

Thinking About Filing an Appeal to the Appeal Panel

under the *Child, Youth and Family Enhancement Act* (CYFE Act)

If you disagree with a decision made by your caseworker, you may be able to appeal the decision to the Child, Youth and Family Enhancement Appeal Panel (Appeal Panel). Before filing a Notice of Appeal, there are some steps you need to take and some important information you need to consider. This brief guide is intended to help you determine whether or not you can and want to appeal a decision of your caseworker.

Before filing an appeal

When you disagree with a decision made by the director (your caseworker or your caseworker's supervisor or manager) under section 120 of the *Child, Youth and Family Enhancement Act* (CYFE Act), there are steps you can follow to try to resolve the disagreement before filing an appeal with the Appeal Panel.

Please keep in mind, however, that if you wish to appeal, the completed Notice of Appeal form must be received by the director within strict legislated timelines.

The following pages outline in detail the steps to filing an appeal. An overview of the process is provided on page 6.

1. Know who can appeal

If you are a person identified in section 120(1), (2), (4) or (5) of the CYFE Act, you may file an appeal to the Appeal Panel. The persons who may file an appeal are listed below.

- a child.
- a guardian of the child.
- a foster parent.
- a person who has had continuous care of the child for more than 6 months of the 12 months preceding the decision of the director.
- a person between the ages of 18 to 22 and is receiving or has been refused support and financial assistance under Section 57.3 of the CYFE Act.
- an adult person who has been refused financial assistance under the Financial Assistance Program administered under Section 105.8 of the CYFE Act.
- an applicant for a residential facility license.
- an applicant for a renewal of a residential facility licence.
- a person who has applied for a license to operate an adoption agency.
- a person who holds a license to operate an adoption agency.

Not all director's decisions are appealable. The decision must be stated as appealable to an Appeal Panel in the CYFE Act.

2. Know what decisions can be appealed

Under the CYFE Act and Regulations (Child, Youth and Family Enhancement Regulation, Residential Facilities Licencing Regulation and Adoption Regulation), decisions made by the director that may be appealed to the Appeal Panel are:

If you are a child, the following decisions of a director that have been administratively reviewed may be appealed:

- the removal from or placement in a residential facility, other than a secure services facility, of the child.
- permitting or refusing to permit a person who has a significant relationship with the child to visit.
- the refusal or failure of a director to enter into a family enhancement agreement with the child.
- the refusal or failure of a director to enter into a custody agreement with the child.
- the refusal or failure of a director to apply to the Court for a supervision order.
- the refusal or failure of a director to apply to the Court for a temporary guardianship order.
- the refusal or failure of a director to apply to the Court for a permanent guardianship order.
- the refusal or failure of a director to apply to the Court for an apprehension order.
- the refusal or failure of a director to apply to the Court for an initial custody order.

If you are a guardian of a child, the following decisions of a director that have been administratively reviewed may be appealed:

- the removal from or placement in a residential facility, other than a secure services facility, of the child.
- the refusal or failure of a director to enter into a family enhancement agreement with the guardian regarding the child.
- the refusal or failure of a director to enter into a custody agreement with the guardian regarding the child.
- the refusal or failure of a director to enter into a permanent guardianship agreement with the guardian regarding the child.
- the refusal or failure of a director to enter into access agreement with the guardian regarding the child.
- the refusal or failure of a director to apply to the Court for a supervision order regarding the child.
- the refusal or failure of a director to apply to the Court for a temporary guardianship order regarding the child.
- the refusal or failure of a director to apply to the Court for a permanent guardianship order regarding the child.
- the refusal or failure of a director to apply to the Court for an apprehension order regarding the child.
- the refusal or failure of a director to apply to the Court for an initial custody order regarding the child.
- the refusal or failure of a director to provide financial assistance to me pursuant to section 56.1 of the Act regarding the child who was made the subject of a private guardianship order on _____ Date _____.
- the refusal or failure of a director to provide financial assistance to me pursuant to section 81 of the Act regarding the child who was made the subject of an adoption order on _____ Date _____.

If you are a person who has had continuous care of a child for more than six months of the 12 months preceding the decision of the director that has been administratively reviewed and may be appealed, is in relation to:

- the removal of the child from, or the placement of the child in, a residential facility, other than a secure services facility.

If you are a person between the ages of 18 and 22 years and are receiving or have been refused support and financial assistance under Section 57.3 of the CYFE Act, the decision of a director that has been administratively reviewed and may be appealed is in relation to:

- the refusal or failure of a director to provide the person with support and financial assistance under section 57.3 of the CYFE Act.

If you are an applicant for an international adoption, the decisions of a director that may be appealed are:

- the refusal by a director to approve a home study report or an addendum to a home study report with respect to an international adoption.
- the refusal by a director to approve an adoption placement with respect to an international adoption that involves a child whose country of origin requires the director's approval of that adoption placement.

If you are a residential facility licence holder, the decision of a director that may be appealed are in relation to:

- terms and conditions imposed on a renewal of a licence for a residential facility.
- a refusal to renew a licence for a residential facility.
- an order after inspection with respect to a licence for a residential facility.
- the variation, suspension or cancellation of a licence for a residential facility.

If you are an applicant for a licence to operate an adoption agency, the decision of a director that may be appealed is:

- in relation to a refusal to issue a licence to operate an adoption agency.

If you are a person who operates an adoption agency, the decisions of a director that can be appealed are in relation to:

- terms and conditions imposed on a conditional licence to operate an adoption agency.
- a refusal to renew a licence to operate an adoption agency.
- the suspension of a licence to operate an adoption agency.
- the cancellation of a licence to operate an adoption agency.

3. Know what decisions cannot be appealed

Decisions made by the director may not be appealed to the Appeal Panel if the decision is not included in section 120 of the CYFE Act. Examples of decisions that may not be appealed are:

- refusal of an initial application for a residential facility licence or foster home.
- terms and conditions imposed on an initial residential facility licence or foster home.
- operational/administrative matters such as the transfer of a file or changing caseworkers; and
- matters that the director has not determined but are integral to case planning (e.g. child's diagnosis, educational planning, probation requirements, assessment findings, outcome of child protection investigations, court orders or decisions of the court).

4. Discuss your disagreement

1. Be aware of the timelines to file the Notice of Appeal.
2. Talk directly with your caseworker:
 - ask your caseworker about the decision and why it was made;
 - tell your caseworker why you disagree with the decision; then
 - try to reach an agreement that satisfies both you and your caseworker.

3. If you still can't agree, talk with your caseworker's supervisor to try to reach an agreement. Your caseworker will give you the supervisor's name and phone number.
4. If you still can't agree, talk with the manager. The caseworker's supervisor will give you the manager's name and phone number.

5. Talk to the Child and Youth Advocate

Talk to the Child and Youth Advocate to ensure the child's rights and interests are being considered by calling, toll-free, 1-800-661-3446.

6. Request an Administrative Review

If you still disagree with the decision, and the decision falls under section 120(2)(a),(b),(e),(f.1) or (f.2) of the CYFE Act, you must ask for an Administrative Review before filing a Notice of Appeal.

Your caseworker can give you a Request for Administrative Review form and help you fill it out.

- You may fill out the form and give it to your caseworker **within 30 days of the original decision.**
- A review team, made up of a Child and Family Services Authority (CFSA) or Delegated First Nations Agency (DFNA) manager and at least one other senior staff member who was not involved in making the original decision, will review all relevant information related to the decision.
- The review team can confirm, reverse or vary the original decision.
- **If you have not received a copy of the reviewers' decision within 15 days you are deemed to have received an Administrative Review decision stating that the director has confirmed the decision that was reviewed.**
- Ensure that you understand the timelines to file the Notice of Appeal.

If the decision falls under section 120(5) of the CYFE Act and Adoption Regulation, section 28 and 30, you do not need to request an Administrative Review.

Filing a Notice of Appeal

If you disagree with a decision of the director under section 120(5) and Adoption Regulation, section 28 and 30 of the CYFE Act, you may file a Notice of Appeal within **30 days of the original decision.**

If you wish to appeal the decision of the director under section 120(5)(a),(a.1),(a.2), (a.3),(a.4),(b),(e),(f.1),(f.2),(f.3), or (g) of the CYFE Act and the decision of the director that was administratively reviewed, the Notice of Appeal must be served on the director **not more than 30 days** after receiving the Administrative Review decision or if you did not receive a copy of the Administrative Review decision, give the director the Notice of Appeal form within 45 calendar days from the date you submitted your request for an Administrative Review.

To learn how to file a Notice of Appeal contact any CFSA or DFNA office or the Children and Youth Services Appeal Secretariat, Sterling Place, 3rd Floor, 9940 – 106 Street, Edmonton, Alberta, T5K 2N2.

Once you have completed the Notice of Appeal, file it to a CFSA or DFNA office, preferably to the office handling the case. You will receive a copy of your Notice of Appeal showing the received date.

Factors to consider

Jurisdiction – The Appeal Panel is bound by the CYFE Act and applicable regulations. What you are appealing must fall under section 120 of the CYFE Act. If the decision you disagree with doesn't fall under section 120 of the CYFE Act or if the Notice of Appeal is received after the prescribed time limit, the Appeal Panel will not have jurisdiction to hear the appeal.

Costs – There is no fee for filing an appeal. However, you are responsible for any costs you incur, such as any personal legal fees or costs to obtain supporting documentation for your case, all photocopying and delivery charges regardless of the outcome of your appeal.

Helpful resources

The Children and Youth Services Appeal Secretariat has prepared several guides to assist parties through the appeal process. The guides are available from the Appeal Secretariat and are posted on the Alberta Children and Youth Services website: www.child.alberta.ca/appealpanels including:

- A Guide to Appeal – *Child, Youth and Family Enhancement Act*;
- Preparing and Presenting Your Case – Appellant – *Child, Youth and Family Enhancement Act*;
- Preparing and Presenting Your Case – Director – *Child, Youth and Family Enhancement Act*;
- Child, Youth and Family Enhancement Appeals – Preliminary Appeal Meeting and Jurisdiction Reference; and
- Appeal Tip Sheet for Legal Counsel – *Child, Youth and Family Enhancement Act*;

The appeal process described in this guide and those listed above may be amended from time to time. The guides provide information about the general process for appeals and serve only as broad guidelines of what to expect.

Contact Us

For more information about filing an appeal or the appeal hearing process, please contact the Children and Youth Services Appeal Secretariat by:

Phone:

780-422-2775 (Edmonton and Area) or toll-free at 310-0000 then dial 780-422-2775.

Mail or in person:

Alberta Children and Youth Services Appeal Secretariat
3rd Floor, Sterling Place
9940 – 106 Street NW
Edmonton, Alberta T5K 2N2

Information is also provided on the Alberta Children and Youth Services' website:

www.child.alberta.ca/appealpanels

The necessary steps to be taken before filing an appeal are shown on the following page.

