

6.1.5 COMPLAINT (GRIEVANCE) PROCEDURE

AUTHORITY :

AS 47.05.010	Duties of Department
AS 47.10.098	Grievance (Complaint) Procedure
AS 47 14.010	General Powers of Department Over Juvenile Institutions
7 AAC 54.255 - 7 AAC 54.260	Grievance (Complaint) Procedures
7 AAC 54.010 - 7 AAC 54.150	Privacy of Client Records: Child Protection Services.

PURPOSE: To review and resolve all case-specific complaints received from a parent, foster parent, adult family member, a person with a significant relationship with a child, or a person participating in provision of services to a child or family who have an allegation of being affected by an action or decision of an Office of Children's Services (OCS) employee.

BACKGROUND INFORMATION – STATE LAW AND REGULATIONS:

- A. OCS is required to develop, in regulation, a grievance (complaint) procedure for a parent to file a complaint based on:
 - 1. the application of a department policy or procedure under AS 47.10;
 - 2. compliance with AS 47.10 or a regulation adopted under AS 47.10; or
 - 3. an act or failure to act by the department under AS 47.10.
- B. OCS is required to provide to each parent of a child who is under the jurisdiction of OCS a written copy of the grievance (complaint) procedure.
- C. An individual affected by a decision or action of OCS, including a parent, foster parent, adult family member, a person with a significant relationship with the child involved with OCS (live-in partner, step-parent, or grandparent) or a person participating in provision of services to a child or family may submit a case-specific grievance (complaint).
- D. A foster parent may not grieve the emergency removal of a child. If a foster parent grieves the non-emergency removal of a child from their home, the foster parent may request that the child not be removed until the issuance of a final decision under 7 AAC 54.260. The request will be granted unless a Regional Manager (Protective Services (PS) Manager II) finds that:
 - 1. removal is in the best interest 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 and the child's safety is at risk in the foster home; or
 - 4. removal is ordered by a court.

- E. The grievance (complaint) procedure under this section is not available to:
1. review or overturn a decision by the department that the person has a substantiated maltreatment finding under AS 47.10 or AS 47.17;
 2. grieve a decision, action or inaction taken by the department if the time that has passed since that decisions, action, or inaction occurred exceeds the shorter of the following periods
 - a) six months after the complainant had actual notice of the decision, action or inaction; or
 - b) three years, regardless of whether or when the complainant had actual notice of the decision, action, or inaction;
 3. to appeal late payments or to contest foster care rates paid;
 4. to appeal a decision or action taken by the department that is reviewable by the court under AS 47.10;
 5. appeal any federal or state action that is under the jurisdiction of other state or federal agencies;
 6. to appeal a decision regarding civil rights actions covered under the department's civil rights complaint procedures;
 7. 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;
 8. appeal a licensing action under AS 47.32;
 9. initiate, against personnel, Complaints that are subject to AS 39.25 (State Personnel Act);
 10. address contract services disputes;
 11. To appeal a decision regarding grant programs that may be appealed under 7 AAC 78.310
- F. The formal grievance (complaint) process begins when the grievance (complaint) is received on the designated form (06-9538) by an OCS employee via mail, fax, or electronic mail. Upon receipt, the OCS employee shall forward the complaint to the Director's designee (the Community Relations Manager) who will assign each complaint a case number and enter the case into an office-wide database accessible to OCS personnel. Responses by OCS to a complaint may be sent by electronic mail if the parties consent to that mode of communication. In calculating the time period for filing and responding, the date a document is sent is not counted in calculating timeliness.
- G. The Director or Director's designee is required to make a decision on whether to accept or reject the complaint and then inform the complainant of that decision within five business days from the receipt of the complaint.

1. When the complaint is accepted, it will be assigned to the supervisor who oversees the case or the employee listed in the complaint, and the complainant will be given notice that the complaint has been assigned and provided with a copy of the grievance process.
 2. If the complaint is rejected, a notice shall be issued informing the grievant why the complaint has not been accepted and what other options may exist.
- H. The supervisor will, within 10 business days of being assigned a complaint, hold a meeting with the complainant. The supervisor may include in the meeting the employee who is the subject of the complaint if the employee's participation would assist in resolving the complaint. Within 15 business days after the meeting, the supervisor will issue a written decision to the complainant. If the complainant disagrees with the decision of the supervisor, the complainant may request that the regional manager (PS Manager II) review the decision. The request must be received by the regional manager (PS Manager II) within 10 business days from the date the decision was sent to the complainant. If the complainant does not request a review, the matter is considered closed.
- I. If a complainant requests a review of the supervisor's decision, the regional manager (PS Manager II) will, within 10 business days of receiving the request, hold a meeting with the complainant and the supervisor of the employee who is listed in the complaint form. The supervisor may include the employee in the meeting the employee if the employee's participation would assist in resolving the complaint. Within 15 business days of the meeting, the regional manager (PS Manager II) will notify the complainant of decision in writing. If the complainant disagrees with the decision of the regional manager (PS Manager II) the complainant may request that the field administrator or designee review the decision. The request must be received by the field administrator or designee within 10 business days from the date the decision was sent to the complainant. If the complainant does not request a review, the matter is considered closed.
- J. If the complainant requests a review of the regional manager's or designee's decision, the Division Operations Manager (DOM) or designee shall, within 10 business days of receiving the request, hold a meeting with the complainant and the regional manager (PS Manager II). The meeting may include the supervisor of the employee, the employee, or both, if their participation would assist in resolving the complaint. Within 15 business days after the meeting, the Division Operations Manager (DOM) will issue a proposed decision for the Director or designee to accept, reject or modify the decision. The Director or Director's designee will issue a decision within 10 business days after receiving the recommended decision. A notice will be sent with the decision informing the complainant that the decision is a final agency action for purposes of judicial review.
- K. A person reviewing a complaint or a request for review may extend the time limit by not more than two consecutive 10-business-day time periods, if:
1. the reviewer is absent on approved leave or official business;
 2. the reviewer needs to consult with a staff member who is absent on approved leave or official business, or have that staff member participate in the meeting; or

3. unforeseen circumstances prevent a complainant from timely delivering a request for review.

POLICY:

- A. Individual's expressing a complaint or desire to file a complaint shall be provided with the Complaint Form (06-9538) and have all questions answered about the OCS complaint policy and procedures. All staff are required to be familiar with and equipped to provide information about the process.
- B. The Complaint Form (06-9538) must be submitted within 6 months of the concerning issue in order to be accepted, unless there is evidence that the complainant was not informed or aware of the complaint procedure.
- C. The formal complaint process begins when the complaint is received on the Complaint Form (06-9538) by an OCS employee via mail, fax, or electronic mail.
- D. All complaints must be forwarded to the Community Relations Manager within 24 hours of receipt for a decision of whether the complaint will be accepted or rejected, and will receive a tracking number and be kept in a database where all actions and activities will be documented.
- E. Resolution and reviews of complaints will be processed in accordance with the requirements in the background Information and procedures in this section.

PROCEDURE:

- A. At the start of every initial assessment (IA), the IA worker will provide the parent(s) with the parent rights brochure that includes the process of filing a complaint. Every person making a complaint will be offered the use of the complaint procedure, unless it is clear that another process is indicated (see above: Background Information section (E)).
 1. Any OCS staff who is contacted by an individual who wants to file a complaint will provide that person with a copy of the complaint procedure. Offering the use of the complaint procedure includes giving a verbal description of the procedure and providing a copy of the Complaint Form (06-9538).
 - a. When a Protective Services (PS) Specialist is approached directly by the complainant, in addition to providing the Complaint Form (06-9538), an immediate response may be offered when the complainant needs can be addressed immediately, or it is something that can be clearly explained.
 - b. Even when an initial conversation resolves the complaint, a summary of the interaction needs to be documented and sent to the Community Relations Manager or designee for tracking purposes.
 - c. Any OCS staff person approached by a complainant must be as helpful as possible. While the complainant should be encouraged to complete a copy of

the Complaint Form (06-9538) and submit it on their own, OCS should offer to help the complainant complete the form and/or receive a completed Complaint Form (06-9538) and offer to forward it to the Community Relations Manager.

- d. Any OCS staff person who receives a completed Complaint Form (06-9538) must date stamp it and forward it to the Community Relations Manager within 24 hours.
2. The OCS staff person must inform the complainant that the completed Complaint Form (06-9538) must be submitted to the Community Relations Manager or designee. The Complaint Form (06-9538) may be submitted to the Community Relations Manager by the complainant or any OCS staff person.
- B. Should the complainant decline to utilize the complaint procedure, the staff person receiving the complaint will provide a brief a summary of the contact to the Community Relations Manager or designee, who will then close the case in the tracking system.
- C. Within five business days of the date stamped Complaint Form (06-9538):
1. The Community Relations Manager or designee will:
 - a. assign the complaint a tracking number and enter it into the tracking database; and
 - b. determine whether the complaint will be accepted or rejected based on the regulatory complaint procedure; and
 - c. If the complaint is accepted, inform the complainant that the complaint has been received and accepted; or
 - d. If the complaint is rejected, issue a notice informing the complainant why the complaint has not been accepted and what other options may exist; and
 - e. forward the complaint to the PS Manager II.
 2. The PS Manager II will assign the complaint to the supervisor of the case.
- D. Within 10 business days of being assigned to a complaint, the supervisor of the case will:
1. Contact the complainant and either discuss the complaint or schedule a meeting (telephonic or in person) that will may include the employee listed in the complaint whenever applicable. The purpose of this initial conversation is to verbally process/explore the concern and brainstorm possible solutions. The person reviewing the complaint or a request for review may extend up to 20 business days if:
 - a. the reviewer is absent on approved leave or official business;
 - b. the reviewer needs to consult with a staff member who is absent on approved leave or official business, or have that staff member participate in a meeting; or

- c. unforeseen circumstances prevent a complainant from timely delivering a request for review.
2. Make three attempts to connect with the complainant. If receiving no response, the reviewer will contact the Community Relations Manager and consider the grievance closed.
3. Inform the complainant that they are able to bring relevant information to the meeting, and an advocate if desired. If an advocate is present at the meeting, they must sign the Confidentiality Agreement Form (06-9463).
4. Conduct the complaint meeting, where each party will have the opportunity to state their understanding of the situation being grieved, and make suggestions for a resolution. Meetings will be conducted in a professional and objective manner, taking all information into consideration.
5. Document a summary of the meeting including all those who were present in a supervisory note in ORCA. This note does not need to include detailed information, it should simply summarize the broad issues discussed and does not need to include any potential decisions related to resolving the complaint.
6. After thoughtful consideration of all the information shared in the meeting, and when there is a clear resolution to the complaint, inform the complainant of the final decision and how it is based on the information presented at the meeting and in accordance to policy and procedures. Ensure that the resolution is documented in the tracking database. When sending the final decision to the complainant by e-mail, postal mail, or in person, ensure a copy is provided to the Community Relations Manager with the date the summary was sent to the complainant. If the supervisor needs time to gather additional information to make the best decision possible and/or consult with a manager prior to making a final decision regarding the resolution, the supervisor will advise the complainant that they will be informed of the final decision within 15 business days after the meeting.
7. Once a decision is made, inform the complainant in writing of the decision. The written notice must inform the complainant that if they disagree with the decision, they will have 10 business days from the notice being sent to request a review of the matter in writing to the Community Relations Manager, who will forward the request to the PS Manager II (or the designated PS Manager I) to review. If no request for review is taken, the matter is considered closed and documented in the complaint tracking database.
8. The supervisor will document a summary of the meeting and all correspondence into the complaint tracking database that will include:
 - a. the date and participants of the meeting;
 - b. issues discussed;
 - c. decision;
 - d. whether the decision was agreed or not agreed upon by the complainant;
 - e. action steps and who is responsible;
 - f. that the complainant was informed of having 10 business days to have the

- decision reviewed by the PS Manager II (or designated PS Manager I); and
- g. any additional applicable correspondence or documents attached in the complaint file in the tracking system.
9. When action steps are needed to resolve the complaint, the supervisor will document the status in the tracking database and notify the Community Relations Manager when they are completed.
- E. The Community Relations Manager will document that the case is closed when no request for review is filed within 10 business days from the final decision and when the supervisor provides notification that all action steps are completed.
- F. If the complainant has requested a review of the supervisor's decision, within 10 business days of receipt of the request, the PS Manager II (or designated PS Manager I) will follow similar steps identified above ((D)(1)-(9)). The difference in the process is that:
1. The PS Manager II (or designated PS Manager I) will include the supervisor of the employee who is listed in the Complaint Form (06-9463) in the meeting. The PS Manager II (or designated PS Manager I) may make the decision regarding a resolution during the meeting or inform the complainant within 15 business days of the meeting.
 2. Once a decision is made, the PS Manager II (or designated PS Manager I) will inform the complainant in writing of the decision. The written notice must inform the complainant that if they disagree with the decision, that they have 10 business days to request a review of the matter in writing to the Community Relations Manager who will forward the request to the Division Operations Manager (DOM). If no request for review is made, the matter is considered closed and the Community Relations Manager will record in the complaint tracking database.
 3. The PS Manager II (or designated PS Manager I) must document all correspondence in the complaint tracking database.
- G. If the complainant has requested a review of the PS Manager II (or designated PS Manager I) decision, within 10 business days of receiving the request, the DOM will follow similar steps identified above ((D)(1)-(9)). The difference in the process is that:
1. The meeting will include the complainant, DOM, the PS Manager II (or designated PS Manager I), and if appropriate or necessary, the supervisor of the employee and the employee.
 2. Within 15 business days after the meeting, the DOM will issue a proposed decision in writing for the Director or designee to accept, reject or modify the decision.
 3. After having received the proposed decision the Director or designee will have 10 business days to issue a decision, and once completed, notice will be sent to the complainant of the decision, and informing the complainant that the decision is a final agency action for purposes of judicial review.
 4. The Director or designee will document all correspondence in the complaint tracking

database.

- H. If the complainant does not attend the agreed upon scheduled meeting, and has not offered an explanation or asked to reschedule, the complaint will be considered closed due to no contact. When this occurs, the supervisor, PS Manager II (or designated PS Manager I), or DOM will document an explanation in the complaint tracking database.
- I. If a foster parent files a complaint for a non-emergency removal of a child from their home, the foster parent may request that the child not be removed until the issuance of a final decision under 7 AAC 54.260.
 - 1. The request will be granted unless the PS Manager II (or designated PS Manager I) finds that:
 - a. removal is in the best interest of the child;
 - b. the child is being returned to the legal parent or guardian;
 - c. removal is in response to an allegation of abuse or neglect and the child's safety is at risk in the foster home; or
 - d. removal is ordered by a court.

DEFINITIONS:

"Meeting" means an agreed upon time and location, which may be in person or telephonic.

"Business Days" means a day other than Saturday, Sunday, or a state holiday.