

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

POLICY GUIDE 2019.02

RULE 336 APPEAL OF CHILD ABUSE AND NEGLECT INVESTIGATION FINDINGS

DATE: January 31, 2019
TO: DCFS Administrative Hearing Unit staff and their Supervisors
FROM: Beverly J. Walker, Acting Director
EFFECTIVE: Immediately

I. PURPOSE

The purpose of this Policy Guide is to inform the Department’s Administrative Hearing Unit staff and their Supervisors of new changes to Public Act 100-0880, effective January 1, 2019, in correlation to the administrative appeal hearing process. These changes are regarding when service of Notices and Orders that do not contain personal/confidential information can be emailed to an unrepresented appellant, an authorized representative, a parent or legal guardian of a minor appellant, or an individual legally acting on a person’s behalf. Policy amendments will also show standards for confirming delivery of Notices/Orders by email, by securing a “delivery receipt” or a counter email acknowledgement. If AHU does not receive confirmation of delivery, the Notices and Orders shall be sent by regular mail. The Department will be proposing amendments to **Rule 336, Appeal of Child Abuse and Neglect Investigation Findings**, to reflect the changes as outlined in this Policy Guide.

This Policy Guide is effective immediately.

II. PRIMARY USERS

The primary users of this Policy Guide are the Department’s Administrative Hearing Unit Staff and their Supervisors.

III. BACKGROUND AND SUMMARY

Department Rule 336 currently has language that allows notices to be sent by regular/certified mail. Public Act 100-0880 allows for notices to be sent by email.



IV. NEW REQUIREMENTS FOR COMPLIANCE TO NOTICES THAT CAN BE EMAILED

Section 336.105 The Administrative Appeal Hearing

b) The ALJ shall address the following issues during the pre-hearing conference:

11) Service of Notices and Orders by email:

- A) Any attorney representing a party to the hearing is required to provide to the Administrative Law Judge one or more email addresses at which the attorney shall accept service of Notices and Orders in connection with the hearing. A party represented by an attorney may provide the email address of the attorney. It is the responsibility of the attorney to notify the Administrative Law Judge of any changes in email addresses.
- B) The Administrative Law Judge may request, but not require, the following persons to consent to accept service by email of Notices and Orders in connection with the hearing, by designating an email address at which they will accept service:
 - i (i) an unrepresented appellant;
 - ii (ii) an Authorized Representative who is not an attorney;
 - iii (iii) a parent or legal guardian of a minor appellant; or
 - iv (iv) an individual legally acting on a person's behalf.
- C) When an unrepresented appellant, Authorized Representative who is not an attorney, parent or legal guardian of a minor appellant or individual legally acting on a person's behalf consents to accept service by email, it is the responsibility of the unrepresented appellant such person to notify the Administrative Law Judge of any change in email addresses.
- D) *Any person or entity who submits an email address shall also be given the option to designate no more than two secondary email addresses at which the person or entity consents to accept service, and if such secondary email addresses are provided, the Department must serve the Notices and Orders to both the designated primary and secondary email addresses. [5 ILCS 100/10-75]*
- E) A Notice or Order may not be sent by email if it contains:
 - (i) a Social Security or individual taxpayer identification number, driver's license number, or any information that could reasonably be deemed personal, proprietary, confidential;

- (ii) any information about or concerning a minor, including but not limited to the minor’s name, date of birth or address; or
 - iii) The name of a minor appellant. In notices under this section, minor appellants may be identified by initials only.
- F) For the purpose of service in this section, the following information is not considered personal or confidential:
- (i) the name of the Administrative Law Judge, appellant, attorney or authorized representative;
 - (ii) the allegations that were indicated;
 - (iii) the investigation notice id, the State Central Register (SCR), docket (DKT) and (AHU) number;
 - (iv) rulings on motions; and
 - (v) other information described under Section 336.120(c), including but not limited to investigation identification numbers, date, time and location of a pre-hearing or hearing.
- G) Service of email is deemed complete on the day of transmission.
- H) The AHU shall confirm delivery by email by securing a “delivery receipt” for the primary or secondary email addresses (if applicable) A counter email acknowledgement from the appellant or the appellant’s representative shall also serve as confirmation of delivery. If AHU does not receive confirmation of delivery, the notices and orders shall be sent by regular mail.

V. QUESTIONS

Questions regarding this Policy Guide may be directed to the Office of Child and Family Policy at 217-524-1983 or via Outlook at DCFS.Policy. Non-Outlook users may e-mail questions to DCFS.Policy@illinois.gov.

VI. FILING INSTRUCTIONS

File this Policy Guide immediately following page (18) of **Part 336, Appeal of Child Abuse and Neglect Investigation Findings**.

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