

- (2) An appeal shall be processed as required in this section, even if a County or the Department has reason to believe that an informal resolution is expected in the matter.
  
- (b) For matters to be heard by the Office of Administrative Hearings, a County and the Department shall process the appeal as follows:
  - (1) A County shall serve an acknowledgement of appeal upon an individual who is the subject of a Notice of Action. The Department shall serve an acknowledgement of appeal upon an individual who is the subject of an exclusion action or is the subject of an exclusion action and Notice of Action that were served simultaneously.
  - (2) A County shall forward the appeal and originals of all relevant documents to the Department's county liaison, if the Legal Division is representing the County.
  
- (c) For matters to be heard by the State Hearings Division, a County and the Department shall process the appeal as follows:
  - (1) A County shall forward the appeal and case file documents to the Legal Division if the Legal Division is representing the County. The Department shall forward the appeal and case file documents related to an exclusion action to the Legal Division.
  - (2) After the documentation has been forwarded to the Legal Division as provided in paragraph (1), a County or the Department, as applicable, shall forward the appeal to the State Hearings Division no later than ten business days following the receipt of the appeal.
  - (3) The State Hearings Division shall serve an acknowledgement of appeal by first class mail upon the individual who is the subject of a Notice of Action.
  
- (d) An acknowledgement of appeal shall contain the following:
  - (1) Confirmation that a Respondent's appeal has been received by a County or the Department, as applicable, including the date of receipt.
  - (2) Notice to a Respondent of the duty to notify the County or Department, as applicable, in writing of any change in the Respondent's mailing address until the administrative action process has been completed or terminated.
  
- (e) A County or the Department, as applicable, shall maintain copies of an appeal and all relevant documents forwarded as specified in this section.

**SECTION 12-10: Hearing Forum Rules**

- (a) An administrative law judge at the State Hearings Division shall hear administrative actions based upon the following:
  - (1) A denial or rescission of a criminal record exemption or failure to comply with background check requirements.
  - (2) Criminal conduct or conduct that poses a risk or threat to the health, safety, protection, or well-being of a child or nonminor dependent or other individual, except for conduct that involves abuse or severe neglect of a child or other minor or nonminor dependent or abuse or neglect of a dependent adult.
  - (3) A failure to meet or comply with home environment related standards.

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- (4) A failure to act as a reasonable and prudent parent or a failure to provide adequate care and supervision as specified in Sections 11-12 and 11-13, where the matter does not involve abuse or severe neglect of a child or other minor or nonminor dependent.
  - (5) A failure to meet Resource Family qualifications other than the requirement for good mental health, or a failure to meet Permanency Assessment criteria as determined in a family evaluation specified in Sections 6-04 and 6-05 other than criteria related to mental health.
  - (6) A failure to comply with reporting requirements.
  - (7) A failure to maintain or provide records for a child or nonminor dependent.
  - (8) A failure to meet applicant requirements or failure to complete required training.
  - (9) A failure to cooperate or comply as specified in Section 11-17 or upon false or misleading statements provided to a County or the Department.
- (b) An administrative law judge at the Office of Administrative Hearings shall hear administrative actions based upon the following:
- (1) Dual or multiple-program matters when the applicant, Resource Parent, or individual has applied for or holds a license, administrator certificate, or registration issued by the Department, a Resource Family approval or certificate of approval issued by a foster family agency, or is employed by or regularly present in a facility licensed by the Department.
  - (2) When a temporary suspension order was issued as a result of an immediate and substantial risk to the health and safety of a child or nonminor dependent.
  - (3) Conduct that poses a risk or threat to the health, safety, protection or well-being of a child or nonminor dependent or other individual, including abuse or severe neglect of a child or other minor or a nonminor dependent, or abuse or neglect of a dependent adult.
  - (4) A violation of the personal rights of a child or nonminor dependent, or a failure to ensure a child or nonminor dependent is accorded personal rights.
  - (5) A failure to act as a reasonable and prudent parent or failure to provide care and supervision as specified in Sections 11-12 and 11-13 and the matter involves abuse or severe neglect of a child or other minor or nonminor dependent, or abuse or neglect of a dependent adult.
  - (6) An exclusion action.
  - (7) A failure to meet the Resource Family qualification of good mental health as specified in Section 5-02 or as determined in a Written Report as specified in Section 6-07.
  - (8) Financial malfeasance involving a child or nonminor dependent or dependent adult, including but not limited to, fraudulent appropriation for personal gain of money or property or willful or negligent failure to provide services.
  - (9) A pattern of serious deficiencies or a failure to comply with more than one requirement across several different areas.
  - (10) Any administrative action that does not meet the criteria specified in subsection (a) or subsections (b)(1) through (b)(9).

- (c) Except for exclusion actions, hearing forum determination shall be made at the sole discretion of a County in consultation with the Legal Division, or a County attorney if the Legal Division is not representing the County. For exclusion actions, hearing forum determination shall be made at the sole discretion of the Department in consultation with the Legal Division.
- (d) Hearing forum determination shall not be subject to rehearing or review in an administrative hearing. If a matter is set in the incorrect forum, a presiding administrative law judge of the State Hearings Division or Office of Administrative Hearings, on its own motion or at the request of a County or the Department, if applicable, may issue an order to remand the matter to the County or Department, as applicable, to proceed with the administrative action in the correct forum.

**SECTION 12-11A: Disclosure of Documents and Issuance of Subpoenas**

- (a) A party shall make available to the other party or parties for examination all relevant documents in the party's possession in accordance with the established standard. Prior to disclosure, documents that are subject to confidentiality or privilege laws shall be redacted or withheld, as required by law.
  - (1) Notwithstanding CDSS Manual of Policies and Procedures sections 22-045 and 22-051 for matters set before the State Hearings Division, the notice of hearing shall include to Respondent of the right to review during regular working hours all documents in the County's case record and if the matter includes an exclusion, the Department's case record, that are relevant to the Notice of Action or exclusion order. Upon the request of a Respondent, a County or the Department, as applicable, shall provide to a Respondent redacted copies of all relevant documents that are not required to be withheld, which may be provided by mail or secure electronic format, and shall be provided free of charge.
  - (2) For matters set before the Office of Administrative Hearings, the provisions governing discovery in the Administrative Procedures Act shall apply.
- (b) If a party has requested but not been provided an opportunity to examine relevant documents in the other party's possession in advance of a State Hearings Division hearing, the party may be entitled to a postponement in accordance with Section 12-18. If a party has requested but not been provided copies of relevant and discoverable documents in the other party's possession in advance of a hearing at the Office of Administrative Hearings, the party may be entitled to a continuance in accordance with Section 12-18.
- (c) Prior to the commencement of a hearing, and after the commencement of a hearing if necessary, a subpoena requiring the presence of a witness or a subpoena duces tecum for the production by a witness of books, papers, correspondence, memoranda or other records, may be issued in accordance with applicable law, the Administrative Procedures Act, and CDSS Manual of Policies and Procedures section 22-051, as applicable.
  - (1) Notwithstanding CDSS Manual of Policies and Procedures section 22-051, a subpoena or subpoena duces tecum may be issued by an attorney of record for a party.