

GRIEVANCE PROCEDURES FOR CHALLENGING REFERENCE TO THE CHILD ABUSE CENTRAL INDEX

1. Within five (5) business days of the county submitting information to the Department of Justice (DOJ) to list an individual on the Child Abuse Central Index (CACI), the county shall provide to the listed person written notice, which shall contain the following information and materials:
 - a. That the county has completed an investigation of suspected child abuse or neglect that the county has determined to be either inconclusive or substantiated, and has referred the individual to DOJ for listing on the CACI;
 - b. The victim's name, a brief description of the alleged abuse or neglect and the date and location it occurred;
 - c. The individual's right to request a grievance hearing;
 - d. A county contact person;
 - e. A *Request for Grievance Hearing form*;
 - f. A copy of these grievance procedures

The notice required by this section may be satisfied by mailing the *Notice of Child Abuse Central Index Listing* and the *Request for Grievance Hearing* forms. The forms shall be mailed to the last known address of the individual or any other address known by the county where the notice and request for grievance are most likely to be received by the individual.

2. An individual wishing to challenge his or her reference to the CACI may request a grievance hearing pursuant to the following procedure. This does not preclude the county from initiating an internal investigation to address or rectify the matter identified in the request for grievance prior to the hearing. The county may resolve a grievance at any point by modifying a finding of inconclusive or substantiated abuse or neglect to unfounded and notifying DOJ of the need to remove the individual's name from the CACI.
 - a. A grievance shall be initiated by the individual submitting a written and signed *Request for Grievance Hearing*.
 - b. The *Request for Grievance Hearing* shall set forth the facts which the individual believes provides a basis for reversal of the county's finding of inconclusive or substantiated abuse.
 - c. The individual shall mail a completed *Request for Grievance Hearing* form to the county within thirty (30) calendar days of the date that the *Notice of Child Abuse Central Index Listing* and *Request for Grievance Hearing* forms were mailed to the individual identified as the perpetrator of the alleged abuse or serious neglect. Failure to mail the *Request for Grievance Hearing form* within the prescribed time-frame shall constitute waiver of the right to a grievance.
 - d. For individuals to whom no prior notification was mailed regarding his or her referral to the CACI, the individual shall file the request for grievance within 30 calendar days of becoming aware that he or she is listed on the CACI and becoming aware of the grievance process.
 - e. No grievance hearing shall be required when a court of competent jurisdiction has determined that the suspected abuse or neglect has occurred, or when the allegation of child abuse or neglect resulting in the referral to the CACI is pending before the court.
 - f. When an individual requests, the county shall assist the individual in the completion of the form necessary to initiate the request for grievance.
3. The grievance hearing shall be scheduled within ten (10) business days and held no later than sixty (60) calendar days from the date the *Request for Grievance Hearing form* is received by the county, unless otherwise agreed to by the individual and the county.
 - a. Notice of the date, time and place of the grievance hearing shall be mailed by the county to the individual requesting the grievance hearing (the complainant) at least 30 calendar days before the grievance hearing.
 - b. The complainant may have an attorney or other representative present at the hearing to assist him or her. The county shall release disclosable information to such attorney or representative only if the individual has provided the county with a signed authorization to do so.
 - c. Either party may request a continuance of the grievance hearing not to exceed ten (10) business days. Additional continuances, or dismissal of the hearing, shall be granted with mutual agreement of all parties involved, or for good cause.
4. The review of the social worker's finding of inconclusive or substantiated abuse or neglect shall be conducted as follows:
 - a. The grievance officer conducting the grievance hearing shall be:
 - i. A staff or other person not involved in the investigation of the alleged child abuse or neglect.
 - ii. Neither a co-worker nor a person directly in the chain of supervision of any of the persons involved in the investigation of the alleged abuse or neglect unless the grievance officer is the director or chief deputy director of the county.
 - iii. Knowledgeable in the field of child abuse or neglect investigations and capable of objectively reviewing the complaint.
 - b. The grievance hearing shall be, to the extent possible, conducted in a nonadversarial atmosphere.
 - c. Each party and their attorney or representative shall be permitted to examine the documents and other evidence which the opposing party intends to introduce at the grievance hearing. All relevant evidence, whether inculpatory or exculpatory, should be permitted to be examined in advance of the hearing. Witness lists shall be available for exchange in advance of the hearing. Failure to disclose evidence or witness lists in advance of the hearing can constitute grounds for objecting to consideration of the evidence at the hearing or to hearing the testimony of a witness during the hearing. Any documents or other evidence disclosed by the county to the complainant and/or his or her attorney or representative for the hearing shall be returned to the county at the conclusion of the hearing.
 - i. The county and the complainant shall make available for inspection the documents and other evidence they intend to rely upon at the grievance hearing at least ten (10) business days prior to the hearing, to the extent permitted by law.

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- ii. The county and the complainant shall make available to the other party a list of witnesses they intend to call at the grievance hearing at least ten (10) business days prior to the grievance hearing, to the extent permitted by law.
 - iii. The county may redact such names and personal identifiers from the documents and evidence as required by law and to protect the identity, health, and safety of those reporting the suspected abuse or neglect and providing information regarding their observations of the evidence indicating abuse or neglect.
 - d. Each party and their attorney or representative, and witnesses while testifying, shall be the only persons authorized to be present during the hearing unless all parties and the grievance officer consent to the presence of other persons. The information disclosed at the grievance hearing may not be used for any other purpose. The parties agree that no information presented at the grievance hearing will be disclosed to any person other than those directly involved in the matter. The evidence and information disclosed at the hearing may be part of an administrative record for a writ of mandate challenging the final decision of the County Director. The administrative record shall be kept confidential, including, if any of the parties request, that it be filed with the court under seal.
 - e. All testimony shall be given under oath or affirmation. The grievance officer has no subpoena power. However, the parties may call witnesses to the hearing and question the other party's witnesses. The grievance officer may limit the questioning of a witness to protect the witness from unwarranted embarrassment, oppression or harassment.
 - i. The grievance officer may prevent the presence and /or examination of a child at the grievance hearing for good cause, including but not limited to protecting the child from trauma or to protect his or her health, safety, and/or well-being. The grievance officer may permit the testimony and/or presence of a child only if the child's participation in the grievance is voluntary and the child is capable of providing voluntary consent. The grievance officer may interview the child outside the presence of the parties in order to determine whether the child's participation is voluntary or whether good cause exists for preventing the child from being present or testifying at the hearing.
 - ii. The county employee who conducted the investigation into the suspected child abuse or neglect shall be present at the hearing if that person is employed by the county, and is available to participate in the grievance. For purposes of this paragraph, a conflict in work assignments shall not render the county employee who conducted the investigation unavailable to participate in the hearing.
 - f. The county shall first present its evidence supporting its findings of inconclusive or substantiated abuse or neglect. The complainant will then provide his or her evidence supporting his or her claim that the county's finding should be withdrawn or changed. The county shall then be allowed to present rebuttal evidence in further support of its finding. Thereafter, the grievance officer may, at his or her discretion, allow the parties to submit any such additional evidence as may be warranted to fully evaluate whether a finding of inconclusive or substantiated abuse is warranted.
 - g. The grievance officer shall have the authority to continue the hearing for a period not to exceed ten (10) calendar days if additional evidence or witnesses are necessary for determination of the issue.
 - h. The grievance officer shall determine, based upon the evidence presented, whether the allegation of abuse or neglect is unfounded, inconclusive or substantiated as defined by the California Penal Code.
 - i. The County shall have the proceedings audio recorded as part of the official administrative record. The county shall possess and maintain the administrative record of the hearing. The complainant or the complainant's attorney shall be entitled to inspect the transcript and/or recording, however the county shall keep possession of the transcript and tape and its contents will remain under seal. Where the complainant seeks to inspect the transcript, the costs for transcribing a recording of the hearing shall be assessed to the complainant. The county shall lodge the administrative record with the court if any party seeks judicial review of the final decision of the County Director.
5. Grievance hearing decisions shall be rendered as follows:
- a. The grievance officer shall render a written recommended decision within 30 calendar days of the close of the grievance hearing. The decision shall contain a summary statement of the facts, the issues involved, findings, and the basis for the decision. The County Director shall issue a written final decision adopting, rejecting, or modifying the recommended decision within ten (10) business days after the recommended decision is issued. The County Director shall explain why a recommended decision was rejected or modified.
 - b. The final decision shall be based upon the evidence presented at the hearing.
 - c. A copy of the recommended and final decision shall be sent to the following:
 - i. Each complainant that requested a grievance hearing;
 - ii. The complainant's attorney or representative, if any; and
 - iii. The California Department of Social Services.
 - d. Where the county's finding of inconclusive or substantiated abuse or neglect is changed as a result of the grievance hearing, the county shall advise DOJ of the change and request that the complainant's name be removed from the CACI or that the designation of inconclusive or substantiated abuse or neglect be changed accordingly.
6. The hearing record shall be retained for a length of time consistent with current law, regulations, or judicial order which governs the retention of the underlying record, but not less than one year from the decision date in any circumstance, and shall include the documents and other evidence accepted as evidence at the hearing.