 7 AAC 54.240 is to provide

- (1) an informal dispute resolution process for an individual and department staff involved in a disagreement to discuss their concerns concerning child protection services or juvenile justice services verbally and in writing and attempt to reach a fair resolution agreeable to all parties; and
- (2) a review process of a substantiated child abuse and neglect finding that has not been reviewed by a court. (Eff. 5/4/90, Register 114; am 12/30/2006, Register 180)

**Authority:** AS 47.05.010 AS 47.10.098 AS 47.14.010

**7 AAC 54.210. Applicability and exemption.** (a) An individual may submit a grievance to the department under 7 AAC 54.210 - 7 AAC 54.240 concerning the units that provide child protection services or juvenile justice services.

(b) A complainant may use the informal grievance procedure under 7 AAC 54.210 - 7 AAC 54.240 to challenge an application of a policy or procedure, action or inaction, or a completed licensing investigation by a department unit concerning child protection services or juvenile justice services.

(c) The provisions of 7 AAC 54.020 - 7 AAC 54.150 and 7 AAC 54.900 regarding confidentiality of child protection files apply to the grievance procedure under 7 AAC 54.210 - 7 AAC 54.240.

(d) The grievance procedure under this section is not available

(1) to a resident of a state-operated juvenile correctional facility or juvenile detention facility for which procedures developed by the superintendent under 7 AAC 52.095 apply;

(2) to a state employee unless the employee is also a client of the department, a client's parent or guardian, or a service provider for the department;

(3) for contract services disputes;

(4) to appeal late payments or to contest base foster care rates paid;

(5) to complain of child placement or child removal decisions of the department as a result of intervention under AS 47.10;

(6) to appeal a decision regarding grant programs that may be appealed under 7 AAC 78.310;

(7) to appeal a decision regarding civil rights actions covered under the department's civil rights complaint procedures;

(8) to appeal a decision or action taken by the department that is reviewable by the court under AS 47.10, AS 47.12, or AS 47.14; or

(9) to appeal a decision or action taken by the department that occurred more than 12 months after the complainant had actual notice of the decision or action. (Eff. 5/4/90, Register 114; am 1/14/2000, Register 153; am 12/30/2006, Register 180)

**Authority:** AS 47.05.010 AS 47.10.098 AS 47.14.010

**7 AAC 54.215. Substantiated child abuse and neglect findings.** (a) If AS 47.17 does not give a complainant a right to seek a court review of a substantiated child protection finding made against the complainant by the unit in the department that provides child protection services, the complainant may have the finding reviewed by either submitting a request to the department that the appeal be

(1) heard through the Office of Administrative Hearings as provided in AS 44.64; or

(2) reviewed as a grievance through the procedure under 7 AAC 54.220 - 7 AAC 54.240.

(b) An individual who appeals a substantiated child protection finding under (a)(2) of this section waives the right to an appeal heard by the Office of Administrative Hearings under (a)(1) of this section.

(c) An appeal referred to the Office of Administrative Hearings under (a)(1) of this section is processed under AS 44.64.060 , except that the hearing is closed to the public and the administrative law judge's proposed decision and record are confidential and not public records. The administrative law judge shall serve the commissioner with the proposed decision. The commissioner will adopt, revise, modify, or amend the proposed decision, or return the proposed decision to the administrative law judge for further proceedings under AS 44.64.060 . Personnel in the commissioner's office may not participate in any prior stage of an appeal brought under this section. (Eff. 12/30/2006, Register 180)

**Authority:** AS 47.05.010 AS 47.10.098 AS 47.14.010

**7 AAC 54.220. Grievance procedure.** (a) A complainant may submit a written complaint on a form provided by the department that describes the specific matter being grieved and the relief sought. The complainant shall submit the complaint to the supervisor of the person whose actions are the subject of the grievance. Upon receipt of the written grievance, the supervisor shall provide a copy of the procedure in 7 AAC 54.210 - 7 AAC 54.240 to the complainant. Within three working days after receiving the complaint, the supervisor will determine

(1) the nature of the complaint; and

(2) whether use of the grievance procedure under 7 AAC 54.210 - 7 AAC 54.240 is applicable to resolve the grievance.

(b) If the supervisor for child protection services decides that the grievance procedure is not applicable, the supervisor will notify the complainant and the regional administrator in writing and describe the reasons that the grievance procedure does not apply. The complainant may appeal the supervisor's decision under this subsection to the regional administrator. If the regional administrator made the initial decision that the grievance procedure does not apply, the complainant may appeal to the regional appeal panel under 7 AAC 54.230.

(c) If the supervisor for juvenile justice services decides that the grievance procedure is not applicable, the supervisor will notify the complainant and the juvenile probation officer IV or juvenile facility superintendent in writing and describe the reasons that the grievance procedure does not apply. The complainant may appeal the supervisor's decision to the juvenile probation officer IV or juvenile facility superintendent under 7 AAC 54.226(a) . If the juvenile probation officer IV or juvenile facility superintendent made the initial decision that the grievance procedure does not apply, the complainant may appeal to the director or director's designee under 7 AAC 54.240.

(d) If the complaint involves an action of a department staff member who is directly supervised by a regional administrator, juvenile probation officer IV, or juvenile facility superintendent, the complainant shall file the written complaint with the regional administrator, juvenile probation officer IV, or juvenile facility superintendent for resolution under 7 AAC 54.226 or 7 AAC 54.230.

(e) If the supervisor decides that the complaint should be processed under 7 AAC 54.210 - 7 AAC 54.240, the supervisor shall conduct an informal meeting under 7 AAC 54.222 with the complainant and the involved department staff within 10 working days after receipt of the complaint, unless the complainant or involved department staff is unable, for good cause shown, to attend within that period. The person unable to attend shall submit the reasons in writing, and the supervisor shall schedule the meeting to be held as soon as the person is available. (Eff. 5/4/90, Register 114; am 11/16/94, Register 132; am 12/30/2006, Register 180)

**Authority:** AS 47.05.010 AS 47.10.098 AS 47.14.010

**7 AAC 54.222. Informal meeting.** (a) The supervisor shall conduct the meeting required under 7 AAC 54.220(e) in an informal manner. Each person will be permitted to state that person's understanding of the facts at issue in the complaint and make suggestions for resolution. If the parties agree, the supervisor may use teleconferencing to conduct the informal meeting. If more than one person grieves the same matter, the supervisor may schedule more than one informal meeting or may consolidate the grievances. If more than one informal meeting is necessary, the supervisor will schedule subsequent meetings to be held as soon as possible.

(b) At the conclusion of the informal meeting, the supervisor will complete a grievance procedure meeting summary form and include the action that was or will be taken. If the supervisor and the parties agree with the summary of the meeting as described on the form, each person will sign the form and receive a copy. If the informal meeting is conducted by teleconference, the parties may sign a copy of the completed grievance procedure meeting summary form and return it to the supervisor by electronic mail or facsimile.

(c) If a resolution is not reached at the informal meeting, the supervisor shall, within five working days after the final informal meeting, complete a written proposed resolution and send it to all parties. The supervisor will include the grounds for the complaint, a statement of the facts, actions taken or planned to resolve the complaint, and a statement of the complainant's right to request a review of the supervisor's proposed decision under 7 AAC 54.224 or 7 AAC 54.226. (Eff. 12/30/2006, Register 180)

**Authority:** AS 47.05.010 AS 47.10.098 AS 47.14.010

**7 AAC 54.224. Review of decision by supervisor for child protection services.**

(a) A complainant may request a meeting with the regional manager to discuss the proposed decision issued under 7 AAC 54.222 by the supervisor for child protection services.

(b) The meeting must be held in the same manner and according to the same time frames as the meeting with the supervisor under 7 AAC 54.222.

(c) In addition to a request for a meeting under (a) of this section, the complainant may request a review of the supervisor's proposed decision by a regional appeal panel appointed by the regional administrator under 7 AAC 54.230. The complainant must request the appointment of a regional appeal panel within 15 working days after the date of the supervisor's proposed decision, or the request will be denied as untimely. The regional manager shall provide the complainant with the name and office address of the regional administrator and inform the complainant of the complainant's right to include a statement and documentation for the regional appeal panel's review. (Eff. 12/30/2006, Register 180)

**Authority:** AS 47.05.010 AS 47.10.098 AS 47.14.010

**7 AAC 54.226. Review of a decision by supervisor for juvenile justice services.**

(a) A complainant may request a meeting with the regional juvenile probation officer IV or juvenile facility superintendent to discuss the proposed decision issued under 7 AAC 54.222 by the supervisor for juvenile justice services.

(b) The meeting must be held in the same manner and according to the same time frames as the meeting with the supervisor under 7 AAC 54.222.

(c) After the meeting under this section, the complainant may request a review of the decision by the director or director's designee under 7 AAC 54.240. (Eff. 12/30/2006, Register 180)

**Authority:** AS 47.05.010 AS 47.10.098 AS 47.14.010

**7 AAC 54.228. Foster parent grievances.** (a) If a complaint involves the actions of a foster parent, the department will notify the foster parent if the department intends to remove a child on a non-emergency basis. The department will issue the notice at least 48 hours in advance of the intended removal. A foster parent may grieve a decision to remove a foster child from the foster home by submitting a written request to the regional administrator that the child not be removed from the foster home until there is a final resolution of the grievance under 7 AAC 54.210 - 7 AAC 54.240.

(b) The regional administrator will grant the request made by a foster parent unless the regional administrator issues a written decision that finds that

- (1) removal is in the best interests of the child;
- (2) the child is being returned to the legal parent or guardian;
- (3) removal is in response to an allegation of abuse or neglect in the foster home; or
- (4) removal is ordered by a court.

(c) A grievance under this section will be processed under 7 AAC 54.230. (Eff. 12/30/2006, Register 180)

**Authority:** AS 47.05.010 AS 47.10.098 AS 47.14.010

**7 AAC 54.230. Panel review and resolution of child protection services complaints .**

(a) The unit in the department that provides child protection services shall provide a regional appeal panel review process for

- (1) a complainant who is not satisfied with the review of the complainant's grievance under 7 AAC 54.224; or
- (2) a matter described in 7 AAC 54.220(d) or 7 AAC 54.228.

(b) A regional appeal panel consists of a regional administrator or designee, a social worker V, and a private citizen who has expertise in the provision or administration of a human services program. The regional administrator may select a program specialist from the unit in the department that provides child protection services to serve on the panel in place of the regional administrator or the social worker V.

(c) As soon as possible and no later than 21 working days after receipt of a request for a panel review, the regional administrator shall appoint a regional appeal panel and provide each panel member with a copy of the complainant's grievance file.

(d) The regional appeal panel may use teleconferencing to conduct the review.

(e) The review panel shall review the grievance file and conduct a fact-finding meeting within 10 working days after receiving the complainant's grievance file unless the complainant or involved staff is unable, for good cause shown, to attend within that period. If the complainant or an involved department staff is unable to be present during the fact-finding meeting, the individual shall advise the panel in writing of the reasons the individual is unable to be present and specify a date when the individual will be available. The panel will reschedule the fact-finding meeting to be held as soon as the individual is available.

(f) If the complainant appears before the panel during the fact-finding meeting, involved department staff may also attend.

(g) The panel may request the complainant or involved staff to provide additional documentation. The complainant and involved department staff shall be allowed to review the additional documentation submitted and may supplement the record.

(h) The panel will hold a deliberation meeting within five working days after the fact-finding meeting under (e) of this section. The deliberation meeting may immediately follow the fact-finding meeting. The complainant and involved department staff may not attend the deliberation.

(i) The panel shall

(1) issue a written report of findings, recommendations, and proposed resolution to the complainant within 10 working days after the deliberation meeting under (h) of this section; and

(2) send a written copy of the report to all parties and inform the complainant of the right to appeal under the Alaska Rules of Appellate Procedure.

(j) The decision issued under (i) of this section is a final administrative decision and may be appealed to the superior court under the Alaska Appellate Rules of Procedure. (Eff. 5/4/90, Register 114; am 11/12/94, Register 132; am 12/30/2006, Register 180)

**Authority:** AS 47.05.010 AS 47.10.098 AS 47.14.010

**7 AAC 54.240. Resolution of juvenile justice complaints.** (a) A complainant may request review of a decision related to juvenile justice services issued under 7 AAC 54.220(c) or 7 AAC 54.226. The complainant must file the request for review with the director or director's designee within five working days after the date of the decision issued under 7 AAC 54.220(c) or 7 AAC 54.226.

(b) Within 15 working days after the date of the written report issued under 7 AAC 54.220(c) or 7 AAC 54.226, the director or director's designee shall issue a final written decision. The director or director's designee shall mail a copy of the final decision to the parties and give the complainant written notice of the complainant's right to appeal under the Alaska Rules of Appellate Procedure.

(c) The decision of the director or director's designee is a final administrative decision and may be appealed to the superior court under the Alaska Rules of Appellate Procedure. (Eff. 5/4/90, Register 114; am 12/30/3006, Register 180)

**Authority:** AS 47.05.010 AS 47.10.098 AS 47.14.010

## **ARTICLE 4 GENERAL PROVISIONS**

### **7 AAC 54.900 DEFINITIONS.** (a) In this chapter

(1) "child" means an individual under the age of 18 and an individual 18 or 19 years of age who is a ward of the state or is under a court's juvenile jurisdiction;

(2) "child protection files" means a system that stores, electronically or on paper, information gathered by the department in carrying out its duties under AS 47.10.005 - 47.10.142, AS 47.14.100 - 47.14.110, or AS 47.17.010 - 47.17.290;

(3) "child protection information" means information contained in child protection files;

(4) "child protection services" means services provided by the department under AS 47.10.005 - 47.10.990, AS 47.14.100, AS 47.15.010 - 47.15.080, and AS 47.17.010 - 47.17.290;

(5) "child protection services programs" means programs financed or provided by the department for child protection services;

(6) "client" means an individual under the age of 20 and that individual's parent or guardian served by the unit in the department that provides child protection services or juvenile justice services;

(7) "complainant" means a client, a client's parent or guardian, a provider of services, or other individual directly affected by a department action, inaction, or procedure who has filed a complaint with a supervisor or the commissioner's designee;

(8) "department" means the Department of Health and Social Services;

(9) "department unit" means the unit in the department that provides child protection services or the unit in the department that provides juvenile justice under 7 AAC 54.020 - 7 AAC 54.150 or 7 AAC 54.300 - 7 AAC 54.450;

(10) "health oversight agency" has the meaning given in 45 C.F.R. 164.501, revised as of October 1, 2004, and adopted by reference;

(11) "juvenile probation officer IV" means a department employee responsible for regional supervision of juvenile probation services;

(12) "limited data set" has the meaning given in 45 C.F.R. 164.514(e), revised as of October 1, 2004, and adopted by reference;

(13) "physical harm" has the meaning given "physical injury" in AS 47.10.990 ;

(14) "program specialist" means a department employee responsible for program coordination or administration in the units handling child protection or juvenile justice services;

(15) "protected health information" has the meaning given in 45 C.F.R. 160.103, revised as of October 1, 2004, and adopted by reference;

(16) "protective services reports" means reports made by the department in response to a report of harm under AS 47.17;

(17) "public health authority" has the meaning given in 45 C.F.R. 164.501, revised as of October 1, 2004, and adopted by reference;

(18) "regional administrator" means the children's services manager, juvenile probation officer IV, or the department employee who has responsibility and authority for actions of the department in a region of the state;

(19) "social worker V" means a department employee responsible for regional supervision of child protection services;

(20) "supervisor" means the department employee who has responsibility and authority for the administration of a work unit, including a district juvenile probation officer or a unit of a juvenile facility;

(21) "unit" means department unit.

(b) In AS 47.12.310 and this chapter, "appropriate information" includes the name of the juvenile and other information that the department considers appropriate upon consideration of the welfare of the juvenile and the safety of the community.

(c) In AS 47.10.093 and this chapter, "person with sufficient legitimate interest" includes department staff, a tribe or tribal organization, an employee of a child advocacy center, and other individuals or agencies who are responsible for consultation and acquiring the services needed by a child. (Eff. 5/15/83, Register 86; am 5/4/90, Register 114; am 11/16/94, Register 132; am 1/14/2000, Register 153; am 10/14/2005, Register 176; am 12/30/2006, Register 180)

<b>Authority:</b>	AS 47.05.010	AS 47.05.015	AS 47.05.020
	AS 47.05.030	AS 47.05.040	AS 47.10.093
	AS 47.10.098	AS 47.12.310	AS 47.14.010
	AS 47.17.040		