

Chapter 12

Review Procedures

Review of Decision to Screen Out a Report

A person whose report to a county department of social services is *screened out* (that is, not accepted for assessment) is entitled to an agency review of the department's decision. (See "Notification after a Report Is Made" in Chapter 11.) For example, if a principal reports that a nine-year-old child has excessive absences from school, a county social services department may decline to accept the report or to conduct an assessment on the ground that the situation, even if exactly as described by the principal, does not constitute neglect. If the principal disagrees and thinks that the child's absences are due to a lack of proper care and supervision by the child's parents (a form of neglect), the principal may request a review of the department's decision. In most cases the principal first would talk informally with a social worker, a supervisor, or the director of the department of social services.

Each county department of social services must establish a process for conducting agency reviews of decisions to screen out reports when the person who made the report requests an agency review. At a minimum, each department's process must include

1. notifying the reporter of the basis for the department's decision and of the reporter's right to and the procedures for obtaining a review of the decision,
2. designating the persons within the agency who will conduct the reviews, and
3. specifying the manner in which the reviews will be conducted.¹

There is no provision for further review of a decision to screen out a report.

Informal Review of Department's Determination after an Assessment

If the department of social services accepts a report and the person who made it is not satisfied with the outcome of the department's assessment, that person may communicate directly with the social worker handling the case. Sometimes the social worker can provide information about the department's actions that will dispel the reporter's dissatisfaction with the department's response. (Of course, confidentiality may limit the department's ability to give full details of the assessment. See Chapter 11.) Or the social worker may be able to explain legal or other constraints of which the reporter was unaware. Likewise, the reporter may be able to give the social worker additional information or a perspective that would lead the department to rethink its response.

If this kind of communication does not resolve the reporter's dissatisfaction, the reporter may contact the following persons, preferably in this order:

1. the social worker's supervisor,
2. the head of the child protective services unit in the agency, or
3. the county director of social services.

Neither the county social services board nor any individual board member has a role in relation to an individual case decision. (See "County Social Services Boards," below.)

Formal Review of Case Decisions

In most cases, even if the department determines after an assessment that a child is abused, neglected, or dependent, the department does not file a petition to take the matter to juvenile court. Instead, it provides protective services and develops with the family a plan aimed at ensuring the child's safety and well-being. A reporter who disagrees with the department's decision not to file a petition has a right to ask the local prosecutor to review that decision.²

The statute refers to the review in relation to the social services director's decision not to file a petition in juvenile court. The review clearly is available when the social services department makes a finding of abuse, neglect, or dependency but does not file a petition. It is not as clear whether it is avail-

able when the department, after an assessment, does not make a finding of any of those conditions and therefore obviously is not filing a petition. If review by the prosecutor is not available in that circumstance, the Juvenile Code provides no formal procedure for questioning the adequacy of the department's assessment or the correctness of its determination. The informal procedures described above, of course, would be available.

Requests for prosecutors to review case decisions are not made frequently, but they are the only formal recourse for someone who is dissatisfied with the social services department's response to a report following an assessment. If informal steps do not seem effective, this process for external review is an important alternative for someone who knows or strongly suspects that a child is abused, neglected, or dependent and feels that the department's response is inadequate.

Requesting Formal Review

The reporter may request a review by the prosecutor within five working days after receiving the second written notice from the department of social services.³ That is the notice that tells the reporter the outcome of the assessment (including whether the department has filed a petition to take the matter to court) and explains the procedures for requesting a review of a decision not to file a petition.⁴ Presumably, if the department does not give the reporter the second written notice as required, the time within which the reporter can request a review is extended to at least five days following the date the reporter learns of the department's decision. Someone who asks to be notified orally rather than in writing probably has five days after the oral notification to request a review. A reporter who does not identify himself or herself or who asks not to be notified of the outcome of the assessment effectively waives his or her right to request a review. These situations are not specifically addressed by either the statute or the administrative rules.

Timing of Review

When the person who made a report requests a review of the department's decision not to file a petition, the prosecutor must notify that person and the social services director of the time and place for the review. The prosecutor must conduct the review within twenty days after the reporter receives notice of the department's decision not to file a petition.⁵

Review Process and Conclusion

In conducting a review, the prosecutor should confer with the person who made the report, the protective services social worker, the child (if that is practicable), and anyone else who has pertinent information about the child or the child's family.⁶

After the review, the prosecutor may

1. affirm the social services director's decision,
2. ask a local law enforcement agency to investigate the allegations in the report, or
3. direct the social services director to file a petition in juvenile court.⁷

Review of Agency Practices or Community Issues

The informal channels for reviewing case decisions described above also may be appropriate when an individual, a group, an agency, or an institution has concerns about a social services department's general practices or policies regarding child protective services. Anyone who is concerned about agency practices, or about broader community issues involving child protection, should consult first with the county social services director if that is feasible. Concerns also may be taken to the state Division of Social Services, the county social services board (or its equivalent), or the local community child protection team described below.

County Social Services Boards

Most counties have a three- or five-member county social services board.⁸ This board's responsibilities include

- hiring the county social services director,
- consulting with the director about problems relating to the director's office,
- helping the director plan the department's budget, and
- advising local authorities about policies and plans to improve social conditions in the community.⁹

The county board of social services does not have a role in making or reviewing decisions in individual cases involving child protective services. However, the board should have a strong interest in the adequacy of the department's

child protective services program in general (including its funding), the public's understanding of that program, and the larger community's response to the problems of child abuse and neglect in the county.¹⁰

State Division of Social Services

Although child protective services programs are administered by the counties, the state also has a role.¹¹ The Division of Social Services (the Division) in the state Department of Health and Human Services (DHHS) provides county social services departments with

- training, consultation, and technical assistance;
- policy manuals that serve as the day-to-day guide for county social services staff;¹² and
- regular periodic program reviews.¹³

The Division's staff includes children's program representatives who work with designated groups of counties and are available for consultation on issues of policy and practice in child welfare cases.¹⁴ In addition, four assistant attorneys general specializing in child welfare law work with the Division to provide training, consultation, and legal assistance to the county departments. Inquiries about child welfare can be made to the DHHS Customer Service Center or directly to the Division's Raleigh office.¹⁵

The Department of Health and Human Services has statutory authority to intervene if a county social services department fails to provide child protective services in accordance with state law and regulations or fails to show reasonable efforts to do so.¹⁶ The ultimate intervention, which has never occurred, would be the state's taking over operation of the county program based on a finding that the county's failures posed "a substantial threat to the safety and welfare of children in the county" who receive or are eligible for services.¹⁷

Community Child Protection Teams

Every county has an interdisciplinary community child protection team that reviews selected child protective services cases.¹⁸ All teams review child fatality cases in which a child's death is suspected to have resulted from abuse or neglect and

1. a report about the child or the child's family was made to social services within the preceding twelve months, or

2. the child or the child's family received child welfare services within twelve months of the child's death.¹⁹

Each team can define other categories of cases it wishes to review.²⁰ In addition, the county social services director may bring cases to the team for review, and any team member may request review of a specific case.²¹

These reviews are not appeals. They are designed to help the team fulfill its broader goals of

- developing a community-wide approach to problems of child abuse and neglect;
- understanding the causes of childhood deaths;
- identifying any gaps or deficiencies in the delivery of services to children and families; and
- making and implementing recommendations for changes to laws, rules, and policies that will support children's safe and healthy development and prevent child abuse and neglect.²²

The team makes recommendations to the board of county commissioners and promotes agency collaboration to create or improve community resources for children.²³

The law provides for each local community child protection team to include

- the county social services director and a member of the social services staff,
- a local law enforcement officer,
- an attorney from the district attorney's office,
- a representative of the local community action agency,
- the superintendent or other representative of each local school administrative unit,
- a member of the county social services board,
- a local mental health professional,
- a representative of the local guardian ad litem program,
- the director of the local public health department, and
- a local health care provider.²⁴

The board of county commissioners may appoint up to five additional team members. Each local team elects its own chair and meets at least four times a year.

Since information about particular cases is confidential, the parts of team meetings devoted to reviewing individual cases are not open to the public. Parts of the meetings that do not involve confidential information—for example, discussions of general findings, recommendations, or community needs—should be open to the public. Information about a county’s community child protection team can be obtained from the county manager’s office, from one of the agencies represented on the team, or from the state Division of Social Services, which provides coordination for the community child protection team program.

Notes

1. N.C. Admin. Code (hereinafter N.C.A.C.) tit. 10A, subch. 70A, § .0105(h) (Apr. 2003).

2. North Carolina General Statutes (hereinafter G.S.) § 7B-305. “Prosecutor” refers to the district attorney or an assistant district attorney assigned by the district attorney to handle cases in juvenile court. G.S. 7B-101(17). The North Carolina General Statutes can be viewed online at www.ncga.state.nc.us/gascripts/Statutes/StatutesTOC.pl.

3. G.S. 7B-302(g). *See also* N.C.A.C. tit. 10A, subch. 70A, § 0109 (Sept. 1994).

4. G.S. 7B-302(g).

5. G.S. 7B-306; N.C.A.C. tit. 10A, subch. 70A, § .0109 (Sept. 1994).

6. G.S. 7B-306.

7. *Id.*

8. In those counties the board of county commissioners and the state Social Services Commission each appoint one or two members of the county social services board, and those members appoint the third or fifth member. *See* G.S. 108A-2. For many years Mecklenburg County and Wake County have operated consolidated human services agencies pursuant to G.S. 153A-77, which allowed boards of county commissioners in counties with a population of 425,000 or more to abolish their social services boards and either assume the powers and duties of the board or establish a consolidated human services board. Effective June 29, 2012, those options became available to boards of county commissioners in every county, regardless of population size. *See* S.L. 2012-126. Several counties have exercised those options and others may follow. *See* Aimee Wall, “Recent Developments in Organization and Governance of Local Human Services Agencies” *Coates’ Canons: NC Local Government Law Blog*, September 25, 2012, <http://canons.sog.unc.edu/?p=6853>, and Aimee Wall, “Organization and Governance of Social Services: New Options for Counties,” *Coates’ Canons: NC Local Government Law Blog*, August 10, 2012, <http://canons.sog.unc.edu/?p=6798>.

9. G.S. 108A-9. *See also* John L. Saxon, *Handbook for County Social Services Boards* (Chapel Hill, N.C.: UNC School of Government, 2009).

10. County social services boards meet monthly, and their meetings are open to the public. To learn when and where a board meets or how to contact the board

chairperson, call the county department of social services. Contact information for county social services departments can be found at www.ncdhhs.gov/dss/local.

11. In most states, the state administers social services programs. In North Carolina, the counties perform that role with some oversight by the state. For a description of the social services system in North Carolina, see John L. Saxon, *Social Services in North Carolina* (Chapel Hill, N.C.: UNC School of Government, 2008).

12. The manuals are available at <http://info.dhhs.state.nc.us/olm/manuals/manuals.aspx?dc=dss>.

13. The Division of Social Services conducts regular Child and Family Services Reviews of each county's children's services program. The review protocol and related information about the reviews are available at www.ncdhhs.gov/dss/stats/cw.htm.

14. Contact information for the children's program representatives and the counties to which they are assigned can be found at www.ncdhhs.gov/dss/team/CPRList.html.

15. The main number for the State Division of Social Services is 919.733.3055. The number for Child Welfare Customer Service at the Division is 919.733.9467. Additional contact information is available at www.ncdhhs.gov/dss/contact.

16. G.S. 108A-74.

17. G.S. 108A-74(c). In this eventuality, the county director of social services "shall be divested of all service delivery powers conferred upon [him or her]." *Id.*

18. Statutory provisions relating to community child protection teams and the North Carolina Child Fatality Task Force are located in Article 14 of G.S. Chapter 7B (G.S. 7B-1400 through -1414).

19. G.S. 7B-1406(a)(1).

20. G.S. 7B-1406(a)(2).

21. G.S. 7B-1409.

22. N.C.A.C. tit. 10A, subch. 70A, § .0201 (Sept. 1994).

23. G.S. 7B-1406(a)(2); N.C.A.C. tit. 10A, subch. 70A, § .0201 (Sept. 1994).

24. G.S. 7B-1407(a), (b). Either this team or a separate child fatality prevention team also reviews additional child fatalities in the county. A community child protection team that also reviews additional child fatalities must include an emergency medical services provider or firefighter, a district court judge, a county medical examiner, a representative of a local child care facility or Head Start program, and a parent of a child who died before age eighteen. G.S. 7B-1407(c).