

Appeal Tip Sheet for Legal Counsel

Child, Youth and Family Enhancement Act (CYFE Act)

This tip sheet provides information to legal counsel involved in an appeal hearing before the Child, Youth and Family Enhancement Appeal Panel.

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

- The appeal hearing is a quasi-judicial process, involving fewer rules of evidence and more informal procedures than the court process.
- The Appeal Panel must follow the principles of natural justice which include the right of each party to be heard and the right of each party to know the other party's case or case against it and to provide a response.
- The rules of evidence are relaxed before administrative tribunals to simplify the proceedings and shorten hearing times.
- The Appeal Panel does not require affidavit evidence and witnesses are not sworn in.
- All persons involved in an appeal must take steps to ensure that the confidentiality of information provided through the appeal process is protected.
- The Appeal Panel relies on the evidence presented by the parties through documentary evidence, witness evidence and opinion evidence.
- The Appeal Panel has independent legal counsel and can access legal advice prior to the hearing, during the hearing and when writing the decision. Their legal counsel will not tell the hearing panel how to decide an issue during an appeal, but they may provide advice on administrative law and the interpretation of legislation.
- The Appeal Secretariat provides administrative support to the Appeal Panel and the appeal process.
- Once you have been retained to represent a party to an appeal, it is important that you inform both the Appeal Secretariat and the other party without delay.

Process

Prior to the hearing

Preliminary appeal meeting

When a Notice of Appeal is filed under the Child, Youth and Family Enhancement Act, a preliminary appeal meeting will be held before the appeal hearing is scheduled to assist those involved in the appeal to have an effective and efficient hearing process.

The preliminary appeal meeting is not a hearing; therefore, the hearing panel will not be in attendance. The meeting is led by a manager from the Appeal Secretariat and is attended by the appellant and director. The general purposes of the meeting are

Related Documents:

A Guide to Appeal
Preparing and Presenting Your Case
– Appellant
Preparing and Presenting Your Case
– Director
CYFE Appeals – Preliminary Appeal
Meeting and Jurisdiction Reference

Prepared by:
Appeal Secretariat
Children and Youth Services

administrative: to clarify the issue(s) under appeal and to ensure all parties are aware of what to expect regarding the appeal process. When the appellant lives outside of Edmonton, the meeting is often conducted by videoconference, or at times by teleconference with the Appeal Secretariat manager in Edmonton.

Scheduling a hearing

- Appeal hearings are normally scheduled on the first available date(s) for the hearing panel. The Appeal Secretariat appreciates your flexibility and cooperation with scheduling as it may be difficult to find one or more days that fits into the parties', panel members' and witnesses' schedules.
- When estimating the length of time required for a hearing, the Appeal Secretariat allots time for opening and closing statements by each party and approximately one hour for each witness; however, counsel will be asked to inform the Appeal Secretariat if it can be anticipated that a witness will take longer than one hour.
- Once the hearing is booked, the Appeal Panel requests a written outline setting out your party's position and a list of witnesses, which are to be included with the submitted supporting documents. Please ensure the submitted documents or evidence, including any related relevant information, have been sent to the Appeal Secretariat (four copies) and to the other parties involved in the appeal (one copy each) by the date specified by the Appeal Secretariat, which is generally three weeks before the hearing date.
- **Late disclosure may result in a hearing being delayed as the other party may request an adjournment to consider the disclosure and the Appeal Panel may, depending on the situation, grant the adjournment.**

At the hearing

- Witnesses are asked by the parties to attend the hearing, but if a witness is not able to attend, for any reason, the hearing panel cannot compel him/her to do so.
- The appellant, director and, if applicable, the Child and Youth Advocate (or legal counsel for child and youth) will be given the opportunity to present their cases and ask questions of their own and the other parties' witnesses.
- The Appeal Panel will consider each appeal on its own merits. Decisions do not set precedent (serve as an example or justification for a later decision).

For further information

If you have any questions or would like more information about 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:

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