
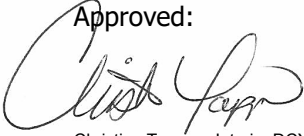


1215 ADMINISTRATIVE APPEALS	
Chapter: Child Protective Field Services	Section: CPS Family Assessments
	<p>New Hampshire Division for Children, Youth and Families Policy Manual</p> <p>Policy Directive: 17-51</p> <p>Effective Date: July 2017</p> <p>Scheduled Review Date:</p>
<p>Related Statute(s): RSA 169-C:35 and RSA 541-A:31</p> <p>Related Admin Rule(s): He-C 200</p> <p>Related Federal Regulation(s):</p>	<p>Approved:</p>  <p>Christine Tappan, Interim DCYF Director</p> <p>Related Form(s): FORM 1214, FORM 1215, FORM 1216, FORM 1217, FORM 1218 and FORM 1219</p> <p>Bridges' Screen(s) and Attachment(s):</p>

The Division for Children, Youth and Families honors all voices and strives to ensure that each individual has been informed of his or her rights with relation to any determinations made, with time to process the information, and respond as he or she feels appropriate. Consistent practice advocating for due process and appeals, supports the child protective program and the families served, to promote positive outcomes.

Purpose

This policy is intended to inform CPS staff how persons found to have been responsible for child abuse and/or neglect can appeal a founded determination of child abuse and/or neglect.

Definitions

"AAU" means the Administrative Appeals Unit for the Department of Health and Human Services.

"Assessment" means a protective investigation process documented in the NH Statewide Automated Child Welfare Information System (SACWIS), Bridges, by which the DCYF CPSW enquires into a report alleging abuse or neglect pursuant to RSA 169-C: 37, to determine the validity of the allegations and the need for further protective services.

"Central Registry" means the state registry that maintains all founded reports of child abuse and/or neglect established pursuant to RSA 169-C:35.

"Confirmation of Service" means documentation that an individual received a Notice of Finding, to include but not limited to a United States Postal Service (USPS) return receipt, USPS printout of the delivery confirmation, or a document signed by the individual noting that the notice was hand delivered to him or her.

"CPS" means the Bureau of Field Services' Child Protective Services within DCYF.

"CPSW" or **"Child Protective Service Worker"** means an employee of DCYF who is authorized by the Division to perform functions of the job classification Child Protective Service Worker.

"Date of Finding" means the date that the court ordered a sufficient finding of facts that an individual abused and/or neglected a child/youth, the date that the Administrative Appeal was waived, or the date that the Administrative Appeals Unit (AAU) upheld a founded determination.

"DCYF" or the **"Division"** means the Department of Health and Human Services' Division for Children, Youth and Families.

“Due Process” means the execution of fairness in all legal matters, including notice, an opportunity to be heard, and the right to defend in an orderly proceeding, must be followed for each individual so that no prejudicial or unequal treatment will result.

“Founded Determination” means a specific allegation of child abuse or neglect where the Department has determined that there is a preponderance of the evidence to believe that a child has been abused and/or neglected:

1. **“Founded, Court Action”** means a determination by the court, either after a hearing or pursuant to a consent decree, that a child/youth has been found to be abused and/or neglected through a preponderance of evidence.
2. **“Founded, Problem Resolved”** means a determination by DCYF that there is a preponderance of evidence to believe that the child/youth has been abused and/or neglected and that the presenting danger has been resolved through the provision of services, supports, or other interventions to protect the child/youth and there are no ongoing safety concerns for the child/youth.
3. **“Founded, Services Only”** (Non-Court Agreement) means an agreement between the CPSW and the person responsible for the child abuse and/or neglect in which that parties agree that: the report is founded; the responsible party waives his or her right to an appeal; the responsible party’s name will be placed on the state’s Central Registry of founded reports of abuse and neglect; and, DCYF will provide services to the family to address the identified maltreatment.

“Founded Report” means a report of child abuse and/or neglect where DCYF has made one or more founded determinations.

“Person Responsible for the Child Abuse and/or Neglect” means the individual who has been determined by DCYF or the court to have abused and/or neglected a child/youth.

“Unfounded Report” means a report of child abuse and/or neglect made pursuant to RSA 169-C for which the Department determines that there is insufficient evidence to substantiate a finding that the child is abused or neglected.

Policy

- I. When a finding is made through a court order and a Notice of Court Finding (Form 1217, Form 1218 or Form 1219) has been provided to a person responsible for child abuse and/or neglect, the person responsible for child abuse and/or neglect may appeal the Adjudicatory Order to the Superior Court, up to within 30 days following the court’s Dispositional Orders, pursuant to RSA 169-C:28.
 - A. No appeal shall suspend the order or decision of the court unless the court so orders.
 - B. Unless otherwise ordered, the name of the person responsible for child abuse and/or neglect will be entered on the Central Registry.
- II. When a finding is made through the Division’s administrative determination and a Notice of Finding (Form 1214, Form 1215, or Form 1216) has been provided to a person responsible for child abuse

and/or neglect, the person responsible for child abuse and/or neglect has a right to an Administrative Appeal pursuant to RSA 541 prior to his or her name being entered on the Central Registry.

- A. To request an Administrative Appeal, the person responsible for child abuse and/or neglect must complete the appeal request form, which is attached to the last page of the Notice of Finding.
 - 1. The appeal request must be postmarked within 30 calendar days of the confirmation of service of the Notice of Finding;
 - 2. The appeal request should note the Assessment number that is being appealed; and
 - 3. The appeal request must be sent to the CPS Supervisor of the District Office that sent the Notice of Finding.

- B. The CPS Supervisor must notify the AAU of the appeal request within seven (7) calendar days of receiving the request.
 - 1. The AAU will be sent a copy of the appeal request and the confirmation of service. Additionally, the AAU hearings officer may request that the case record be forwarded prior to the administrative hearing.
 - 2. The CPS Supervisor must create a contact titled "AAU" to be used in the Bridges Assessment Contact Log for documenting all correspondences with the AAU, which may include:
 - (a) The initial appeal request;
 - (b) When an appeal request is dismissed as untimely;
 - (c) A continuance requested by DCYF or the person responsible for child abuse and/or neglect;
 - (d) When an appeal request is withdrawn;
 - (e) When a hearing is held; or
 - (f) When an order is issued.

- C. If the AAU determines that the appeal request was not submitted within the 30 calendar days following the confirmation of service, and was received after the submission deadline, the date of the deadline identified by the AAU is entered as the Fair Hearing Waived date in the Due Process Box of the Bridges Finding Screen, to be known as the date of finding, and the person responsible for the child abuse and/or neglect is considered eligible to be entered on the Central Registry.

- D. If the person responsible for child abuse and/or neglect, or the individual's chosen legal counsel, submits a request to withdraw the appeal request, the date the withdrawal is received will be entered as the Fair Hearing Waived date in the Due Process Box of the

Bridges Finding Screen, to be known as the date of finding and the person responsible for child abuse and/or neglect is considered eligible to be entered on the Central Registry.

- E. Following an administrative hearing by the AAU, the orders are received by the CPS Supervisor.
1. If the AAU upholds the founded determination(s), the date of the AAU order to "uphold" will be entered in the Hearing Held, Finding Upheld date box in the Bridges Findings Screen, to be known as the date of finding.
 2. If there are multiple findings and the AAU "upholds" one or more founded determinations and "reverses" other founded determinations:
 - (a) Any allegations determined to be founded by DCYF, that have been reversed by the AAU shall be changed to Founded, Court Overturned and the date of the AAU order to "reverse" the founded determination will be entered in the Hearing Held, Findings Overturned date box in the Bridges Findings Screen for each overturned determination.
 - (b) A note will be made in the Pertinent Information box of the Bridges Finding Screen to note the AAU's decision to overturn the findings.
 - (c) Any allegations determined to be founded by DCYF that are "upheld" will have the date of the AAU order to "uphold" entered in the Hearing Held, Finding Upheld date box in the Bridges Finding Screen, to be known as the date of finding.
 - (d) The Overall Finding will remain Founded, Problem Resolved in the Bridges Finding Screen.
 3. If all findings are reversed/overturned by the AAU:
 - (a) The allegation(s) determined to be founded by DCYF will each be changed to Founded, Court Overturned.
 - (b) The date of the AAU order to "reverse" the founded determination(s) will be entered as the Hearing Held, Finding Overturned date box in the Bridges' Finding Screen for each overturned founded determination.
 - (c) The overall finding will be changed to "Unfounded (Finding Overturned)."
 - (d) A note will be made in the Pertinent Information box of the Bridges Finding Screen to note the AAU's order to "reverse" the founded determination(s).
- III. If the person responsible for child abuse and/or neglect has not submitted an appeal request within 30 calendar days after the confirmation of service of the Notice of Finding (Form 1214, Form 1215, or Form 1216), the person is eligible to be entered on the Central Registry.
- A. When counting the 30 days, day one (1) is the day after the confirmation of service date.

- B. At the close of business on the 30th calendar day, that day's date will be entered as the Fair Hearing Waived date in the Due Process Box of the Bridges Finding Screen, to be known as the date of finding.
- C. If the 30th calendar day falls on a weekend or date that the NH State Offices are closed, the date of the first subsequent day the NH State Offices are open will be entered as the Fair Hearing Waived date.
- D. The Assessment must be closed in Bridges and all appropriate documentation sent to the Central Registry staff within ten (10) business days of receiving all necessary documentation of due process, as noted in [policy 1265 Submitting a Founded Referral for Entry on the Central Registry](#).

Practice Guidance

What happens if an individual who did not claim their letter contacts the District Office and requests an appeal?

- If an individual contacts District Office staff to request an appeal, staff must first review the Assessment File to see if the individual signed for his/her letter. If an individual did not sign for his/her letter, he/she must be provided with a copy of the letter and allowed 30 days to request an appeal. An immediate notice must be sent to the Central Registry if the individual expresses intent to file an appeal request, including if the individual has already been entered on the Central Registry.