

LCCS POLICY 140

Non-Employee Grievance Review & Resolution

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Board Approval Date:	
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Reason for Obsoleting/Combining:	Combining Policies #140A & #740 into Policy 140
See new Policy #:	#140

Scope:	All LCCS staff will inform consumers of the grievance review process and help facilitate the process for any consumer who requests a review/appeal.
Responsibility:	All LCCS staff
Purpose:	To provide consumers with information about and assistance with the resolution of service delivery complaints or CA/N dispositions by ensuring that a standardized grievance process is available to them.
Legal Cite:	ORC 3107.033; 5103.03; 5153.16; 2151.03; 2151.031; 5101.35; Chapter 119 OAC 5101:2-48-24; 5101:2-5-13; 5101:6-50, 5101:2-33-03; 5101:2-33-20; 5101:2-33-05

POLICY STATEMENT

LCCS recognizes the rights of consumers of LCCS services and, therefore, will receive, review and resolve complaints and appeals concerning the provision of services or case dispositions from consumers while continuing to meet the best interests of children served.

DEFINITIONS

Consumer: Parents, custodians, legal guardians, foster caregivers, kinship caretakers, day care providers, children, applicants or providers of approved adult-supervised living arrangements, and alleged perpetrators who disagree with the report disposition of a report of child abuse or neglect.

Complaint: A formal written statement of dissatisfaction with decisions made or actions taken by LCCS.

Appeal/Grievance: A formal written statement of dissatisfaction/disagreement and request for further review regarding a decision made by LCCS, including alleged perpetrators who disagree with the disposition of a report of child abuse/neglect.

Review Agent: A person or panel not in the chain-of-supervision (chain-of-command) of any persons involved in the complaint and designated/appointed by the appropriate Division Director/Associate Director for the purpose of reviewing the complaint/appeal.

Resource Home: A home/caregiver providing services to children involved with LCCS (e.g., Day Care, Foster, Adoptive homes).

ORC: Ohio Revised Code

OAC: Ohio Administrative Code

ODJFS: Ohio Department of Job & Family Services

MEPA: Multiethnic Placement Act

ICWA: Indian Child Welfare Act

GENERAL PROCEDURES - including required timeframes and documentation

There are some situations in the provision of child protective services that lend themselves to consumer generated complaints, grievances or appeals of decisions. The general pattern of resolving disagreements/disputes begins with the worker who is responsible for the case/service in question and follows that worker's chain-of-command. Since most situations can be resolved in this manner, consumers are expected to utilize the chain-of-command for complaint/disagreement resolution before pursuing other resolution avenues. When a consumer is still not satisfied with the resolution or an agency administrator determines that the general method of complaint resolution is not working, the consumer will be directed toward one of the specific processes described below (depending on circumstances) or, ultimately, the agency's Ombudsperson (see Policy #139).

When a consumer; a) requests copies of the Agency's complaint policies; b) wants to submit a complaint regarding the provision of services; or c) wants to appeal a disposition regarding a report of CA/N, the LCCS staff member who receives the complaint/appeal notification will assist the Complainant/Appellant by providing copies of LCCS Policy #140 (this policy) and Policy #139 ("Ombudsman Process & Resolution of Systemic Problems") to the consumer within three (3) working days of the date of the request. The LCCS staff member will also provide any assistance sought to help put the complaint/appeal in writing and advise the Complainant/Appellant of their right to seek legal assistance at their own expense.

Agency personnel conducting complaint reviews and report disposition appeals cannot be involved in the case. Whoever ultimately presides over the resolution will provide the Complainant/Appellant with a written explanation of the resolution. In the case of **complaint reviews**, the written explanation must also include information about how to contact the Ohio Department of Job and Family Services' Toledo Field Office (1 Government Center, 12th floor, Toledo, Ohio 43604). **The decision regarding report disposition appeals will be final and not subject to State hearing review.**

Personnel conducting complaint reviews will document in the case record the complaint, the complaint review process and the findings of the complaint review.

The staff member who ultimately decides on the resolution of the complaint/appeal will forward a copy of the written explanation, along with copies of any supporting documentation generated during the resolution process to:

- the Ombudsperson for the purposes of that office's quarterly reporting and systemic problem resolution responsibilities; and, to
- the Quality Improvement Division for consideration in policy development.

Consumers/Complainants should refer to the categories of situations described below for specific process/procedural information to follow, depending on individual circumstances. For complaints involving alleged discriminatory acts, policies, or practices that involve race, color or national origin, the procedures contained in rule 5101:2-33-03 of the Administrative Code supersede the requirements of this policy. (See MEPA complaint procedures.)

LCSS will accommodate persons who are visually or hearing impaired or speak another language by providing the policy to them in a form that they can understand (i.e. policy will be read to visually impaired persons, translated into another language for persons who do not speak/read English, etc.).

COMPLAINTS

While the specific process for a particular situation may vary, the chain-of-command procedural sequence for complaints generally follows this order:

Worker→Supervisor→Assistant Manager, if applicable→Manager→
Division Director/Associate Director→Ombudsperson

In general, the following steps will be followed until resolution is achieved:

- Step 1: Consumer/Complainant speaks with Worker
- Step 2: Consumer/Complainant meets with Worker & Supervisor
- Step 3: If resolution is not acceptable, Consumer/Complainant appeals resolution decision
- Step 4: Consumer/Complainant meets with the Department Manager
- Step 5: If resolution is not acceptable, Consumer/Complainant appeals resolution decision
- Step 6: Consumer/Complainant meets with Associate Director
- Step 7: If resolution is not acceptable, Consumer/Complainant meets with Ombudsperson.

Acceptable resolution at any step will end the process. Requests for complaint reviews must be made within 30 days of the issuance of the resolution at Steps 1 through 6.

REPORT DISPOSITION APPEALS BY ALLEGED PERPETRATORS

Requests for report disposition appeals must be made within thirty (30) days of notice of the disposition. The review will be conducted and a finding issued within thirty (30) days of the request for review, unless there are exceptional circumstances.

Agency personnel involved in conducting the report disposition appeal will not be involved in the case, including the assessment/investigation of the incident and the approval of the report disposition.

The LCCS personnel will have the authority to change the report disposition. The LCCS personnel shall facilitate the report disposition appeal and consider the totality of the information including the assessment/investigation information contained in the case record which led to the report disposition as well as any information presented by LCCS staff and the appellant.

The LCCS personnel will change the report disposition if any of the following circumstances occur:

- a) the report disposition was made in error;
- b) the appellant did not engage in conduct constituting child abuse or neglect as defined in ORC 2151.03 or 2151.031; or
- c) the report disposition is not supported by the totality of the information presented by the appellant or the Agency, or contained in the case record.

The decision of the Agency regarding the report disposition is final and the decisions are not subject to State hearing review under ORC 5101.35.

When an appeal of a report disposition is conducted, LCCS will:

- a) document the report disposition appeal process and findings in the case record;
- b) update SACWIS according to OAC 5101:2-33-05;
- c) notify the principals of the report in writing as to the revised report disposition if a report disposition appeal results in the revision of the disposition; and
- d) maintain all documents submitted or reviewed during the report disposition appeal in the case record.

DENIAL OF INITIAL CERTIFICATION, RECERTIFICATION OR REVOCAION OF FOSTER HOME CERTIFICATE

When the chain-of-command review decision recommends denial of initial certification, recertification or revocation of certification, the decision maker will send the decision to the appropriate Supervisor in the Placement Department who will initiate the OAC required notification. Within three (3) business days of receipt of the decision, foster

home staff will provide written notification by regular and certified mail (return receipt requested) to the foster care applicant or caregiver of the agency's recommendation to deny. The notification will include all of the following documents and information:

- The reason for the decision to recommend denial of initial certification, recertification or revocation of certification.
- A completed ODJFS form #JFS 01315 (Rev. 1/2003), "*Notification of Denial of Initial Certification, Recertification or Revocation of a Foster Home Certificate*".
- A copy of ODJFS form #JFS 01331 (Rev. 12/2006), "*Notice of Expiration and Reapplication for a Foster Home Certificate or Adoption Homestudy Update/Amendment*" for denials of recertification situations.
- The specific law(s) and/or rule(s) with which the foster care applicant or caregiver is allegedly not in compliance.
- A copy of each specific rule with which the foster care applicant or caregiver is allegedly not in compliance.
- Copies of LCCS Policies #139, "*Ombudsman Process & Resolution of Systemic Problems*" and #140, this policy, which detail methods for requesting and the process for an LCCS grievance review meeting.
- Notice that the foster care applicant or caregiver must notify the agency within ten (10) calendar days of receipt of the notification of their intent to appeal the chain-of-command review decision. (JFS 01315)
- Notice of the option to voluntarily withdraw from the LCCS foster home care program. (JFS 01315)
- Notice that the final decision to deny initial certification or recertification or to revoke certification will be made by ODJFS. (JFS 01315)
- Notice that if ODJFS accepts LCCS' recommendation to deny or revoke, ODJFS will notify the foster care applicant or caregiver of their right to a hearing pursuant to Chapter 119 of the ORC and Chapter 5101:6-50 of the OAC. (JFS 01315)

If the applicant or caregiver utilizes LCCS' grievance/appeal review process and if the original decision is **UPHELD**, the decision maker will send the final/reaffirmed decision to the Placement Department for the required notification to ODJFS. Within three (3) business days following receipt of the decision, foster home staff will notify ODJFS of the agency's recommendation to deny initial certification or recertification or to revoke the certificate utilizing ODJFS form #JFS 01317 (Rev. 1/2003), "*Recommendation for Certification/Recertification of a Foster Home*" and shall submit the following documentation:

- A summary of the grievance/appeal meeting, if one was held.
- Identification of laws or rules with which the applicant or caregiver is allegedly not in compliance.
- Specific documentation and evidence supporting the recommendation.
- A copy of JFS 01315.
- The certified mail return receipt sent to the foster home applicant or caregiver.

DETERMINATION TO STOP THE ADOPTIVE APPLICATION PROCESS OR DENIAL OF APPROVAL FOR AN ADOPTIVE PLACEMENT

When the chain-of-command review decision is to stop processing an application for adoption or not approve an adoptive placement, dissatisfied adoptive applicants, prospective adoptive parents or adoptive families can request a formal review. To initiate the formal review process, consumers are to notify their worker's supervisor, in writing, and request a formal review. The supervisor will inform her/his worker of the request and forward the request to the Placement Department Manager who will review it and forward it to the Executive Director or his/her designee.

Requests for formal reviews received from adoptive applicants, prospective adoptive parents or adoptive families will be acted upon by LCCS in the following manner within thirty (30) calendar days of receipt of the request:

- A face-to-face meeting will be conducted by the Executive Director or designee and will include the adoptive applicant, prospective adoptive parent(s) or adoptive family, the assigned caseworker, her/his supervisor and others relevant to the situation, including the Ombudsman if requested.
- Each meeting participant will have the opportunity to present information/evidence to the Executive Director/designee during the meeting.
- A written decision, including the reason for the final decision, based on the information/evidence presented at the review meeting, will be completed by the Executive Director/designee.
- The Executive Director/designee will forward a copy of the decision to all of the review meeting participants within fifteen (15) business days.
- All documentation related to the review will be maintained in both the child's (if relevant) and family's case record.

When an approved adoptive family requests an agency review because the family believes an adoptive placement was denied or will be denied solely on the basis of geographic location, LCCS will notify the family of the availability of a state hearing and provide copies of all materials related to requesting a state hearing.

COMPLAINTS INVOLVING REMOVAL OF A CHILD(REN) FROM A FOSTER OR ADOPTIVE HOME

When the situation involves an agency decision to remove a child(ren) from a foster or adoptive home and the caregiver disagrees with that decision, the foster/adoptive parent(s) will request a review of the decision by notifying the foster or adoption supervisor in writing. The request must include the foster/adoptive parents' basis for the disagreement and an explanation of why the decision is not in the best interest of the child(ren). The request must be received by the agency prior to the removal and no less than five (5) calendar days prior to the intended date of removal, if time allows. The supervisor will forward the review request to the Placement Department Manager within two (2) business days for action.

- Except in situations in which a child(ren) is determined to be at imminent risk of harm to him/herself or others, the child(ren) will remain in placement with the

foster/adoptive family pending a decision by the Manager/Assistant Manager of the Placement Department.

The Placement Department Manager will review the information contained in the request and may convene a meeting of relevant persons and/or contact the foster/adoptive caregivers and others in an attempt to obtain maximum input. The Placement Department Manager will communicate the final decision to all relevant parties within three (3) business days of receipt of the request or date of any meeting.

DETERMINATION TO PLACE A FOSTER HOME CAREGIVER ON INVOLUNTARY "ON-HOLD" STATUS

When the decision is to place a particular foster home "On-hold" and not place children into that home and when the foster caregiver(s) does not voluntarily agree to being placed "On-hold", foster home staff will work with the foster caregiver(s) in terms of (1) correcting deficiencies/rule violations, (2) the need for a "break" from caregiving, or (3) signing a voluntary withdrawal of certification.

- There are many legitimate reasons why a foster caregiver(s) may need a "break" from caregiving (e.g., adjusting to an adoption, a family member who is ill, divorce).
- In such instances, the foster caregiver(s) may voluntarily request or agree to being placed "On-hold".

If attempts to resolve issues regarding deficiencies/rule violations, the need for a break or voluntary withdrawal of certification are not successful, a meeting will be held with the foster caregiver(s), the foster care caseworker and her/his supervisor to discuss the reason(s) for the involuntary "On-hold" status decision and request the voluntary withdrawal of their certification.

Within three (3) business days following the meeting, foster home staff will send a letter to the foster caregiver(s) that includes the following information:

- *Notice to Agency of Voluntary Withdrawal of Application or Certificate* (#JFS 01315)
- Explanation of the specific reason(s) for the involuntary "On-hold" status
- Copy of LCCS Policy #140 (this policy)

Within five (5) business days of receipt of the letter, the foster caregiver(s) must notify the foster home supervisor, in writing, of his/her intent to appeal the decision to the Placement Department Manager.

Within five (5) calendar days of receipt of the written notice of appeal, the Placement Manager will conduct a meeting with the foster caregiver(s), foster care caseworker and her/his supervisor to review the circumstances regarding the "On-hold" status decision. A letter explaining the decision of the Manager will be sent to the foster caregiver(s) within three (3) business days following the meeting, along with another *Notice to Agency of Voluntary Withdrawal of Application or Certificate* form.

If the foster caregiver(s) wants to appeal the decision of the Manager, then she/he must notify the foster care supervisor, in writing, within three (3) calendar days of receipt of the letter from the Manager, of her/his intent to appeal the decision to the Associate Director of Services/designee. The supervisor will forward the appeal notice to the Associate Director of Services/designee, along with a copy to the Placement Department Manager within one (1) business day of receipt.

Within ten (10) calendar days of receipt of the appeal notice, the Associate Director of Services/designee will hold a meeting with the foster caregiver(s), foster care caseworker, foster care supervisor and Placement Department Manager to review the issues. A letter explaining the final decision of the Associate Director of Services/designee will be sent to the foster caregiver(s) within five (5) business days following the meeting.

CASE PRACTICE GUIDES

RELATED POLICIES and FORMS

LCCS Policy 139 *Ombudsman Process & Resolution of Systemic Problems*

LCCS Policy 540 *Interpreter & Translator Services for Families*

LCCS Policy 600 *Family Case Conference (FCC)*

LCCS Policy 601 *Internal Appeal of Family Case Conference Decision*

LCCS Policy 800 *Assessment, Training & Homestudy Process for Adoptive Families*

ODJFS 01315 *Notification of Denial of Initial Certification, Recertification or Revocation of a Foster Home Certificate/Notice to Agency of Voluntary Withdrawal of Application or Certificate*

ODJFS 01317 *Recommendation for Certification/Recertification of a Foster Home*

ODJFS 01331* *Notice of Expiration & Reapplication for a Foster Home Certificate or Adoption Homestudy Update/Amendment*

MEPA Compliance Procedures

MEPA Standards of Conduct

*Form also available in Spanish