

CHAPTER 10A
DEPARTMENT OF CHILDREN AND FAMILIES
HEARINGS

Authority

N.J.S.A. 52:14F-5(e), (f) and (g).

Source and Effective Date

R.2008 d.147, effective May 9, 2008.
See: 40 N.J.R. 835(a), 40 N.J.R. 3619(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 10A, Department of Children and Families Hearings, expires on May 9, 2015. See: 43 N.J.R. 1203(a).

Chapter Historical Note

Chapter 10A, Department of Corrections Inmate Discipline Cases, was adopted pursuant to N.J.S.A. 52:14F-5(e), (f) and (g) as R.1985 d.489, effective September 16, 1985. See: 17 N.J.R. 1610(a), 17 N.J.R. 2288(b).

Chapter 10A, Department of Corrections Inmate Discipline Cases, was repealed by R.1987 d.200 and new rules were adopted, effective May 4, 1987 (operative July 1, 1987). See: 18 N.J.R. 728(a), 18 N.J.R. 1728(a), 19 N.J.R. 715(a).

Chapter 10A, Department of Corrections Inmate Discipline Cases, was repealed by R.1992 d.213, effective May 18, 1992. See: 24 N.J.R. 321(a), 24 N.J.R. 1873(b).

Chapter 10A, Division of Youth and Family Services Hearings, was adopted as new rules by R.2003 d.84. See: 34 N.J.R. 3568(a), 35 N.J.R. 1053(a).

Chapter 10A, Division of Youth and Family Services Hearings, was readopted as R.2008 d.147, effective May 9, 2008. As a part of R.2008 d.147, Chapter 10A was renamed Department of Children and Families Hearings, and Subchapter 2, Definitions, was adopted as new rules, effective June 16, 2008. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. APPLICABILITY

1:10A-1.1 Applicability

The rules in this chapter shall apply to matters transmitted to the Office of Administrative Law by the Department of Children and Families (DCF) involving issues of child abuse or neglect. These rules also apply to any case transmitted to the Office of Administrative Law by another State agency which is consolidated with a DCF case involving issues of child abuse or neglect. Any aspect of the hearing not covered by the special hearing rules shall be governed by the Uniform Administrative Procedure Rules (UAPR) contained in N.J.A.C. 1:1. To the extent that these rules are inconsistent with the UAPR, these rules shall apply.

Amended by R.2008 d.147, effective June 16, 2008.

See: 40 N.J.R. 835(a), 40 N.J.R. 3619(a).

Substituted "Department of Children and Families (DCF)" for "Division of Youth and Family Services (DYFS)" and "DCF" for "DYFS".

SUBCHAPTER 2. DEFINITIONS

1:10A-2.1 Definitions

The following words and terms when used in this chapter shall have the following meanings:

"Agency head" means an individual designated by the Commissioner of Children and Families with the authority in the capacity of final decision maker on cases transmitted by the DCF Office of Licensing, the DCF Institutional Abuse Investigations Unit, or the DCF Division of Youth and Family Services, as appropriate.

SUBCHAPTERS 3 THROUGH 11. (RESERVED)

SUBCHAPTER 12. MOTIONS

1:10A-12.1 Motion for access for records

(a) Any person or entity who is not a party to the contested case and who at any time prior to the issuance of the initial

decision seeks access to the hearing, the record of the hearing, the initial decision, or other material protected by an order to seal issued pursuant to N.J.A.C. 1:10A-14.1 shall apply by motion to the administrative law judge.

(b) Motions for access to records shall be decided within 20 days from the date of submission.

(c) The order issued by the administrative law judge shall be submitted to the appropriate DCF agency head for review. The appropriate DCF agency head shall issue a final determination as to the issue of disclosure no later than 20 days from receipt of the order of the administrative law judge.

(d) Any person or entity who is not a party to the contested case and who at any time after issuance of the initial decision seeks access to the record of the hearing, the initial decision, or other material protected by an order to seal issued pursuant to N.J.A.C. 1:10A-14.1 shall apply by motion to the appropriate DCF agency head. The appropriate DCF agency head shall issue a final determination within 20 days of receipt of the motion.

Amended by R.2008 d.147, effective June 16, 2008.

See: 40 N.J.R. 835(a), 40 N.J.R. 3619(a).

In (c) and (d), substituted "appropriate DCF agency head" for "Director of the Division of Youth and Family Services" throughout.

SUBCHAPTER 13. (RESERVED)

SUBCHAPTER 14. CONDUCT OF CASES

1:10A-14.1 Public hearing; records as public; sealing a record

(a) In any DCF matter involving allegations of child abuse or neglect which has not been consolidated with a case from another State agency, the judge shall immediately issue an order closing the hearing and sealing the record including all evidence, stenographic notes or audiotape and the initial decision.

(b) In any matter where in a DCF case involving allegations of child abuse and neglect has been consolidated with a case transmitted by another State agency, the judge shall issue an order closing the hearing and sealing the record of the case as necessary to protect all DCF records and reports regarding child abuse.

Amended by R.2008 d.147, effective June 16, 2008.

See: 40 N.J.R. 835(a), 40 N.J.R. 3619(a).

In (a) and throughout (b), substituted "DCF" for "DYFS".

SUBCHAPTERS 15 THROUGH 16. (RESERVED)

SUBCHAPTER 17. CONSOLIDATION OF TWO OR MORE CASES; MULTIPLE AGENCY JURISDICTION CLAIM; DETERMINATIONS OF PREDOMINANT INTEREST

1:10A-17.1 Consolidation and predominant interest

In any instance where a case instituted under the Tenure Employees Hearing Law, N.J.S.A. 18A:6-10 et seq., or a charge filed by the Department of Children and Families Office of Licensing is based upon a case concerning allegations of child abuse and neglect instituted by the Division of Youth and Family Services or by the Institutional Abuse Investigations Unit, an order consolidating the matters shall be issued, and the Division of Youth and Family Services or the Institutional Abuse Investigations Unit shall be deemed to have the predominant interest with regard to issues relating to the charges of child abuse and neglect.

New Rule, R.2008 d.147, effective June 16, 2008.

See: 40 N.J.R. 835(a), 40 N.J.R. 3619(a).

Former N.J.A.C. 1:10A-17.1, Predominant interest regarding confidentiality issues, recodified to N.J.A.C. 1:10A-17.2.

1:10A-17.2 Predominant interest regarding confidentiality issues

In any instance where a DCF case involving allegations of child abuse and neglect has been consolidated with a case transmitted by another State agency, the DCF shall be deemed to have the predominant interest with regard to the issue of confidentiality of any records or reports of child abuse and neglect.

Recodified from N.J.A.C. 1:10A-17.1 and amended by R.2008 d.147, effective June 16, 2008.

See: 40 N.J.R. 835(a), 40 N.J.R. 3619(a).

Substituted the first occurrence of "DCF" for "DYFS" and substituted the second occurrence of "DCF" for "Division of Youth and Family Services".

1:10A-17.3 Review of orders involving consolidation of cases from multiple agencies

In any instance where a DCF case involving allegations of child abuse and neglect has been consolidated with a case transmitted by another State agency pursuant to N.J.A.C. 1:10A-17.1, a party may file arguments opposing or supporting the consolidation and predominant interest order with the agency heads within five working days from receipt of the order.

New Rule, R.2008 d.147, effective June 16, 2008.

See: 40 N.J.R. 835(a), 40 N.J.R. 3619(a).