

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Child and Family Services Agency



Administrative Issuance: CFSA-06-16

TO: All CFSA Staff
Contract Agency Staff

FROM: Audrey L. Sutton, Deputy Director for Program Operations

DATE: September 12, 2006

RE: Notification and Fair Hearings for Foster Home Placement Changes

The Child and Family Services Agency (CFSA) or its contracted agencies (collectively referred to herein as the "Agency") may periodically make a clinical determination that it is in the best interest of a child to change his or her foster home placement. This administrative issuance describes the process for providing notice of the Agency's intent to effect such a change in placement and to inform parents, foster parents and guardians ad litem (GAL) of their right to a fair hearing in the event that they elect to challenge the placement decision. This administrative issuance also sets forth the protocol for acquiring and conducting the fair hearing. The right to a fair hearing extends to parents, foster parents and guardians ad litem as outlined in D.C. Code 16-2320(g) and the D.C. Code of Municipal Regulations, 29 DCMR 5900, et. Seq.

If you have any questions about this administrative issuance please contact the Deputy Director for Program Operations or the Office of the General Counsel (OGC). Contract agency staff with questions regarding this administrative issuance may contact the Program Manager for the Office of Licensing and Monitoring.

General Guidelines for Placement Changes Prior to a Fair Hearing

A CFSA or contracted-agency social worker, in consultation with his or her supervisor and the Program Manager or Executive Director of the contracted agency, must have clinical justification before changing a child's placement. This is especially true when the child(ren) need/s to be moved prior to a fair hearing, due to an emergency.

Note: In cases in which a child is alleged to be neglected or abused, the Agency shall determine whether the child should be removed from the home or can be protected by the provision of services or resources.

The Notification Process

When the appropriate staff has determined that it is in the best interest of a foster child for CFSA or a contracted agency to change the child's placement, the staff shall notify the foster parents, parents and GAL of the removal and the reasons for the change of placement.

1. Notification is required (and if possible, written) as follows:
 - a. at least ten (10) business days prior to the proposed removal date, or
 - b. within 24 hours, excluding weekends and legal holidays, after an emergency removal.

Note: An emergency is defined as "evidence of gross incompetence, misconduct in operating the foster home, supported neglect or abuse of children, or any other condition that poses an immediate threat to the health or safety of foster children".

2. The notification, whether oral or written, must advise the foster parents, parents and GAL of the intended change in placement for a child(ren) and the date for the placement change, including the right to request a fair hearing within 30 calendar days of the receipt of the written notification of placement change. All requests for fair hearings with the Agency must be made in writing. A form for such requests shall be included in the official notification.
3. If the foster parent, parent or GAL requests a fair hearing within ten (10) business days of the notification letter, the child(ren) may remain in the foster home pending the outcome of the fair hearing, except in an emergency as previously described. If no request for a fair hearing is made within the ten (10) business day time-frame, the replacement of the child may occur as planned.

The Scheduling Process

In the event that a disruption in a child's placement is necessary, the foster parent, parent and/or GAL has a right to request a fair hearing to contest the decision to disrupt the placement. To minimize stress on the child(ren) as well as the foster parent(s) involved, a fair hearing shall be scheduled as soon as possible after receiving the fair hearing request.

1. Whenever possible, foster parents, parents and/or GALs should make their request for a fair hearing as soon as possible after receiving notification, so that the hearing can be scheduled in a timely fashion.
2. Foster parents, parents and/or GALs requesting to review the decision shall receive a Program Administrator's Review and a fair hearing within ten (10) business days of receipt of the fair hearing request. *See The Program Administrator's Review Meeting and Conducting the Fair Hearing sections below.*

The Program Administrator's Review Meeting

Prior to the fair hearing, a Program Administrator's Review (PAR) meeting shall be held to provide interested parties an opportunity to discuss the Agency's determination to effect a placement change, the reasons for the determination, and to hear any relevant information suggesting that the determination was erroneous, including facts that may not have been previously available. Although the PAR meeting is informal, and regarded as an opportunity to move the process forward quickly, a list of attendees shall be secured prior to the date of the meeting.

1. The CFSA Program Administrator or the Executive Director of the contracted agency [or either of their designees] shall hold a PAR meeting prior to the fair hearing. It is strongly recommended that the PAR meeting be held within five (5) business days of the request for a fair hearing.

2. The CFSA Program Administrator or the Executive Director of the contracted agency [or either of their designees] shall send written notice of the PAR meeting to the person requesting the fair hearing and to that person's authorized representative (if there is one) within one (1) business day (excluding weekends and legal holidays) of the request for a fair hearing. The written notification shall include the address of the PAR meeting location and any other relevant information such as contact persons and telephone numbers.
3. If a foster parent or parent in attendance has an attorney (including the presence of the GAL) then an attorney from CFSA's OGC must be present. Program Administrator or the Executive Director of the contracted agency [or either of their designees] must notify the OGC of the need for an attorney's attendance within one (1) business day prior to the PAR meeting date.

Note: Foster parents, parents and GALs are entitled to attend the PAR meeting; their participation is entirely optional, however.

4. At the PAR meeting, the person requesting the fair hearing will be given the opportunity to discuss the reasons why the child should be able to remain in the foster parent's home. The social worker and/or supervisor will present the reasons for the placement change.
5. The CFSA Program Administrator or the Executive Director of the contracted agency [or either of their designees] shall consider the information presented at the PAR meeting and make a decision regarding the placement change no later than two (2) business days afterwards

Note: An Administrator or the Executive Director of the contracted agency (or designee) may overturn the decision to change placement. A decision by the Administrator or Executive Director not to change placement is final and negates the need for a fair hearing since the child is no longer being removed.

6. The CFSA Program Administrator or the Executive Director of the contracted agency shall send written notification of his or her decision to the last known address of the person requesting the fair hearing, to the last known address of that person's authorized representative (if there is one), and to the Office of Fair Hearings.
7. If resolution does not occur at the PAR meeting, the matter will proceed to the fair hearing.
8. The person requesting a fair hearing may at any time retract a request in writing. Any such retractions must be delivered to the Office of Fair Hearings, 955 L'Enfant Plaza, SW, Washington, DC 20024, Phone -- (202) 724-7100 and Fax -- (202) 727-5619.

Conducting the Fair Hearing

Fair hearings for placement changes shall be heard as soon as possible after the request is made, but no more than 45 calendar days from the date of the request. Fair hearings for placement changes are held by the Office of Fair Hearings. (See address above)

1. The person requesting a fair hearing, and their representative (if there is one), shall be given notice of the fair hearing date within five (5) business days of the request.
2. During the fair hearing, an attorney from the OGC will represent the Agency.

3. Both the person requesting the fair hearing and representatives from the Agency have the right to perform any or all of the following actions during the hearing:
 - a. Call and examine witnesses
 - b. Introduce documentary evidence
 - c. Examine any documentary evidence introduced in the fair hearing by any party to the proceeding
 - d. Cross-examine opposing witnesses on any matter relevant to the issues under review, even if that matter was not covered in the direct examination
 - e. Submit rebuttal evidence
4. The Fair Hearing Examiner shall issue a decision on the placement change of the child within five (5) business days of the hearing. Written notification of the final decision shall be sent to all parties
5. If the Fair Hearing Examiner decides that it is in the best interest of the child to change the child's placement, CFSA or the contracted agency may move the child(ren) immediately upon notification. CFSA or the contracted agency may also determine, however, to delay removal until all possible appeals have been decided.
6. If any parties to the fair hearing are adversely affected by the Fair Hearing Examiner's decision, the parties to the fair hearing have the right to file an exception with the Fair Hearing Examiner within ten (10) business days of receipt of the fair hearing decision. The opposing parties then have seven (7) business days after receipt of the exception to respond. The Hearing Examiner's decision shall be in writing and made within 20 calendar days of receipt of the exception.
7. If the person requesting the fair hearing does not agree with the Fair Hearing Examiner's decision, the person requesting the fair hearing has the right to file an appeal with the DC Court of Appeals to review the decision. The Agency shall inform that person of his or her right to file an appeal. The Agency shall provide appropriate information so the person who requested the fair hearing may file an appeal with the DC Court of Appeals.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Child and Family Services Agency



NOTICE OF ACTION

Insert date

Insert Foster Parent Name(s)

Insert Address

Re: Change in Placement of Foster Children

Dear Mr. /Ms. *Insert last name*:

CFSA acknowledges you for your very important involvement and continuing efforts on behalf of *Insert name of child/ren*. Your role as caretaker has been important to our mission to secure the safety, well-being, and permanency for all children and families served by CFSA.

This Notice of Action is sent to inform you that CFSA has determined it is now in the best interest of *Insert name of child/ren* to leave/to have left your home on *Insert date* because *Insert reason for removal*. It is essential that you assist CFSA to complete this transition process in order that we may all address everyone's naturally-occurring emotional responses to this change in placement.

If you think *Insert name of child/ren* should not leave/should not have left your home, please contact *Insert social worker name and telephone number* or his/her supervisor *Insert supervisor name and telephone number* within thirty (30) days of the date of this Notice of Action to discuss the reasons you believe it is not/was not in the best interest of the child/ren to be removed.

Remember that you do have the right to a fair hearing appeal if you contact the CFSA Office of Fair Hearings and Appeals within thirty (30) days of this letter. You will have the opportunity to state your position to an impartial person who shall determine whether or not the child's safety, permanency and well-being are secured by remaining in/returning to your home. Please see the attached document for additional information on the procedures for requesting a hearing. If you have questions concerning an appeal, please contact the Office of Fair Hearings and Appeals at (202) 724-3748.

Sincerely,

Signature of Program Manager
Program Manager

cc: Case file, Social Worker, Supervisor, Guardian *ad Litem*, Assistant Attorney General

Attachment: "Notice of Fair Hearing"
Fair Hearings for Foster Home Placement Changes Brochure