

## APPELLANT'S RIGHTS AND RESPONSIBILITIES ON APPEAL

1. Any person who has been named as a subject in an indicated or unfounded report of child abuse or neglect has the right to appeal any of the actions or inactions listed in that report. *Section 7.16 of the Abused and Neglected Child Reporting Act, 325 ILCS 5/7.16.* A person who appeals such a report is an "appellant".

**Under the law, the department is required to issue a final administrative decision in your case within 90 days, not including any continuances that you request or dates that are determined by the agreement of the parties.**

2. You may represent yourself, or an authorized representative may represent you. "Authorized representative" means a person, including an attorney, authorized in writing to assist in the appeals process. The appellant is responsible for paying all expenses related to his or her authorized representative.
3. You or your authorized representative **must** participate in both the pre-hearing conference and the hearing. If you do not do so, the administrative law judge will declare the appeal abandoned and will dismiss it. If your appeal is dismissed, you will not get a hearing and the indicated report will remain on the State Central Register.
4. If English is not your primary language, or if you are hearing impaired, the department will provide an interpreter, a sign interpreter, or other assistance to you upon your request at no cost. You may request that the department's investigative file and any other documents the department files or intends to introduce into evidence at the administrative hearing be translated into your primary language.

### 5. REQUESTING A CONTINUANCE

- To request a continuance, you must:
  - Contact the department (if the department wants a continuance, the department must contact you)
  - Inform the administrative law judge of the request and the reason for the request in writing. Please make sure the administrative law judge knows about the request prior to the hearing date.
- If the parties agree to the continuance, the administrative law judge will issue a continuance. If the parties do not agree, contact the administrative law judge and a conference call will be scheduled to resolve the issue.

## 6. EXCHANGE OF INFORMATION

- At or before the pre-hearing conference, you should request a list of witnesses the department attorney intends to use at the hearing, that list must be provided to you.
- The department attorney should also ask you for the same information. You must provide this information upon request. If you and/or the department attorney do not provide the requested information, the administrative law judge may prohibit you from submitting the information at the hearing.
- A redacted copy of the investigative file will automatically be sent to you.

## 7. SUBPOENAS

- If you want the Administrative Hearings Unit to subpoena witnesses, you must submit a request in writing at least **fifteen (15)** days before the hearing. The request must include the names and addresses of the witnesses.
- A request for a subpoena included in your written appeal request is not valid and must be submitted again.
- Send the request for subpoenas to:  
Subpoena Request  
Department of Children and Family Services  
Administrative Hearings Unit  
17 North State Street, 7<sup>th</sup> Floor  
Chicago, IL 60602
- NOTE: If either you or the department asks that a child under 14 years of age be subpoenaed to testify or be involved in the hearing process, the person calling the child **MUST** demonstrate all of the following:
  1. The child's testimony or involvement is essential to a determination of an issue on appeal;
  2. That there is no likelihood of inflicting emotional harm to the particular child(ren) involved; AND
  3. That no alternatives, such as stipulations or transcripts from prior court hearings, exist which may be used as a substitute for the child's testimony.

## 8. MOTIONS

- You and the department both have the right to file motions.
- All motions must be filed with the administrative law judge at least ten (10) calendar days before the hearing.

## **9. PRE-HEARING CONFERENCE**

- You or your authorized representative, the department attorney and an administrative law judge will meet, usually by telephone, to discuss the following:
  - Admonishments
  - The procedures that will be used at the hearing
  - Trying to narrow the issues
  - Exchanging information and possible agreements
- You do not need to make any phone calls. The Administrative Law Judge will place all calls.
- At the pre-hearing conference, you must be prepared to:
  - Tell the administrative law judge who you will call as a witness during the Administrative Hearing and discuss the scheduling of those witnesses.
  - Tell the administrative law judge what records and documents you intend to use at the hearing and whether you have given copies to the department attorney.
  - Discuss whether you and the department can agree to any facts.
  - Argue any motions filed by either party.
- At the pre-hearing conference, the department attorney must be prepared to tell the administrative law judge which witnesses it intends to call at the hearing, discuss scheduling of those witnesses and must disclose the records and documents it will use at the hearing.

## **10. ADMINISTRATIVE HEARING**

- At any time before or during the hearing, you may withdraw your appeal.
- At any time before or during the hearing, the department may expunge the indicated finding or amend the indicated finding to delete any information, which identifies the appellant as a perpetrator.
- At the hearing, the department must prove its case against you by a preponderance of the evidence. This means it must show that it is more likely than not that the allegations occurred.
- The hearing will be recorded. If you wish to have the proceedings recorded by a certified court reporter, you may do so at your own expense.
- During the hearing, both you and the department have the right to:
  - Present and question witnesses;
  - Present any information relevant to the issues;

- Question or disprove any information, including the opportunity to question opposing witnesses; and
- Dispose of any disputed issue by mutually agreeing to a resolution any time before the hearing ends.

#### **11. ADDING OR CHANGING ALLEGATIONS**

- Before the hearing begins, the department may add or amend the allegations that support the indicated finding against you. If this occurs, the department attorney must notify you and the Administrative Hearings Unit of the new amended allegation in writing, and must provide you with a concise statement of the facts that form the basis of the new or amended allegation.
- If the department adds or amends an allegation less than ten (10) days before the hearing date, you have a right to a continuance to prepare for the hearing.

IF YOU HAVE ANY QUESTIONS, PLEASE CALL THE  
ADMINISTRATIVE HEARINGS UNIT AT 217-782-6655