

Michigan Supreme Court
State Court Administrative Office
Foster Care Review Board Program

Foster Parent Appeal Policy 98-01
(REVISED 11-2011)

Pursuant to 2000 PA 46, being MCL 712A.13b, the Foster Care Review Board Program (FCRBP) will respond to a foster parent's appeal when a foster child is being removed from the foster home and the foster parent objects to the proposed change in placement. A foster parent cannot appeal a ward's move if any of the following conditions exist:

- (a) The court orders the child returned home;
- (b) The change in placement is less than 30 days after the child's initial removal from his/her home;
- (c) The change in placement is less than 90 days after the child's initial removal from his or her home, and the new placement is with a relative; or
- (d) The change in placement is in accordance with other provisions of this section.

Additionally, pursuant to Program Policy 01-01, the FCRBP will deem a caregiver's appeal request inappropriate for a board investigation if, during the course of the intake process or board investigation, one or more of the following is found to be the case:

- (a) The appeal request involves a child who is being moved from a foster home to an adoptive placement;
- (b) The appeal request is made by a foster parent who merely wants to refute an agency's allegations against him or her;
- (c) The appeal request involves a foster parent who merely wants to challenge an agency's effort to revoke the foster home's license;
- (d) The appeal request arises from a foster parent's disapproval of a court's order that removes a foster child from the foster home; and/or
- (e) The foster parent has requested or agreed to the move initially, as confirmed by DHS Form 30, but later retracted the request or consent.

The agency with supervision of the foster child must notify foster parents when a change in foster care placement is intended and inform foster parents of their right to appeal within three (3) days to a foster care review board if they disagree with the decision. The agency must also notify the State Court Administrative Office of the proposed change in placement.

When a foster parent contacts the FCRBP to initiate an appeal of the intended move, established screening procedures will be used to gather information from both the foster parent and the agency regarding the reason(s) for appeal.

In response to the foster parent's appeal, the FCRBP will contact the director of the agency or designee that employs the caseworker who is planning the ward's removal. The agency director or designee will be questioned about the intended move. If the agency director or designee states to the FCRBP that the ward's move will not occur, a board investigation will not be scheduled. If the agency director or designee states that the ward's move will occur as planned, the FCRBP will schedule an investigation.

EXCEPTION: If the Agency has reasonable cause to believe that the child has suffered sexual abuse or nonaccidental physical injury, or that there is substantial risk of harm to the child's emotional well-being, the Agency may change the child's foster care placement without complying with subsection (1) or (2) (B) or (C). The agency shall include in the child's file documentation of its justification for action under this subsection. If a foster parent objects to the removal of a child under this subsection, he or she may appeal to the foster care review board within three (3) days of the child's removal. The foster parent may appeal orally but must submit the appeal in writing immediately following the oral appeal. MCL 712A.13b (7).

If an investigation is conducted, the FCRBP will convene a three-person investigative panel, which may or may not involve the presence of persons having an interest in the child's move and/or people to whom the panel needs to speak. Subject only to the final decision of the FCRB program manager, the decision as to the location, mode, method, or scope of the panel's investigation rests with the FCRB program representative convening the investigative panel and/or serving the county having jurisdiction over the affected child. The three board members will be selected by program staff from the local foster care review board with jurisdiction over the child or, if necessary, from a pool of trained board volunteers serving elsewhere in Michigan. Board members selected will be current or former board volunteers who serve, or have served successfully, on a local review board.

The review will take place in the county with court jurisdiction over the child and be held at the county DHS office or other designated site determined by the FCRBP. Interested parties invited to the review will be determined by program staff and could minimally include the following: the foster parent making the request, three trained board members, the FCRBP manager and/or representative, the DHS/POS caseworker and/or supervisor, the DHS monitor and/or supervisor, the ward's attorney, and others as determined appropriate by program staff.

The FCRBP report and recommendations from the investigation, which shall be **ADVISORY ONLY**, will be conveyed to the parents, foster parents, agency, and court immediately following the review panel's investigation.

The procedure for wards committed to the Michigan Children's Institute (MCI), pursuant to MCL400.203, is the same as the above procedure, with the following exceptions:

If it is determined during the investigation of a move or proposed move of an MCI ward that the reason for appeal is that the caregiver has been unable to obtain the MCI Superintendent's consent for adoption, the board shall find that the appeal request is not appropriate for review. In these instances, the message taker will inform the caller that if they do not agree with the MCI Superintendent's denial of their request to adopt, **they must contact the MCI Superintendent** regarding any procedural recourse. Accordingly, the message taker may give the caller the MCI Superintendent's Office number: **(517) 335-6421**.

If, however, the caregiver is appealing the removal, or proposed removal, of an MCI ward and the MCI Superintendent has **not** withheld consent for adoption, the board will investigate the move or proposed move. If upon investigation the board determines that the move is in the child's best interest, the agency may move the child. Conversely, if upon investigation the board determines that the move is not in the child's best interest, the agency shall maintain the current placement until a decision by the MCI Superintendent is forthcoming. However, the agency shall not return a child to a placement from which the child was removed under subsection (7) unless

the MCI Superintendent approves restoration of that placement. The Foster Care Review Board shall notify the MCI Superintendent about any disagreement between the board and agency. The MCI Superintendent must make a decision within 14 (fourteen) days of notification by the board regarding the child's placement and inform each interested party of its decision.

The procedure for wards committed to the Family Division, pursuant to MCL 712A.19b(1), is the same as the above procedures, with the following exceptions.

If it is determined during the investigation of a move or proposed move of a permanent court ward that the reason for appeal is that the caregiver has been unable to obtain the child-placing agency's recommendation for adoption, the board shall find that the appeal request is not appropriate for review. In these instances, the message taker will inform the caller that if they do not agree with the child-placing agency's refusal to recommend them for adoption, **they must contact the child-placing agency** regarding any procedural recourse. The message taker may also give the caller the DHS Central Office number: **(517) 373-2035**.

If, however, the caregiver is appealing the removal, or proposed removal, of a permanent court ward and the child-placing agency has **not** refused to recommend the caller's family for adoptive placement, the board will investigate the move or proposed move. If upon investigation the board determines that the move is in the child's best interest, the agency may move the child. Conversely, if upon investigation the board determines that the move is not in the child's best interest, the agency shall maintain the current placement until a decision by the family court. However, the agency shall not return a child to a placement from which the child was removed under subsection (7) unless the court orders restoration of that placement under subsection (6). The Foster Care Review Board shall notify the family court with jurisdiction over the child about any disagreement between the board and agency. The court shall set a hearing date and provide notice to the foster parents, each interested party, and the prosecuting attorney (if the prosecuting attorney has appeared in the case). The court shall set the hearing no sooner than seven (7) and no later than fourteen (14) days after receipt of the notice from the Foster Care Review Board.

The number to call for a foster parent appeal is: 1-888-866-6566. The appeal will be handled by program staff from the Detroit or Gaylord office, depending on where the appeal originates.