

Chapter 1: General Information

Section: 1.4 Administrative Reviews and Appeals	Issue Date: October 1, 2011
Subsection: 1.4.0 Overview	Revision Date: October 1, 2011
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Overview

A number of informal and formal dispute resolution mechanisms have been established to support the Ministry's commitment to early resolution of issues that may arise during the course of delivering services under CYFEA. The successful use of an informal mechanism may result in a reduced need for formal administrative review and appeal mechanisms when there is a dispute over a director's decision.

NOTE: A director's decision is any decision made by a caseworker or anyone with delegated authority under CYFEA.

Stakeholders that may engage in various levels of dispute resolution include guardians, caregivers, children, young adults, and residential facility applicants. All stakeholders need to be informed of the informal and formal dispute resolution mechanisms available to them. Only certain individuals have the ability to request formal dispute resolution mechanisms such as an administrative review or appeal to the Appeal Panel.

Children who are in care have the right to disagree with a decision and the right to have their concerns taken seriously. They must be informed of the range of informal and formal dispute resolution options that are available to them. Children may need a support person to assist them in accessing dispute resolution options and to ensure that their voices are heard.

Informal Mechanisms

Best practice is to attempt to engage in informal mechanisms to resolve disputes as quickly as possible.

The first step in resolving issues is for the client to talk to the caseworker who has made the decision with which they are dissatisfied. Each CFSA and DFNA has an informal process in place that may include a discussion with a supervisor, manager or CFSA Chief Executive Officer / DFNA Director. Family group conferencing and mediation are examples of additional options for working together on solutions.

A separate process for dispute resolution exists for foster parents.

Guiding Principles of Informal Mechanisms

- The best solutions are ones worked out between the parties themselves.
- Issues should be resolved cooperatively, respectfully, fairly and efficiently.
- Accessing informal processes for addressing issues does not limit clients in any way from accessing the formal, legislated mechanisms.

Formal Mechanisms

CYFEA identifies several formal mechanisms that allow those impacted by and dissatisfied with a director's decision to dispute the decision, including:

- administrative reviews,
- appeals to an appeal panel, and
- appeals to the Court of Queen's Bench (regarding both court orders and decisions of the appeal panel).

Clients may choose not to access informal mechanisms, and instead proceed directly to administrative review or an appeal, per the legislation. However, the legislated mechanisms cannot be accessed for all issues and concerns that may arise.

Related Information



[1.3.0 OCYA Overview](#)

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Chapter 1: General Information

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Policy

A request for an administrative review must be received by the director in writing in the prescribed format within the legislated timelines and must contain sufficient details about the disputed decision for the director to be able to identify it and determine the grounds for the review.

An administrative review **must** be completed within the legislated timelines.

An administrative review can be used whether or not the matter can be appealed.

Purpose

An administrative review is an internal review and formal dispute resolution process that is available when a child, young adult who may be eligible for benefits under s.57.3, guardian, foster parent, applicant for a license or an applicant for financial support under s.105.8 disagrees with or is impacted by a decision of the director made under CYFEA.

A request for an administrative review may be made when informal dispute resolution mechanisms are not successful in reaching a resolution or when the person requesting the review chooses not to access the informal mechanisms.

Resolution through an administrative review may avoid the matter proceeding to an appeal panel.

Procedures

Matters That Can Go Forward for Administrative Review

A request for an administrative review can be made regarding matters that require delegated decision making authority under CYFEA, including but not limited to the following:

- the director's exercise of discretion when access is court ordered "at the discretion of the director,"

- a licensing decision made by the director,
- the placement of a child into a facility,
- the removal of a child from a facility,
- the refusal of the director to approve financial benefits under the Child and Youth Support Program under s.105.8, or
- the refusal of the director to provide support and financial assistance under s.57.3 to a person between the ages of 18 and 22.

Who Can Request an Administrative Review

Any of the following persons who are directly affected by a director's decision may request an administrative review:

- a child,
- a guardian,
- a foster parent,
- an individual who has had continuous care of a child for more than six of the 12 months preceding the decision of the director,
- a person who is receiving or may be eligible to receive support and financial assistance pursuant to s.57.3,
- a person who is refused financial assistance under s.105.8, or
- an applicant for a residential facility license or a renewal of a residential facility license.

NOTE: The OCYA is able to submit the written request for an administrative review on behalf of a child, but is not considered to be a participant in the proceedings.

Matters That Cannot Go Forward for Administrative Review

Certain matters cannot go forward for administrative review, such as:

- operational or administrative matters, such as the transfer of a file or the assignment of a caseworker,
- financial matters that have provincial fixed rates attached,
- decisions that are made by the director, but not under CYFEA,
- matters where a decision has been made or an opinion formed by someone other than the director and are integral to case planning, including:
 - a child's diagnosis
 - educational planning

- probation requirements
- assessment findings or recommendations
- whether the director investigates a report,
- outcomes of child protection investigations, or
- court orders or decisions of the court.

Timelines for an Administrative Review

It is essential to advise the person who requested the review of the time lines identified in s.117.1(1).

Filing a request for an administrative review

The person requesting an administrative review must do so within **30 calendar days** of receiving the director's decision. The 30 days does not include the day that the decision is received, but every calendar day thereafter must be counted, including the day that the written request for an administrative review is received by the director.

Completing the administrative review process

An administrative review must be completed within **15 calendar days** of the director receiving the written request for an administrative review. The 15 days does not include the day that the request is received by the director, but every calendar day thereafter must be counted, including the day that the administrative review team makes a decision.

The decision of the administrative review team must be provided in writing, including the reasons for the decision, not later than the fifteenth day, to the person who requested the administrative review.

The 15 day timeframe **cannot** be extended, under **any** circumstances, even if the person who requested the review agrees to an extension. If the person who requested the review does not receive a written copy of the decision of the administrative review team by the end of the 15 days, the director's decision is deemed confirmed, per s.117.1(5). This information must be communicated to the person who requested the administrative review.

Awaiting the Outcome of the Administrative Review

Continued attempts to resolve the issue can be made via informal mechanisms pending the outcome of the administrative review.

In the interim period between the director receiving the request for an administrative review and the administrative review team making a decision:

- If the decision under review pertains specifically to a child, maintain the current level of services and supports.

NOTE: If the decision being reviewed is regarding placement, **no placement changes** are to be made while awaiting the outcome of the administrative review **unless** the child is at risk or poses a risk to others.

- If the decision under review pertains to a licensing decision made by the director, await the decision of the administrative review team before proceeding further.
- If the decision under review pertains to the refusal of a director to approve financial benefits under s.105.8 or provide support and financial assistance under s.57.3, await the decision of the administrative review team before taking further action.

Receiving a Request for an Administrative Review

A request for an administrative review must be provided to the director in writing. (e.g. caseworker, supervisor or administrative staff).

The regulated Request for an Administrative Review of a Director's Decision [CS1625] should be utilized by people who request reviews. Ensure that the form is available at each worksite.

When receiving a request for an administrative review:

- Ensure the request is clearly date stamped when it is received.
- Provide a copy of the date stamped form to the person who requested the review.
- Forward the request immediately to the responsible manager (manager of the office or program that is responsible for the file), if the request is not received at that worksite.
- The responsible manager must determine if the request for the administrative review meets the legislative criteria.
 - If a request for an administrative review meets the criteria for review per s.117.1, the review **must** proceed.
 - If a request for an administrative review is received and it fails to meet the criteria per s.117.1, the person who requested the review must be advised in writing of the reasons why the request will not proceed and what other dispute resolution mechanisms are available.
- Provide a copy of the request to the OCYA if an advocate is already involved with the child.

The Administrative Review Team

The administrative review team constitutes “the director” for the purposes of s.117.1.

Coordinating the Administrative Review Team

The responsible manager or the DFNA Director who is responsible for the file brings together the administrative review team according to regional procedures and ensures that the following information is available for the administrative review team:

- a brief description of the decision that is being disputed,
- whether the caseworker discussed with a supervisor or manager that the person requesting the review disagreed with the decision,
- whether a meeting occurred with the caseworker, supervisor and/or manager and the person requesting the review to discuss the decision, and if so, the outcome,
- whether there is documentation on file indicating what attempts were made to resolve the dispute,
- whether other alternative dispute resolution options were presented to the person requesting the review, and
- whether the OCYA is involved.

Composition of the Administrative Review Team

The administrative review team must be comprised **minimally** of two senior staff members employed in the administration of CYFEA. At least one team member must be delegated.

- At least one of the two members must be a manager within a CFSA or a DFNA Director.
- The second member must be a manager, a supervisor or a staff member having a classification at least equivalent to a supervisor.

Administrative review team members cannot be in a direct reporting line to the manager of the office where the decision was made, nor can they review:

- their own decision,
- a decision of someone who directly reports to them,
- a decision of someone they directly report to, or
- a decision they were involved in informally reviewing.

Where there is only one manager available, that person becomes the chair of the administrative review team and completes and signs the Administrative Review Decision [CS1625-2].

Administrative Review Process

The administrative review meeting

The director has the discretion to decide the manner in which the administrative review will proceed, either:

- by reviewing written submissions to the administrative review team, or
- by hearing verbal submissions to the administrative review team.

NOTE: Where foster parents have requested the review, administrative reviews will be conducted in person with all participants present (e.g. in person, via teleconference or videoconference).

If verbal submissions will be heard, the administrative review team will advise the person requesting the review that:

- they can choose to meet without the caseworker being present, and
- they can bring a support person with them to the meeting.
- When the review is conducted in person:
 - A foster parent may have a support person of their choosing in the meeting (e.g. an AFPA representative, a FAST representative).
 - A child may have a support person of their choosing in the room (e.g. an advocate from the OCYA).
 - A caseworker may have their supervisor attend the meeting with them.

NOTE: A child has the option of sharing information with the administrative review team separate from other parties.

- Written submissions may be reviewed in advance by the administrative review team.

The administrative review team reviews all relevant information and issues a written decision within **15 calendar days** of receiving the written request for an administrative review.

Relevant information

Relevant information will vary depending upon the situation being reviewed, and may include but is not limited to:

- documentation related to consultation with persons involved with the case plan, including the First Nations designate per s.107, if it pertains specifically to the decision,
- the child's family enhancement plan, concurrent plan, transition to independence plan or secure services plan,

- documentation submitted by the person who requested the review,
- any file information and policy considered when making the decision under review,
- the rationale for the decision that is under review, and
- the views of the child, where the decision affects the child and the child is capable of forming and articulating a view.

Confidentiality

The administrative review team maintains all confidentiality requirements throughout the process. Confidential third party information may not be shared with the person making the request.

Best Interests

The administrative review team is responsible for ensuring that the decision is made in the best interests of the child and in keeping with the Matters to be Considered identified in s.2.

Limits on the decision

The administrative review team may make a decision to confirm, vary or reverse the original decision.

The administrative review team's decision is limited by legislation, regulation and policy.

Follow-Up Requirements

- Per s.117(4)(b), the person who requested the review must receive the written decision of the administrative review within **15 calendar days** of making the request for the review. The 15 days **cannot** be extended under any circumstances.
- The decision and corresponding rationale for the decision is recorded on the Administrative Review Decision form [CS1625-2].
- Verbally notify the person who requested the review of the decision and send the written decision to the person who requested the review, involved staff, and the OCYA (where applicable).
- If the person who requested the review is dissatisfied with the outcome of the administrative review, that person may file an appeal to an appeal panel regarding the original decision, if the eligibility criteria under s.120 are met **and** if the decision is an appealable matter under s.120(2).
- Ensure that the person who requested the review is made aware of the time limits to file a notice of appeal and of the requirement of s.120(3)(a)

to attach a copy of the administrative review decision or a statement that the decision is deemed to have been confirmed.

- Ensure that the person who requested the review is notified that, per s.120(3)(b), the notice of appeal **must** be served on the director
 - not more than **30 calendar days** after the Administrative Review Decision is received

OR

- not more than **45 calendar days** after the date when the request for the administrative review was submitted to the director, if the person who requested the review does not receive the Administrative Review Decision within 15 days of that date.

NOTE: If the original decision is appealed, the original decision will remain in effect during the appeal process.

Related Information



1.3.0 OCYA Overview

1.3.1 Mandatory Notifications

1.4.2 Appeals to the Appeal Panel

1.4.3 Appeals to the Court of Queen's Bench – Director as Respondent

1.4.4 Appeals to the Court of Queen's Bench – Director as Appellant

Enhancement Policy Manual – Placement Resources



Administrative Review of a Director's Decision [[CS1625-2](#)]

Mandatory Notification to the Child and Youth Advocate from a Caseworker [[CS0010](#)]

Notice of an Appeal to the Appeal Panel [[CS1622](#)]

Request for an Administrative Review of a Director's Decision [[CS1625](#)]

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Policy

A notice for an appeal to the appeal panel must be received by the director in writing in the prescribed form within the legislated timelines.

If a client decides to appeal a director's decision to an appeal panel, ensure that:

- the client is provided with the regulated Notice of an Appeal to the Appeal Panel [CS1622],
- the client is made aware of the timelines identified in s.120(3), and
- the client is made aware of the requirement to attach the written administrative review decision or a statement concerning the deemed confirmation of the director's decision to the notice of appeal, if applicable.

Purpose

An appeal panel hearing is a formal dispute resolution mechanism. It is a quasi-judicial process that is as important as a court hearing. Clients that choose this option may have their concerns heard by an appeal panel. Any person delegated under CYFEA may be assigned to represent the director at an appeal hearing. This person does not have to be the responsible caseworker.

An appeal panel may confirm, vary or reverse certain child intervention decisions that may be appealed, per s.119(2.1).

Certain decisions regarding placement and/or licensing may either be confirmed by the appeal panel or returned to the statutory Director for further consideration, per s.119(2). If this occurs, the statutory Director will review the decision and then confirm, vary or reverse the original decision.

Procedures

Decisions That Can be Appealed to an Appeal Panel

S.120 defines both who can make an appeal to the appeal panel and what decisions can be appealed to an appeal panel.

Who can appeal a decision:

- a child,
- a guardian of a child,
- a person who has had continuous care of a child for more than six of the 12 months immediately preceding a decision of under s.120(2),
- a person who is receiving or may be eligible to receive support and financial assistance under s.57.3,
- a person who is dissatisfied with terms and conditions imposed by a director with respect to the renewal of a residential facility license,
- a person whose residential facility license has been varied, suspended or cancelled,
- a license holder who is the subject of an order after inspection under s.105.6,
- a license holder whose residential facilities license is not renewed,
- a person whose home assessment study or addendum to a home assessment study for an international adoption was not approved,
- a person who is dissatisfied with the terms and conditions imposed by a director with respect to a conditional license to operate an adoption agency issued under s.88(1)(b),
- a person who application for a license or renewal of a license to operate an adoption agency is refused under s. 88(1)(c), and
- a person whose license to operate an adoption agency has been suspended or cancelled by a director under s.89.

NOTE: The OCYA is able to file the notice of appeal on behalf of a child, but is not considered to be a participant in the proceedings.

What decisions can be appealed after an administrative review:

- removal from or placement in a residential facility, other than a secure services facility, where the child is the subject of a TGO, PGO or PGA,
- permitting or refusing to permit any person who has a significant relationship with a child to visit a child who is the subject of a permanent guardianship agreement,

- refusal or failure of the director to enter into an agreement or apply for a court order where the director is of the opinion that the child is in need of intervention,
- refusal to provide financial assistance to a private guardian or adoptive parent of a child previously under a permanent guardianship agreement or order through the Supports for Permanency program under s.56.1 or s.81,
- refusal to provide support or financial assistance under s.57.3
- decision to vary, suspend or cancel a residential facilities license,
- terms and conditions imposed on a renewal of a residential facility license, but not terms and conditions imposed on an initial residential facilities license,
- refusal to renew a residential facility license,
- an order after inspection per s.105.6,
- refusal of the director to approve an international adoption placement applicant, or
- refusal by the director to approve a home study report or an addendum to a home study report of an adoption placement applicant for an international adoption.

Decisions that cannot be appealed:

Decisions that do not fall under s.120 cannot be appealed. Examples include, but are not limited to, the following:

- operational or administrative decisions such as file transfers or caseworker changes,
- investigation outcomes, or
- matters where a decision has been made or an opinion formed by someone other than the director, but integral to case planning, such as child diagnosis, education planning, probation requirements, assessment findings, court orders or decisions of the court.

NOTE: Every Notice of an Appeal to the Appeal Panel [CS1622] that is served on the director **must** be forwarded to the Appeal Secretariat.

Decisions that can be appealed without an administrative review:

Per s.120(5), the following persons can proceed directly with an appeal to an appeal panel regarding decisions with respect to the licensing of adoption agencies, without going through the administrative review process:

- a person who is dissatisfied with the terms and conditions imposed on a license under s.88(1)(b),

- a person whose application for a license or renewal of a license to operate an adoption agency is refused under s.88(1)(c), or
- a person whose license to operate an adoption agency has been suspended or cancelled by the director under s.89.

Timelines for an Appeal to the Appeal Panel

Upon being informed of the decision of the director, the client has **30 calendar days** in which to serve notice of an appeal to the appeal panel on the director. Ensure that the client is notified of the following timelines:

- If an administrative review under s.117.1 is not required, the 30 days begin when the client receives written notice of the director's decision.
 - If an administrative review under s.117.1 occurred, the notice of appeal **must** be served on the director
 - not more than **30 calendar days** after the Administrative Review Decision is received
- OR**
- not more than **45 calendar days** after the date when the request for the administrative review was submitted to the director, if the client does not receive the Administrative Review Decision within 15 days of that date.

Receiving a Notice of an Appeal to the Appeal Panel

When a notice of appeal is received:

- Inquire whether the appellant will be represented by a lawyer.
- Sign and date the notice and **immediately submit** it to the Appeal Secretariat in all cases. Include the name and contact information for the person who will be representing the director.
 - Appeal Secretariat, ATTN: Child, Youth and Family Enhancement
Appeal Panel Fax : 780-644-6880
- Send a copy of the notice to the regional appeals designate, who will provide consultation and support through the appeal process. Include a copy of the administrative review decision, if applicable.
- If the notice is for another worksite or region, immediately forward it to the appropriate worksite, CFSA or DFNA.
- If the appeal is regarding a child receiving intervention services, notify the OCYA as a mandatory notification.
- If a child will require legal representation at an appeal hearing, make a referral to the Legal Representation for Children and Youth (LRCY) service.

- Consider sending the notice to legal counsel to review for any potential jurisdictional objections.

NOTE: The original decision of the director that is being appealed remains in effect until the appeal panel makes a ruling.

Legal Representation for the Director

If the appellant obtains a lawyer, the director obtains one.

If the director will require a lawyer, advise the regional appeals designate, who will contact the appropriate Social Enhancement Legal Team office for consultation and assignment of legal counsel.

- Red Deer and areas north of Red Deer call Edmonton 780-422-3715
- Areas south of Red Deer call Calgary 403-297-3360

Preliminary Appeal Meeting

The Appeal Secretariat will facilitate a preliminary appeal meeting between the appellant and the director (including legal counsel, if retained; an advocate from the OCYA, if applicable; and, the LRCY, if applicable) either in person or via videoconference. The appeal panel members do not participate in this meeting.

The purpose of the preliminary appeal meeting is to:

- identify or confirm all parties to the appeal hearing,
- clarify the original decision of the director that is being appealed and the applicable section under CYFEA,
- establish the number of witnesses that will be called and how many days will be needed for the hearing, and
- schedule the hearing and set the dates for the submission of documents.

Jurisdiction

If the director has a concern regarding the jurisdiction of the appeal panel, it must be raised at the preliminary appeal meeting and a hearing on the matter of jurisdiction may be scheduled.

It is the responsibility of the appeal panel to determine if it has jurisdiction to hear the appeal prior to proceeding with an actual hearing.

Preparing for the Appeal Hearing

Disclosure package

Each party to an appeal decides what information is relevant and necessary to adequately represent their case.

The director determines what information to include in the disclosure package; the director cannot be compelled to provide information.

When preparing the disclosure package for the appeal hearing, determine:

- what information is necessary to support the original decision that is being appealed,
- what information do the appellant and the appeal panel need to know with regard to the factors that contributed to the original decision that is being appealed,
- that the information provided is relevant and specific to the issue at hand, and
- who will vet the information prior to it being provided to the appeal panel and appellant.

NOTE: It is critical to ensure that the disclosure package is correctly vetted to remove third party person information, reported information and privileged information. If there is any uncertainty about what information should be vetted, seek legal advice.

Always include a summary of the director's case in the disclosure package.

Prior to the appeal hearing

Discuss and prepare for the appeal process with a supervisor, manager or regional appeal designate, as appropriate.

- Review all documents and processes that were involved in the decision and that will be presented at the appeal. Prepare for the appeal hearing in a manner similar to a court process in terms of ensuring an increased understanding of all aspects of the case and the decision.
- If a relevant document is a confidential report from an expert, ask the author to appear before the appeal panel to give evidence. If this is not possible, the report can be provided if the director contracted the expert to complete the report or if the report was provided to the director by the guardian for case planning purposes. A summary of the findings and/or recommendations of a report may be sufficient.
- If the appellant is a child, ensure that the child has assistance to prepare and present the appeal. The child may be represented by a lawyer, an advocate from the OCYA or any other person.

- Be prepared to respond to the appellant's case.
- Confirm that the information in the disclosure package has been appropriately vetted for confidentiality and third party information.

Presenting at the Appeal Hearing

Present the director's case in a clear, logical and factual manner, addressing the following:

- the decision being appealed, clarifying the reason the decision was made,
- the section of legislation or regulation that the decision was made in accordance with, where appropriate,
- the policy consideration including the relevant section and how it applied to the circumstances,
- the circumstance, events and correspondence that led to the decision,
- the services provided to the client,
- other considerations of the director, and
- the supporting information provided in the disclosure package.

Post Appeal Hearing and Follow-Up Requirements

Decision

The decision of the appeal panel is limited by legislation and regulation, but not by policy.

The appeal panel notifies each party of its decision in a detailed written summary, which is sent to each party by the Appeal Secretariat.

Follow-up

If the appeal panel must return a decision to the statutory Director for further consideration, this will be identified in the written appeal panel decision provided to each party.

NOTE: If the matter being heard by an appeal panel is one that may be returned to the statutory Director for further consideration, it is strongly suggested that the region arrange for the hearing to be transcribed by a court reporter. If the matter is returned to the statutory Director for further consideration, the statutory Director may request a copy of the transcripts. The process for a review by the statutory Director is outlined in Appendix C.

If the decision of the appeal panel conflicts with the legislation or regulation, contact the Social Enhancement Legal Team immediately.

Appealing the Decision of an Appeal Panel

S.120.1(1) allows for the appeal of a decision of the appeal panel by any party to the hearing or the Minister.

An appeal must be launched in the Court of Queen's Bench not more than **30 calendar days** after the date of the written decision of the appeal panel.

Recording

Ensure that a copy of the notice of appeal is retained in the child's or foster parent's file, whichever is applicable.

Ensure that a copy of the written decision of the appeal panel is retained in the child's or the foster parent's file, whichever is applicable.

Related Information



[1.3.1 Mandatory Notifications](#)

[1.4.1 Administrative Reviews](#)

[1.4.3 Appeals to the Court of Queen's Bench – Director as Respondent](#)

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[Appendix C: Matter Returned to the Director for Further Consideration](#)



[Administrative Review of a Director's Decision \[CS1625-2\]](#)

[Mandatory Notification to the Child and Youth Advocate from a Caseworker \[CS0010\]](#)

[Notice of Appeal – Appeal Panel Decision \(CYFE Act\) \[CS4034\]](#)

[Notice of an Appeal to the Appeal Panel \[CS1622\]](#)

[Request for an Administrative Review of a Director's Decision \[CS1625\]](#)

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Policy

The statutory Director must be notified immediately when a CFSA or DFNA is served with a Notice of Appeal.

Purpose

Appeals to the Court of Queen's Bench may be made regarding an order of the provincial court or a decision of an appeal panel.

- S.114(1) allows for the appeal of any order of the provincial court made under CYFEA, and for an appeal of a refusal of the provincial court to make an order.
- S.120.1(1) allows for the decision of an appeal panel under s.119(2.1) to be appealed to the Court of Queen's Bench by any party to the appeal panel hearing or the Minister.

NOTE: Appeal panel decisions which fall under s.119(2), i.e. decisions which must be returned to the statutory Director for further consideration, cannot be appealed to the Court of Queen's Bench. Judicial review is available for these matters.

Procedures

Who can appeal a court order made under CYFEA?

A court order under CYFEA can be appealed to the Court of Queen's Bench by:

- a guardian of the child other than the director,
- a person who was a guardian of the child immediately before the order was made,
- the child, if the child is 12 years of age or older,
- the child, if the child is the subject of a secure services order,

- a director, or
- the Minister.

Who can appeal a decision of an appeal panel?

A decision of an appeal panel can be appealed to the Court of Queen's Bench by any party to the appeal hearing or the Minister.

Appeal panel decisions which must be returned to the statutory Director for further consideration under s.119(2) cannot be appealed to the court of Queen's Bench.

Timeframe to Launch an Appeal

An appeal must be launched in the Court of Queen's Bench not more than **30 calendar days** after the decision of the appeal panel or the date of the provincial court order. The 30 days does not include the day that the provincial court order is granted or the decision of the appeal panel is received, but count every calendar day thereafter, including the day that the Notice of Appeal is filed with the Court of Queen's Bench.

CFSA Process

A Notice of Appeal regarding either an order of the provincial court or a decision of the appeal panel may be served on a caseworker, a Social Enhancement Legal Team lawyer, or a legal agent.

When a Caseworker is Served:

1. Immediately notify a supervisor and the worksite manager. If a lawyer is already assigned to the file, notify the lawyer directly.
2. The worksite manager will immediately fax the Notice of Appeal to the statutory Director.
 - Mark the fax "ATTN: Director of the Child, Youth and Family Enhancement Act" and send it to 780-422-5415.
3. The statutory Director will notify legal counsel via the Director of the Social Enhancement Legal Team, Alberta Justice of the Notice of Appeal within five working days and send a memorandum regarding the matter.

When a Social Enhancement Legal Team Lawyer is Served:

1. The Social Enhancement Legal Team lawyer will immediately notify the statutory Director of the Notice of Appeal. The Social Enhancement Legal Team lawyer will also notify the responsible caseworker.

2. The statutory Director will respond to the Director of either the Social Enhancement Legal Team Edmonton or Social Enhancement Legal Team Calgary within five working days with a memorandum.

When a Legal Agent is Served:

1. The legal agent will immediately notify the Director of either the Social Enhancement Legal Team Edmonton or the Social Enhancement Legal Team Calgary, who will then notify the statutory Director of the Notice.
2. The statutory Director will respond to the Director of either the Social Enhancement Legal Team Edmonton or the Social Enhancement Legal Team Calgary within five working days with a memorandum.

NOTE: Matters in the City of Red Deer and north of Red Deer are managed by the Social Enhancement Legal Team Edmonton. Matters south of Red Deer are managed by the Social Enhancement Legal Team Calgary.

Ongoing Communication, Case Management, and Trial Direction

The statutory Director will:

- establish the position of the director for the court proceedings,
- specify which types of communications the statutory Director must be copied in on,
- indicate the level and type of involvement that the statutory Director will have in ongoing case management and in the court proceedings, and
- confirm the position of the director regarding the proceedings on a regular basis with legal counsel and the CFSA.

Unless otherwise specified by the statutory Director:

- The CFSA will keep the statutory Director informed by providing copies of reporting memorandums and e-mails regarding trial proceedings.
- The CFSA will continue to provide ongoing case management of the case, in accordance with the position established by the statutory Director. The CFSA may choose to have senior staff direct case management during the proceedings, on a case-by-case basis.
- The CFSA will provide day to day instructions to legal counsel during the trial proceedings, in accordance with the position established by the statutory Director.

DFNA Process

When a DFNA receives a Notice of Appeal, regardless of who is served:

- Immediately give the Notice of Appeal to the DFNA Director.
- The DFNA Director (or their designate) will immediately fax the Notice of Appeal to the statutory Director, so that the statutory Director is aware of the proceeding.
 - Mark the fax "ATTN: Director of the Child, Youth and Family Enhancement Act" and send it to 780-422-5415.
- Immediately notify legal counsel, if legal counsel was not served with the notice.
- Notify the appropriate First Nations Liaison Unit manager.
- Ensure that up to date information regarding court proceedings is communicated to the statutory Director.

Related Information



[1.3.0 OCYA Overview](#)

[1.4.2 Appeals to the Appeal Panel](#)

[1.4.4 Appeals to the Court of Queen's Bench – Director as Appellant](#)



[Alberta Rules of Court](#)



[Notice of Appeal – Appeal Panel Decision \[CS4034\]](#)

[Notice of Appeal – Provincial Court Order \[CS4035\]](#)

[Notification of an Appeal to the Court of Queen's Bench – Memorandum \[CS0012\]](#)

[Response to Notification of an Appeal to the Court of Queen's Bench – Memorandum \[CS0014\]](#)

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Chapter 1: General Information

Section:	1.4 Administrative Reviews and Appeals	Issue Date: October 1, 2011
Subsection:	1.4.4 Appeals to the Court of Queen's Bench – Director as Appellant	Revision Date: October 1, 2011
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Policy

The written approval of the statutory Director is required if a CFSA wants to launch an appeal to the Court of Queen's Bench.

The statutory Director must be notified if a DFNA wants to launch an appeal to the Court of Queen's Bench.

Purpose

Appeals to the Court of Queen's Bench may be made regarding an order of the provincial court or a decision of an appeal panel.

- S.114(1) allows for the appeal of any order of the provincial court made under CYFEA, and for an appeal of a refusal of the provincial court to make an order.
- S.120.1(1) allows for the decision of an appeal panel under s.119(2.1) to be appealed to the Court of Queen's Bench by any party to the appeal panel hearing or the Minister.

NOTE: Appeal panel decisions which fall under s.119(2), i.e. decisions which must be returned to the statutory Director for further consideration, cannot be appealed to the Court of Queen's Bench. Judicial review is available for these matters.

Procedures

Who can appeal a court order made under CYFEA?

A court order under CYFEA can be appealed to the Court of Queen's Bench by:

- a guardian of the child other than the director,
- a person who was a guardian of the child immediately before the order was made,
- the child, if the child is 12 years of age or older,

- the child, if the child is the subject of a secure services order,
- a director, or
- the Minister.

Who can appeal a decision of an appeal panel?

A decision of an appeal panel under s.119(2.1) can be appealed to the Court of Queen's Bench by any party to the appeal hearing or the Minister.

Appeal panel decisions which must be returned to the statutory Director for further consideration under s.119(2) cannot be appealed to the court of Queen's Bench.

Timeframe to Launch an Appeal

An appeal must be launched in the Court of Queen's Bench not more than **30 calendar days** after the decision of the appeal panel or the date of the provincial court order. The 30 days does not include the day that the provincial court order is granted or the decision of the appeal panel is received, but count every calendar day thereafter, including the day that the Notice of Appeal is filed with the Court of Queen's Bench.

Stay of Execution

A stay of execution can be granted regarding both provincial court orders, per s.115 and decisions of the appeal panel, per s.120.1(3).

An application for a stay regarding a provincial court order must be done at the time that the provincial court order is granted. If the caseworker believes a stay is necessary, immediately consult with a supervisor or manager to determine if this is the most appropriate course of action prior to proceeding. If the director is not represented by a lawyer at the time the order is made, the caseworker can, after the necessary consultation, apply for the stay at the time the order is granted.

Any party to an appeal panel hearing that files for an appeal to the Court of Queen's Bench may also make an application for an order to stay the decision of the appeal panel. This must be done as soon as possible, in consultation with a supervisor, after the decision of the appeal panel is received. The application to the Court of Queen's Bench for a stay after an appeal panel decision must be made by a lawyer.

CFSA Process

The following steps **must** be completed by a CFSA:

1. A senior manager must be consulted by the worksite regarding the matter. Once an appeal is being contemplated, the senior manager will consult

the Social Enhancement Legal Team for a legal opinion as to whether an appeal is legally supportable.

- If the director was unrepresented by legal counsel at the time that the provincial court order was granted or the decision of the appeal panel made, then a request to consult with counsel must be made to the Director of the Social Enhancement Legal Team Edmonton or the Social Enhancement Legal Team Calgary as soon as the decision to pursue an appeal has been made.
 - If the Social Enhancement Legal Team or a legal agent was providing legal counsel to the director at the time that the provincial court order was granted or the decision of the appeal panel was made, the CFSA staff may consult with the lawyer already assigned to the file in order to secure the written rationale for pursuing the appeal.
2. The CEO (or CEO's designate) of a CFSA must submit a request for approval to proceed to the Court of Queen's Bench to the statutory Director within **eight calendar days**. The request must minimally include:
- the case name, ID number and date of the provincial court order or appeal panel decision,
 - a copy of the provincial court order or written decision of the appeal panel,
 - a copy of the court report or disclosure package, if requested,
 - a copy of the stay of execution, if applicable,
 - the name of the senior manager who consulted with legal counsel,
 - the name of legal counsel, and
 - the written legal recommendation to support the request to proceed.
3. The statutory Director will review the request and consult with the Director of Legal Services for the Ministry.
4. The statutory Director will provide the CFSA with one of the following responses within **seven calendar days**:
- Approval to proceed – The statutory Director supports the request and will establish the position of the Ministry. Day-to-day instructions for legal counsel regarding the court proceedings will be given by the CFSA, in accordance with the position established by the statutory Director. The statutory Director will be copied in on correspondence related to the appeal proceedings.
 - Approval to proceed – The statutory Director supports the request and will establish the position of the Ministry. The statutory Director

(not the CFSA) will provide day-to-day instructions for legal counsel regarding the court proceedings.

- No approval to proceed – The statutory Director does not support the request. The CFSA cannot make application for an appeal to the Court of Queen's Bench.
5. The statutory Director will provide the Director of the Social Enhancement Legal Team Edmonton or the Social Enhancement Legal Team Calgary with a copy of the response that is provided to the CFSA. Either a Social Enhancement Legal Team lawyer will be assigned or the appropriate legal agent will be retained.

Ongoing Communication, Case Management, and Trial Direction

The statutory Director will:

- establish the position of the director for the court proceedings,
- specify which types of communications the statutory Director must be copied in on,
- indicate the level and type of involvement that the statutory Director will have in ongoing case management and in the court proceedings, and
- confirm the position of the director regarding the proceedings on a regular basis with legal counsel and the CFSA.

Unless otherwise specified by the statutory Director:

- The CFSA will keep the statutory Director informed by providing copies of reporting memorandums and e-mails regarding trial proceedings.
- The CFSA will continue to provide ongoing case management of the case, in accordance with the position established by the statutory Director. The CFSA may choose to have senior staff direct case management during the proceedings, on a case-by-case basis.
- The CFSA will provide day to day instructions to legal counsel during the trial proceedings, in accordance with the position established by the statutory Director.

DFNA Process

The DFNA Director (or their designate) must submit information regarding the case to the statutory Director within **10 calendar days** of the provincial court order or the appeal panel decision. Minimally, this should include:

- the case name, ID number and date of the provincial court order or appeal panel decision,
- a copy of the provincial court order or written decision of the appeal panel,
- a copy of the stay of execution, if applicable

- the name of the person who consulted with legal counsel,
- the name of legal counsel, and
- confirmation of a legally supportable position.

Ensure that up to date information regarding court proceedings is communicated to the statutory Director and the appropriate First Nations Liaison Unit manager. The statutory Director will be available in a consultative and support capacity to the DFNA.

Related Information



[1.4.2 Appeals to the Appeal Panel](#)

[1.4.3 Appeals to the Court of Queen's Bench – Director as Respondent](#)



[Alberta Rules of Court](#)



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