

Family Services Notice of Action and Right to Appeal

The following form shall be completed by the LDSS when notifying an individual of certain changes to his/her foster care or adoption services. The person requesting an appeal (appellant) for foster care cases, may include a biological parent, foster parent, care taker, or guardian ad litem (22VAC40-201-115). For adoption cases, the appellant may be an applicant or recipient of adoption assistance including an adoptive parent (22VAC40-201-160).

Written notification shall be mailed to the appellant at least **ten days** before action is taken to change services.

Written notification shall be mailed to the birth parents, caretakers, or youth at least **ten (10) days** before action is taken to change services.

Date of Mailing: _____

Name of LDSS:	
LDSS Contact Person:	
Phone#:	Email:
Name of child:	OASIS Case Number:
Name of person being notified:	

You are receiving this letter to notify you that _____ (LDSS agency) is taking action in your Foster Care / Adoption case.

The following action(s) will take effect on _____:

Foster Care (Check all that apply):

- | | |
|--|---|
| <input type="checkbox"/> Suspension of services and/ or benefits | <input type="checkbox"/> Reduction of services and/ or benefits |
| <input type="checkbox"/> Delay of services and/ or benefits | <input type="checkbox"/> Termination of services and/ or benefits |
| <input type="checkbox"/> Denial of Services | |
| <input type="checkbox"/> Other: _____. | |

Adoption Assistance (Check all that apply):

- | | |
|--|---|
| <input type="checkbox"/> Denial of adoption assistance application | <input type="checkbox"/> Denial of request for addendum |
| <input type="checkbox"/> Denial of Services | <input type="checkbox"/> Change of Service |
| <input type="checkbox"/> Termination of Services | <input type="checkbox"/> Termination of adoption assistance agreement |
| <input type="checkbox"/> Termination of Addendum | <input type="checkbox"/> Change in payment |
| <input type="checkbox"/> Other: _____. | |

These actions are being taken due to:

Family Services Notice of Action and Right to Appeal

If you wish to appeal this action, you, or your representative, have **thirty (30) calendar days** from the date of this written notice to appeal these actions. Requests for appeals must be submitted in writing. Below are the detailed steps for the Appeals and Fair Hearing Process. Please review these steps carefully and contact your local department of social services if you are in need of assistance or clarification.

In addition to filing an appeal, you may request a conference with your local department of social services, case worker, or other entity who is taking these actions.

Agency Representative

Date

Family Services Notice of Action and Right to Appeal

Appeals and Fair Hearings Information

Appeals shall be processed in accordance with [§ 63.2-915](#) (for cases related to foster care) or [§ 63.2-1304](#) (for cases related to adoption assistance) of the Code of Virginia. Foster and Adoptive parents, or an authorized person acting on their behalf, may submit a request for an appeal and fair hearing.

Requests for appeals must be submitted in writing to the following address within **thirty (30) calendar days** of receiving a written decision related to your case:

Appeals and Fair Hearings Unit
Virginia Department of Social Services
801 East Main Street
Richmond, VA 23219-2901

A hearing officer will determine if the request for appeal is valid. The hearing officer is an impartial person designated by the Commissioner to hear appeals and decide if the local department followed policy and procedure in making a decision.

If the VDSS hearing officer determines the appeal request is valid, the LDSS and foster/ adoptive parents are notified in writing at least **ten (10) calendar** days prior to the Administrative Hearing. If the hearing officer determines the appeal request is invalid, the LDSS and foster/ adoptive parents receive written notification with an explanation of the reason for the determination that an administrative appeal hearing cannot be granted.

The local department prepares a Summary of Facts and sends a copy to the foster/ adoptive parents (and their representative if any) and the hearing officer at least **five (5) days** prior to the hearing. The hearing is scheduled and conducted at a time, date, and place convenient to the foster/ adoptive parents, and may be conducted by teleconference.

If the foster/ adoptive parents fail to appear without good cause or by their authorized representative at the hearing scheduled, the hearing officer may deny or dismiss the request for a hearing.

At the hearing, the foster/ adoptive parents and/or their authorized representative have the opportunity to:

- Examine all documents and records used at the hearing, to the extent that the information does not violate confidentiality requirements.
- Present the case.
- Bring witnesses.
- Establish all pertinent facts and circumstances.
- Advance any argument without undue interference.
- Question or refute any testimony or evidence, including the opportunity to confront and cross-examine witnesses.

The local department has the opportunity to:

- Clarify or modify its statements contained in the Summary of Facts;
- Question the individual and his witnesses on the salient issues.
- Examine all documents submitted by the individual or his authorized representative.

Only relevant evidence related to the issue(s) being appealed is admissible at the hearing.

There is a legal presumption that the local department acted in accordance with law and policy and the burden of proof is on the individual to demonstrate local department error.

The decision of the hearing officer shall be based exclusively on the evidence and other material (i.e., documents or testimony) introduced at the hearing. Evidence includes all applicable laws, regulations, policies, and guidance manuals.

The hearing officer shall notify the individual and the local department in writing of its decision on the appeal within **ninety (90) calendar days** following the date the appeal request was received by the VDSS, except when a

Family Services Notice of Action and Right to Appeal

postponement was requested. If the hearing was postponed, the time limit will be extended for as many days as the hearing was postponed.

The decision of the hearing officer is final and binding when the decision is mailed to the local department and the individual.

Withdrawal Statement

If the local department and the foster/ adoptive parents resolve the issue at any time after the Appeals and Fair Hearings Unit receives the Individual's request for an Administrative Review Hearing, the foster/ adoptive parents must provide a written statement withdrawing the appeal request. The withdrawal statement is sent to the hearing officer with a copy to the local department.

Appeal to Circuit Court

The individual aggrieved by the decision of the hearing officer may seek further review of the decision by the appropriate Circuit court. The individual has **thirty (30) days** from the date of service (the date they actually received the hearing officer's decision or the date it was mailed to the individual, whichever occurred first) to provide notice of his intent to file an appeal with the circuit court. The individual must send written notice of intent to appeal the hearing officer's decision to:

Commissioner
Virginia Department of Social Services
801 East Main Street
Richmond, VA 23219-2901

In addition, the individual must file a written petition in Circuit Court in the locality where they live in order to perfect the appeal. The individual will not receive correspondence now will his benefit continue as a result of the individual sending written notice to VDSS of his intent to appeal, as the hearing officer's decision is the final administrative action.