
**ORANGE COUNTY SOCIAL SERVICES AGENCY
CFS OPERATIONS MANUAL**

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Revised: July 22, 2005

Number: C-0101

Adoption Application—Denial and Grievance

Purpose

To provide staff guidelines for the denial of an adoption application, the withdrawal of a previously approved adoption application, and to explain the grievance process when a denial or withdrawal of an adoption application occurs.

This policy does not apply to allegation of discrimination or alleged violations of civil rights.

Approved

This policy was approved by Michael Riley, Ph.D., Director of CFS, on July 22, 2006. *Signature on file.*

Background

California Department of Social Services (CDSS) Adoptions User Manual, Section 35177 (e) [also known as California Code of Regulations, Title 22, Div. 2, Section 35177 (e)] states at any point in the adoptive assessment process a determination may be made that an adoption applicant will not be approved for the adoptive placement of a child.

A grievance review hearing will be provided, upon written request by an applicant, for any action taken by an agency before a petition for adoption is filed. There are specific requirements for an adoption applicant to request a grievance review hearing and circumstances when a grievance review hearing request will not be granted.

The Adoption and Safe Families Act (ASFA) established regulations that require a common standard to assess and approve both relative and non-relative caregivers for adoptive placements. California counties are currently working to establish a consolidated assessment process for foster and adoptive applicants.

California Code of Regulations, Title 22, Div. 2, provides the main framework for California adoptions. Section references within this policy and procedure are taken from Title 22, unless noted otherwise.

Legal Mandates [California Code of Regulations, Title 22, Division 2](#), Sections 35049, 35177, 35180, 35181, 35183, 35215, 35217, 35219, and 35211
[Administrative Civil Rights Policy & Procedure D19](#)
[California Civil Code, Section 1798.38](#)
[Welfare and Institutions Code, Section 10950](#)

POLICY

Denial Decision The decision to deny an adoption application or to withdraw a previously approved adoption application is made by the Senior Social Worker (SSW) with the approval of their Senior Social Services Supervisor (SSSS) and the Adoptions Program Manager (PM).

Some cases may require a case staffing prior to obtaining Adoptions Program Manager concurrence. Case staffings are particularly important for the following situations:

- Caregiver adoptions
- The primary SSW is outside the Adoptions Division
- Other siblings are in the Child Welfare System

**Denial/
Withdrawal
Factors** State regulations do not provide specific circumstances for denying an adoption application. However, there are several factors the SSW and SSSS will consider when evaluating an adoption application, including but not limited to:

- Information obtained during the criminal background check, child abuse index report, or the adoptive assessment process
- Information related to all individuals residing in the household
- If the applicant(s) can provide appropriate care for a child with characteristics similar to the children served by CFS
- Applicant assessment factors, which are further identified in Sections 35180, 35181, and 35183.

**Adoptive
Applicant
Notification** Once a decision is made that an adoption application will be denied, or a previous approval of an adoption application will be withdrawn, the applicant(s) will be:

- Verbally informed
- Offered an opportunity to meet with the SSW, SSSS, and/or Adoptions Program Manager to discuss the decision
- Given an opportunity to withdraw their adoption application
- Given written notification of CFS' decision not to approve

Written notification of the decision to the applicant(s) (denial or withdrawal of previous approval) will include:

- The factors which led to the CFS decision
- Information regarding the applicant's right to file a grievance with CFS within 30 calendar days of receipt of the decision
- CFS' grievance review procedure [Section 35177 (g) and (h)]

Sources of Information and Confidentiality

During the adoptive assessment process, if a source of information is promised that he or she will remain confidential, the source of information must not be revealed (Civil Code Section 1798.38). However, if the adoption application is denied and any part of the denial is based on information provided by the source, the applicant is entitled to the information for the purpose of filing a grievance (Section 25049). To avoid the issue, sources of information will not be promised that the information they provide will remain confidential.

If a Child Abuse Report (CAR) or juvenile court records are included in the adoption case record, those records may not be released unless the presiding judge has signed a WIC § 827 petition authorizing release. If a CAR or juvenile court record will be provided to the Grievance Review Agent (GRA), the applicant(s) must be advised of the process to obtain a WIC § 827.

(Exception: If the juvenile court found the applicant to be a de facto parent, the juvenile court records may be released to the applicant only after the applicant provides a minute order confirming de facto parent status. No CAR is to be released to de facto parents, however, until the presiding judge signs the WIC § 827 petition authorizing release.

Child Removal

When a denial or withdrawal of an adoption application also necessitates a child's removal from the applicant's/caregiver's home, CFS staff will follow CFS policies and procedures related to caregivers and placement removals.

The applicant(s)/caregiver(s) will be given written notification of the intent to remove a child from the home at least seven calendar days in advance of the intended removal date. The notification letter will inform the applicant(s)/caregiver(s) of the intended removal date and the reason(s) for the removal.

This policy does not apply when any of the following circumstances exist:

- A child is removed for the child's safety due to imminent danger
- CFS is acting on a court order

Civil Rights Grievances

Civil rights grievances involve allegations of discrimination based on race, age, sex, national origin, marital status, religion, disability, color, and/or political affiliation.

Civil rights grievances will be addressed according to Administrative Policy and Procedure D19 "Civil Rights & Nondiscrimination."

Grievance Review Hearing Request and Notification

To request a grievance review hearing, applicant(s) is to submit a written request which must:

- Be signed by the prospective adoptive applicant(s) or their authorized representative(s)
- Identify authorized representative(s) and/or potential witnesses
- State the specific facts regarding the action the applicant(s) disagrees with
- Be submitted to the Adoptions Program Manager within 30 calendar days of the applicant(s) receipt of the written decision to deny [Section 35215(c)]

CFS is required to schedule a grievance review hearing within 10 business days from the date the written request is received by CFS. Notice of the grievance review hearing, including the date, time, and place, will be sent by certified mail no less than 5 business days prior to the scheduled hearing date (Section 35217). The notification letter must also address/state the following:

- Hearing will be presided over by a GRA
- Any documented evidence must be submitted to the Adoptions Program Manager at least one (1) business day before the hearing
- Applicant(s) will notify the Adoptions Program Manager in writing if legal counsel will represent them at the hearing
- If applicant is a de facto parent, they are to provide a minute

order proving the status

- If a CAR report or juvenile court records will be submitted to the GRA, applicant(s) must be advised of the WIC § 827 process to obtain a copy of the CAR report or juvenile court records
- Hearing will be audiotaped
- Any continuances due to accommodations for legal counsel or to submit documentary evidence will not exceed 10 business days

**Grievance
Review Hearing
Exceptions**

No request for a grievance review hearing (Section 35215) will be granted when the request is based solely on any of the following:

- Court ordered the child's removal
- Any action of CFS is in compliance with the court order
- Complaint related to the validity of a law or regulation
 - Any issue for which a state hearing is available under Welfare and Institutions Code (WIC) Section 10950
 - This section, in part, states any applicant/recipient of public social services who is dissatisfied with any county department action related to their application may file a request with CDSS for a fair hearing
 - This includes refusal to accept an application or delaying acting on it

**Confidentiality
of Documents**

While adoption case records are confidential, applicant(s) is entitled to review documents that pertain specifically to applicant(s) [Section 35049 (c)]. Applicant(s) is also entitled to obtain copies of the material he or she submitted to CFS or documents he or she signed during the adoption proceedings [Section 35049 (c)(1)(B)]. The identity of the adoptee's birth parents will not be included in any documentation provided to the applicant(s) [Section 35049 (c)(1)(C)].

**Conducting the
Grievance
Review Hearing**

The grievance review hearing will be conducted by the GRA, which is the Adoptions Deputy Director or designee. The grievance review hearing will be audiotaped and conducted in a non-adversarial atmosphere (Section 35219).

Those authorized to attend the grievance review hearing are:

- Adoptive applicant(s)
- Adoptive applicant(s) authorized representative(s), if any
- Assigned SSW or authorized representative, at their request
- Other individuals if all parties, including the GRA, are in agreement

If the GRA determines additional evidence or witnesses are deemed necessary in order to make a recommendation regarding the grievance, the grievance review hearing may be continued for a period not to exceed 10 business days (Section 35219).

When applicant(s) inform CFS that legal counsel will attend the grievance review hearing, on their behalf, CFS will make arrangements to have County Counsel represent CFS and participate in the grievance review hearing process.

Written Recommendation

The GRA will send a written recommendation to the CFS Director regarding the resolution of the grievance within 5 business days after the completion of the grievance review hearing (Section 35211).

Written Decision

The CFS Director will provide a written decision regarding the grievance review hearing within 5 business days of receiving the GRA's recommendation. The decision will be based upon the evidence presented at the grievance review hearing and will:

- Summarize the facts and issues involved
- Make specific findings regarding the issues
- Be sent to:
 - Adoptive applicant(s)
 - Any authorized representative(s)
 - Adoptions Program Manager and Adoptions Deputy Director
 - CDSS, Adoption Branch

(Section 35221)

REFERENCES

Hyperlinks

Users accessing this document by computer may create a direct connection to the following references by clicking on them.

- SSA Administration Policy [Civil Rights and Nondiscrimination \(D19\)](#)
 - [CDSS Adoption User Manual, Title 22, Division 2](#)
 - CFS Policy and Procedure [Placement Grievance Review \(K-0206\)](#)
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REQUIRED FORMS

Brochures Brochures to distribute in conjunction with this procedure include:

Brochure Name	Brochure Number
Adoption Grievance Review Procedures	F063-18-263

PROCEDURE

**Required Actions—
Recommendation to
Deny or Withdraw** The following actions must be completed when a recommendation is made to deny or withdraw a previous approval of an adoption application.

<u>Staff Responsible</u>	<u>Step</u>	<u>Required Action</u>
SSW	1.	Review all applicant materials to determine if a denial or withdrawal of a previously approved adoption is appropriate.
	2.	Discuss the reasons for the denial or withdrawal recommendation with SSSS. Include a summary of key factors that drove the recommendation.
	3.	Document in the adoption case record any key factors which drove the recommendation.
SSSS	4.	Discuss the key factors with the Adoptions Program Manager, who must concur with the recommendation to deny or withdraw.
SSW	5.	Ensure all involved CFS staff has been advised of the potential denial or withdrawal.
SSSS	6.	Determine if a case staffing is necessary. The case staffing will include all involved CFS staff, both in and out of the Adoptions Division.
SSW	7.	Coordinate the case staffing, as needed.

**Required Actions—
Denial/Withdrawal
Procedure**

The following tasks will be completed when the decision is to proceed with a denial or withdrawal of a previous approval of an adoption application.

<u>Staff Responsible</u>	<u>Step</u>	<u>Required Action</u>
SSW	1.	Contact applicant(s) to advise them of the decision to deny or withdraw a previous approval of an adoption application.
	2.	Offer applicant(s) an opportunity to meet in person to discuss the decision.
	3.	Address the factors related to CFS' decision to deny or withdraw approval of the adoption application during the meeting with applicant(s) and, if requested, provide information on the grievance process.
	4.	Document the meeting and any other discussions with applicant(s) in the adoption case record.
	5.	Arrange for applicant(s) to meet with SSSS and/or Adoptions Program Manager when applicant(s) request further consideration.
	6.	Draft a denial letter and submit to SSSS for approval.
SSSS	7.	Ensure denial letter meets notification criteria (see "Adoptive Applicant Notification" in the policy section above). [Sections 35177(g) and (h).]
	8.	Submit denial letter draft to the Adoptions Program Manager for approval.
SSW		Note: Applicant(s)/caregiver(s) are to be given written notification at least 7 calendar days in advance of the intended removal date when a child is to be removed from the applicant(s) home. CFS staff are required to follow CFS policies and procedures related to the removal of a child from placement.
	9.	Send the Adoptions Program Manager and Adoption Deputy Director a copy of the denial letter.
	10.	Send applicant(s), by certified mail, the denial letter and the Adoption Grievance Review brochure.

**Required Actions—
Grievance Review
Hearing Procedure**

The following tasks will be completed if the request for a grievance review hearing has been properly requested and a hearing is to be scheduled.

<u>Staff Responsible</u>	<u>Step</u>	<u>Required Action</u>
Adoptions PM	1.	Review applicant(s) request for a grievance review hearing to ensure the request has been appropriately filed and to ensure none of the grievance review exceptions apply. (For requirements, see “Grievance Review Hearing Request and Notification” in the policy section above.)
	2.	Notify applicant(s) in writing when their grievance review hearing request is not filed in a timely manner and/or does not qualify for a grievance review hearing.
	3.	Arrange for the grievance review hearing to be scheduled within 10 business days from the date the written request is received by CFS.
	4.	Ensure notice of the grievance review hearing date, time, and place is sent to applicant(s) in writing, by certified mail, no less than 5 business days prior to the scheduled hearing date (for requirements, see “Grievance Review Hearing Request and Notification” in policy section above).
	5.	Ensure a telephone call is made to applicant(s) to confirm the grievance review hearing date, time, and place <u>and</u> to confirm participants.
	6.	Provide the GRA and applicant(s) with the following: <ul style="list-style-type: none">• Denial letter• Adoptive Assessment, if one has been completed• Summary overview of the case circumstances related to the decision to deny, if requested by the GRA
		Note: Information must be submitted at least 5 business days prior to the hearing and will be sent by certified mail to the applicant(s).

7. Coordinate the grievance review hearing with the GRA to ensure arrangements are made for the hearing to be audiotaped. Maintain the audiotape a minimum of 3 years for record keeping purposes.
8. Notify County Counsel of the hearing date if applicant(s) will have legal counsel present at the hearing.
- GRA** 9. Review the records submitted by CFS and applicant(s). Submit a written request to the Adoptions Program Manager if clarification is needed regarding any CFS documents or if there are additional questions.
- Adoptions PM** 10. Prepare a written response within 3 business days to any questions or requests for additional information by the GRA.
- GRA** 11. Preside over the grievance review hearing, which is to be conducted in a non-adversarial atmosphere, insofar as possible. Ensure the following information is included on the audiotape:
 - Introduce self and others in the room
 - Acknowledge hearing is being audiotape-recorded and state that the Adoption Division will keep the audiotape for 3 years
 - Administer an oath of affirmation for testimony
 - State the hearing date, location, time, and duration
 - State the name of the applicant(s)
 - State all timely materials presented by CFS and applicant(s) have been reviewed by the GRA
 - State the purpose of the hearing is to provide applicant(s) with the opportunity to present and make statements
 - Allow applicant(s) and any witnesses to make statements
 - Continue the grievance review hearing, not to exceed 10 business days, if the GRA feels additional evidence or witnesses are necessary to make a recommendation to the CFS Director
 - Acknowledge, at the conclusion of the hearing, that the hearing is completed and that the CFS

Director will render a final written decision within 10 business days of the hearing

(Section 35219)

Required Actions— Post-Grievance Review Hearing Procedure		The following tasks will be completed upon completion of the grievance review hearing.	
<u>Staff Responsible</u>	<u>Step</u>	<u>Required Action</u>	
GRA	1.	Send a written recommendation to the CFS Director regarding the resolution of the grievance within 5 business days after completion of the grievance review hearing. (Section 35221).	
CFS Director	2.	Send, by certified mail and within 5 business days of receiving the recommendation from the GRA, a written decision that summarizes the facts and issues involved and make specific findings regarding the issues, to: <ul style="list-style-type: none"> • Adoptive applicant(s) • Any authorized representative(s) • Adoption Deputy Director • Adoptions Program Manager • CDSS, Adoptions Branch (Section 35221)	
SSW	3.	Document hearing conclusion in the Adoption case record and communicate the results of the hearing to all involved CFS staff.	