



## Notice of Processes for Department of Child Services Proceedings: Foster Home Licensing and Collaborative Care Contract

**Effective:** July 1, 2020

**Director:** Matthew A. Brown, \_\_\_\_\_

A handwritten signature in black ink, appearing to read "Matt Brown", is written over a horizontal line.

### **Purpose and Scope**

This notice outlines the processes and practices of the Department of Child Services (DCS) and the Office of Administrative Law Proceedings (OALP) pertaining to proceedings involving foster home licensing and collaborative care contracts. This applies to Administrative Appeals concerning an Administrative Review decision made by the Indiana Department of Child Services (DCS) under [DCS Child Welfare Policies 12.18 License Denials](#) and [12.21 Revocations](#) or regarding a decision to deny a request for a Collaborative Care (CC) Contract under [465 IAC 2-15.1-17](#).

### **Processes and Practices**

OALP will assign an Administrative Law Judge (ALJ) to preside over an Administrative Appeal Hearing when a request is received from DCS)

**Note:** Individuals seeking an Administrative Appeal Hearing regarding a DCS decision on a foster home license revocation or denial or a denial of a request for a Collaborative Care (CC) contract must submit the [Request for Administrative Hearing \(SF 54349\)](#) form to DCS Hearings and Appeals.

DCS will send notices of foster home license denial or revocation and CC contract denials to the individuals who hold or requested the license or contract, along with the [Request for Administrative Hearing \(SF 54349\)](#) form. If the recipient of the notice is dissatisfied with the action taken in the notice, the individual may complete and submit the [Request for Administrative Hearing \(SF 54349\)](#) form to DCS Hearings and Appeals, in the manner specified in the form, within 30 calendar days of the date on the Notice of Foster License Revocation/Denial letter or the Notice of Denial of Request for Collaborative Care Contract. The request for an Administrative Appeal Hearing must also include a copy of the notice, letter, or communication the individual is appealing.

When a completed request for Administrative Appeal Hearing is received timely by DCS Hearings and Appeals, DCS will forward the request to OALP and request the appointment of an ALJ to preside over the Administrative Appeal Hearing.

A request for an Administrative Appeal Hearing must be based on the same issues, facts, and documentation presented in the Notice of Foster License Revocation/Denial letter or the Notice of Denial of Request for Collaborative Care Contract. The appellant has the burden to prove that the DCS' decision was inappropriate by a preponderance



of the evidence. DCS has the burden to prove that its decision was appropriate by a preponderance of the evidence.

An Administrative Appeal Hearing requested and granted under this policy will be scheduled and held within 120 calendar days after receipt of the hearing request by OALP, unless the assigned ALJ continues the hearing date by agreement of the parties or upon motion for good cause. The parties will be notified by OALP as to the specific time, date, and place for each hearing. The hearing will be conducted under applicable rules and policies of OALP and DCS pertaining to administrative hearings.

The OALP ALJ will issue a written administrative hearing recommendation within 90 calendar days of completion of the hearing unless additional time is requested and approved by all parties and the ALJ, as stated in the hearing record. However, a recommendation issued more than 90 calendar days after completion of the hearing will not be void or voidable on the grounds of untimeliness. The ALJ recommendation will be mailed to the parties and to the DCS Final Agency Authority.

The ALJ's recommendation shall not be construed to be a decision on the case. Upon receipt of the written recommendation, the DCS Office of General Counsel (OGC) will automatically conduct a Final Agency Review of the recommendation. In conducting the review, the DCS Final Agency Authority will consider the facts of the case and the ALJ recommendation.

The DCS Final Agency Authority may schedule status conferences or briefing deadlines during his or her review, however, failure to attend these status conferences or respond to briefing deadlines will not result a dismissal of the case or a failure of the DCS Final Agency Authority to issue a decision on the case. Upon completion of the review, the DCS Final Agency Authority will issue a decision upholding, reversing, or remanding the initial DCS decision which underlies the administrative appeal. DCS will then notify the parties of the decision. If the appellant is dissatisfied with the results of the Final Agency Review, he or she may seek judicial review in accordance with [IC 4-21.5-5 et. seq.](#)

An Administrative Appeal Hearing recommendation issued by the assigned ALJ is not the final agency action of DCS unless the decision remands the case for further consideration by DCS, which will allow the appellant another chance to request an Administrative Appeal Hearing should the appellant remain dissatisfied after action is taken in accordance with the remand. Upon issuance of the ALJ's written recommendation, it will be provided to the DCS OGC for Final Agency Action. The OGC's decision is the Final Agency Action by DCS. If the appellant is dissatisfied with the results of the Final Agency Action, he or she may seek judicial review under the applicable provisions of [IC 4-21.5-5](#).



## Code References

1. [IC 4-15-10.5: Office of Administrative Law Proceedings](#)
2. [IC 4-21.5-5 Judicial Review](#)
3. [IC 31-27-4-23: Administrative hearings](#)
4. [IC 31-27-4-24: Procedure for administrative hearings](#)
5. [IC 31-28-5.8: Collaborative Care](#)
6. [42 U.S.C. §671\(a\)\(12\) State Plan for Foster Care and Adoption Assistance](#)
7. [45 C.F.R. 205.10 Hearings](#)
8. [45 C.F.R. 1355.30 Other applicable regulations](#)
9. [465 IAC 2-1.5 Licensing of Foster Family Homes for Children](#)
10. [465 IAC 2-15.1-15 Denial of eligibility](#)
11. [465 IAC 2-15.1-16 Administrative review](#)
12. [465 IAC 3 Administrative Reviews and Hearings](#)
13. [465 IAC 3-3-3\(g\) Request for hearing](#)