

Child, Youth and Family Enhancement Appeals

Preliminary Appeal Meeting and Jurisdiction Reference

The appeal process described in this document and the Guides to Appeal 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.

Definitions

Appellant – the person who filed the Notice of Appeal under the *Child, Youth and Family Enhancement Act* (CYFE Act) as listed in section 120(1) and (5) of the CYFE Act. This may be, for example, child or youth, or the Child and Youth Advocate on behalf of a child or youth.

Director – the person who will represent the director's case at the appeal hearing. This may be a supervisor or manager or any other person designated as a director.

Hearing Panel – a panel of three members of the Child, Youth and Family Enhancement (Appeal Panel) who will hear the appeal.

Appeal Secretariat – the impartial government body that facilitates the appeal process. The Appeal Secretariat office is in Edmonton (see page 3).

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 the director. The general purposes of the meeting are 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.

No documents need to be exchanged at this meeting and witnesses do not attend. If either the appellant or the director plans to have legal counsel or another representative at the preliminary appeal meeting or if the Child and Youth Advocate or Legal Representative for Child and Youth plan on attending, they are asked to notify the Appeal Secretariat at the time of scheduling so that the other party can also be informed.

Specifically, the preliminary meeting's purpose is to:

- identify or confirm all of the parties to the appeal;
- clarify the issue(s) being appealed;
 - identify the section(s) of the *Child, Youth and Family Enhancement Act* the issue(s) fall(s) under;
 - confirm the director's decision;

- confirm the date the Administrative Review was requested (if applicable) and the date it was completed and communicated;
- identify if there will be any objections to the Appeal Panel's authority to hear and decide the matter (jurisdiction) and, if so, how this will be done;
 - confirm jurisdiction argument submission dates and the jurisdiction hearing date (if applicable);
- establish if witnesses will be attending and, if so, identify the approximate number of witnesses each party will call and their roles;
- determine the number of days required for the hearing;
- schedule the hearing date(s);
- set the date by which the appellant and director must exchange documents between themselves and provide them to the Appeal Secretariat;
- determine whether the parties will be bringing a lawyer to the hearing;
- discuss how to prepare for the hearing;
- discuss what to expect at the hearing; and
- answer any questions.

Jurisdiction

What is jurisdiction?

Jurisdiction refers to the Appeal Panel's authority to hear the issue under appeal. There may be objections to the jurisdiction of the Appeal Panel.

One example of a jurisdiction objection is whether the Notice of Appeal was filed out of time (too late). *The Child, Youth and Family Enhancement Act* states that the Notice of Appeal must be served on the director not more than 30 days after the appellant has received notice of the directors decision under section 120(5) of the CYFE Act. Director's decisions under section 120(5) of the CYFE Act do not require an administrative review.

- If a person files an Administrative Review decision and qualifies to appeal under section 120(2) of the *Child, youth and Family Enhancement Act*, you must give the Director the Notice of Appeal form not more than 30 calendar days after the copy of the Administrative Review Decision is given to you. 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 when you submitted your request for an Administrative Review.

A second example of an objection to jurisdiction is whether the director's decision that has been appealed falls under section 120 of the CYFE Act.

If the director has an objection to the jurisdiction of the Appeal Panel, the objection should be raised at the preliminary appeal meeting.

What happens if there is an objection to the Appeal Panel's jurisdiction?

When the director identifies a jurisdictional issue at the preliminary appeal meeting, the parties will be advised to proceed as follows:

- the party raising the objection to jurisdiction will be requested to submit, in writing, the objection and reasons for the objection to the Appeal Secretariat and the other party or parties (may include Child and Youth Advocate) by a date set at the preliminary appeal meeting;
- the other parties will be required to respond to the objection, in writing, to the Appeal Secretariat as well as to the party raising the objection and the other party or parties by a date set at the preliminary appeal meeting;
- the Appeal Secretariat will schedule a jurisdiction hearing. The jurisdiction hearing is usually held in person with all parties in front of the hearing panel, although it may be held by videoconference or teleconference;
- the hearing panel will usually determine jurisdiction at the jurisdiction hearing and advise the parties of its decision. (On occasion, the hearing panel may defer a jurisdiction decision to a later time); and
- if the hearing panel rules it has jurisdiction, the appeal hearing proceeds. If the hearing panel rules there is no jurisdiction, the decision is communicated to the parties, and the hearing on the issue(s), if scheduled, is cancelled.

If an objection concerning jurisdiction is raised at the hearing on the issue, the hearing will be delayed because the jurisdiction issue has to be heard first.

Contact Us

For more information about preliminary appeal meetings 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