

Thinking About Filing an Appeal

under the *Family Support for Children with Disabilities Act* (FSCD Act)

If you disagree with a decision made by your Family Support for Children with Disabilities (FSCD) caseworker (caseworker), you may be able to appeal the decision. 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) as outlined in section 7 of the *Family Support for Children with Disabilities Act* (FSCD Act), there are steps you can follow to resolve the disagreement before filing an appeal with the Family Support for Children with Disabilities Appeal Committee (Appeal Committee). Please keep in mind, however, that you have **45 calendar days** from the date of the decision in which to file an appeal (unless you engage in mediation – see section 5 and the section entitled Filing a Notice of Appeal).

1. Know who can appeal

A Notice of Appeal may be filed under the FSCD Act by:

- a) a parent who is a guardian (parent)
- b) a person who is or is appointed as a guardian under the *Family Law Act*; or
- c) a person who is a guardian of a child under an agreement or order.

2. Know what can be appealed

Under sections 3(1)(b), 4 or 5(1) of the FSCD Act and under the FSCD Regulation, decisions made by the director that may be appealed to the Appeal Committee are:

- a) the provision of family support services;
- b) the provision of child-focused services; or
- c) the cancellation of an agreement with the Child and Family Services Authority (CFSA).

3. Know what decisions cannot be appealed

Decisions made by the director may not be appealed if the decision is not included in sections 3(1)(b), 4 or 5(1) of the FSCD Act. Examples of decisions that may not be appealed to the Appeal Committee are:

- a) operational/administrative matters such as the transfer of a file or changing caseworkers; and
- b) matters that the director has not determined but are integral to case planning (e.g. child's diagnosis, educational planning, assessment findings, court orders or decisions of the court).

4. Discuss your disagreement

1. 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.
2. 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.
3. 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. Request mediation

You may choose to enter into mediation. Mediation is a flexible, voluntary process where the appellant and CFSA program staff meet with an independent mediator to attempt to find a solution agreeable to both parties. You may request mediation by speaking directly with your caseworker, your caseworker's supervisor or the manager.

The regional CFSA program manager will ask the provincial FSCD program, to arrange for a qualified mediator to provide mediation services at the nearest location to your home community.

You may request mediation at any time during the appeal process, preferably before the appeal hearing begins. Mediation also impacts the time limits on filing an appeal. Please see below for more information on time limits.

Filing a Notice of Appeal

If you disagree with a decision made by the director under the FSCD Act and you have been unable to reach an agreement after following the suggestions outlined above, you have the option of filing a Notice of Appeal. If you choose to do so, you must file the Notice of Appeal **within 45 calendar days of the original decision**.

If, however, you have entered into mediation, the **days that are used for the mediation process do not form part of the 45-day limit**. The day count will be suspended for the duration of the mediation, from the date started up to and including the date mediation is concluded or abandoned.

Please see the examples on the next page which provide the timelines when mediation is not requested compared to the timelines when mediation is requested based on the same decision date.

The director's decision was made and communicated on July 2, 2008 in both Examples 1 and 2.

Example 1 – Mediation was not requested

- *Notice of Appeal must be filed within 45 days: August 16, 2008. If the 45th day falls on a Saturday, Sunday or recognized holiday, the 45th day would be the next day that the office is open for regular business. In this case, that would be August 18th.*

Example 2 – Mediation started on July 7, 2008

- *Four days of 45-day time limit used; 41 days remaining.*
- *Mediation was concluded on July 17, 2008, but was not successful.*
- *Eleven days for mediation are not deducted from the time limit; therefore; still 41 days remaining. The day count resumes on July 18, 2008.*
- *Notice of Appeal must now be filed (received by director) within 41 days: August 27, 2008 (45 days from original decision + 11 days for mediation = 56 days from original decision.)*

Once you have completed the Notice of Appeal, send it or deliver it to a CFSA office, preferably the office handling your file.

Factors to consider

Jurisdiction – The Appeal Committee is bound by the FSCD Act and Regulation. The decision you are appealing must fall under sections 3(1)(b), 4 or 5(1) of the Act, and the director must receive your Notice of Appeal within 45 days of the date of the decision (see timeline examples above). If the decision you disagree with doesn't fit under those sections of the legislation or if the director receives the Notice of Appeal after 45 days have passed, the Appeal Committee 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, 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 at www.child.alberta.ca/appealpanels including:

- A Guide to Appeal – *Family Support for Children with Disabilities Act*;
- Preparing and Presenting Your Case – Appellant – *Family Support for Children with Disabilities Act*;
- Preparing and Presenting Your Case – Director – *Family Support for Children with Disabilities Act*; and
- Appeal Tip Sheet for Legal Counsel.

The appeal process described in this guide and guides listed previously 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.

You can get a Notice of Appeal form from your local CFSA office or directly from the Children and Youth Services Appeal Secretariat, 3rd Floor, Sterling Place, 9940 – 106 Street, Edmonton, Alberta, T5K 2N2.

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, AB T5K 2N2

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

www.child.alberta.ca/appealpanels