

PART III

Application for a Review or a Hearing by the Board of a Complaint Against a Children's Aid Society under Sections 68(5) or 68.1(1) of the CFSA.

Parties

48. The following persons are parties to an application under sections 68(5) and 68.1(1) of the *CFSA*:
- a) the person that has sought or received a service from a Society (the applicant);
 - b) the Society that provides the service.

Application

49. The application for review must be filed with the Board, by mail or facsimile by completing the application for Request for Review of Children's Aid Society. (See Appendix Form 3)
50. In the case of an application for a review of a Society's final decision, the decision must be attached to the application.
51. A copy of the application will be forwarded to the Society named in the application.
52. An application for review by the Board may be filed after the Society has completed its review or before the Society's review process has been completed. An application for a review or a hearing on the matters described in Rule 53 may also be filed directly to the Board, without any prior complaint to the Society, except as provided for in Rule 54.

Eligibility

53. The following allegations are eligible for review by the Board:
- a) Allegations that the Society has refused to proceed with a complaint in accordance with the procedures established by Regulation;
 - b) Allegations that the Society has failed to respond to the complainant's complaint within the timeframe required by Regulation;
 - c) Allegations that the Society has failed to comply with the complaint review procedure or with any other procedural requirements under the *CFSA* relating to the review of complaints;
 - d) Allegations that the Society has failed to allow children and their

parents to have an opportunity, where appropriate, to be heard and represented when decisions affecting their interests are made, and to be heard when they have concerns about the services they are receiving, as directed in section 2 (2)(a) of the *CFSA*;

- e) Allegations that the Society has failed to provide the complainant with reasons for a decision that affects the complainant's interests;
 - f) Allegations of inaccuracy in a Society's file or records regarding the complainant.
54. The Board may only review a Society's decision regarding an alleged inaccuracy in its files or records after the complaint has been made to the Society and the Society has completed its own review procedure.
55. The Board shall determine whether the application is eligible for review within seven days after receiving the application. The application is eligible for review if it concerns an allegation described in Rule 53.
56. When the application is eligible for review, a written decision on the eligibility will be sent to the parties. Where the application is not eligible for review, the written decision will include reasons.

Reply from the Society

57. Where the application is eligible for review, the Society has seven days after receiving the Board's eligibility decision to file with the Board a summary reply to the application.
58. In its reply, the Society may address whether the subject of the complaint:
- a) is an issue that has been decided by the court or is before the court; or
 - b) is subject to another decision-making process under the *CFSA* or the *Labour Relations Act, 1995.2006, c.5, s.26*.
59. The Society shall send a copy of its summary reply to the applicant.

Written Review or Oral Hearing

60. Within 20 days of its decision on eligibility, the Board will:
- a) where appropriate, make its final decision based on the application and the Society's summary reply; or
 - b) send a notice to the parties that an oral hearing will be held. The notice shall contain the date, time and location of a pre-hearing conference.

Pre-Hearing Conference

61. If the Board decides to conduct an oral hearing, a pre-hearing conference shall be held within fourteen days of the Board issuing its decision to conduct an oral hearing or such later time as is requested by the applicant.
62. The following persons may attend the pre-hearing conference, as may be determined by the presiding member:
 - a) the applicant;
 - b) where appropriate, a representative of the applicant's band or native community;
 - c) one other person of the applicant's choosing;
 - d) the Society.
63. The presiding member shall attempt to have the applicant and the Society settle any or all the issues.
64. If the matter cannot be resolved at the pre-hearing conference, the member will follow the general Rules for a pre-hearing conference.
65. The Board shall send to the parties within ten days of the conclusion of the pre-hearing conference, the Pre-Hearing Report recording any rulings made at the pre-hearing. The Pre-Hearing Report may state:
 - a) that the complaint has been resolved on consent of the parties; or
 - b) the manner in which the application will proceed to a hearing and will include the date, time and location of the hearing.
66. If the matter cannot be resolved with the consent of both parties, the Board member who presided over the pre-hearing conference shall not participate in the hearing unless both parties consent in writing.

Hearing

67. The Board shall hold a hearing within 20 days after the day the pre-hearing conference is completed.
68. In addition to the applicant and the Society, the Board may determine that the following persons may attend the hearing:
 - a) where appropriate, a representative of the applicant's band or native community;
 - b) one other person of the applicant's choosing.

69. The Board must decide whether to:
- a) order the Society to proceed with the complaint made by the complainant in accordance with the complaint review procedure established by regulation;
 - b) order the Society to provide a response to the complainant within a period specified by the Board;
 - c) order the Society to comply with the complaint review procedure established by regulation or with any other requirements under the *CFSA*;
 - d) order the Society to provide written reasons for a decision to a complainant; or
 - e) dismiss the complaint. (Feb/08)
70. When the Board hears an application to review a decision rendered by the Internal Complaint Review Panel of a Society, the Board may decide, in addition to the remedies enumerated in Rule 69, to:
- a) redirect the matter to the Society for further review;
 - b) confirm the Society's decision. (Feb/08)
71. At the hearing before the Board, the applicant will present his or her case first. (Feb/08)

Decision

72. The Board shall provide to the parties its reasons for decision on the matter in writing within 10 days after the conclusion of the hearing.