

**COMMENT DUE DATE: January 15, 2024**

**Date: December 15, 2023**

**Dawn Leemon, Program Supervisor  
Holli Kyker, Programs Administrator  
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It is important that you provide your comments regarding the **draft copy** of policy by the comment due date. Comments are directed to \*STO.LegalServices.Policy@okdhs.org. The proposed policy is **PERMANENT**.

**SUBJECT:**

**Chapter 2. Administrative Components**  
Subchapter 3. Office of Client Advocacy  
Part 3. Investigations  
340:2-3-33 [Amended]  
Part 5. Grievances  
340.2-3-45 [Amended]  
**(Reference WF 24-2A)**

**SUMMARY:**

The proposed amendments to Chapter 2, Subchapter 5 amend the rules to: (1) clarify vulnerable adult abuse and neglect reporting requirements; and (2) to update the timeline for provider submission of grievance reports.

**Permanent rulemaking approval is requested.**

**LEGAL AUTHORITY:**

Director of Human Services; Section 162 of Title 56 of the Oklahoma Statutes (56 O.S. § 162); 10A O.S. § 1-1-101 et seq.; 10A O.S. § 162; 43A § 10-102 et seq.; and Section 5101 et seq. of Title 42 of the United States Code.



OKLAHOMA DEPARTMENT OF HUMAN  
SERVICES



Rule Impact Statement

**To:** Programs administrator  
Legal Services - Policy

**From:** Joe Dewey, Advocate General, Office of Client Advocacy (OCA)

**Date:** April 11, 2023

**Re:** Chapter 2. Administrative Components  
Subchapter 3. Office of Client Advocacy  
Part 3. Investigations  
340:2-3-33 [Amended]  
Part 5. Grievances  
340.2-3-45 [Amended]  
**(Reference WF 24-2A)**

**Contact:** Dawn Leemon, Program Supervisor 405-760-8560

**A. Brief description of the purpose of the proposed rule:**

**Purpose.**

The proposed amendments to Chapter 2, Subchapter 5 amend the rules to: (1) clarify vulnerable adult abuse and neglect reporting requirements; and (2) to update the timeline for provider submission of grievance reports.

**Strategic Plan Impact.**

The proposed amendments achieve Oklahoma Human Services (OKDHS) goals by communicating updated reporting information to OKDHS providers and staff, ensuring efficient and accurate program administration.

**Substantive changes.**

Subchapter 3. Office of Client Advocacy  
Part 3. Investigations

Oklahoma Administrative Code (OAC) 340:2-3-33 is amended to: clarify that cases of abuse and neglect by paid caregivers against recipients of Medicaid waiver

services are reported to the Office of Client Advocacy (OCA); and to remove the requirement that these cases be reported to Adult Protective Services (APS).

#### Part 5. Grievances

OAC 340:2-3-45 is amended to change the timeline for local grievance coordinator (LGC) reporting of grievances from quarterly to monthly.

#### **Reasons.**

APS requested the change to 340:2-3-33, as current policy calls for referral of certain cases to them when they do not investigate cases of that type.

On performing an internal review of grievance reporting, the program supervisor of the youth grievance program determined that provider grievance reports were more accurate when filed monthly instead of quarterly. Practice was changed in response, and the amendment to 340:2-3-45 will bring policy into line with current practice.

#### **Repercussions.**

If the proposed amendments are not implemented, OCA policy will not conform with APS policy and current best practices.

#### **Legal authority.**

Director of Human Services; Section 162 of Title 56 of the Oklahoma Statutes (56 O.S. § 162); 10A O.S. § 1-1-101 et seq.; 10A O.S. § 162; 43A § 10-102 et seq.; and Section 5101 et seq. of Title 42 of the United States Code.

#### **Permanent rulemaking approval is requested.**

- B. A description of the classes of persons who most likely will be affected by the proposed rule, including classes that will bear the costs of the proposed rule, and any information on cost impacts received by the Agency from any private or public entities:** The classes of persons most likely to be affected by the proposed amendments are vulnerable adults and providers who file grievance reports with OCA. There is no cost associated with implementing these rules.
- C. A description of the classes of persons who will benefit from the proposed rule:** The classes of persons who will benefit by the proposed amendments are vulnerable adults, foster parents, and children by served by CWS.
- D. A description of the probable economic impact of the proposed rule upon the affected classes of persons or political subdivisions, including a listing of all fee changes and, whenever possible, a separate justification for each fee change:** There are no fee changes associated with these proposed amendments.
- E. The probable costs and benefits to the Agency and to any other agency of the implementation and enforcement of the proposed rule, the source of revenue to be used for implementation and enforcement of the proposed rule and any anticipated effect on state revenues, including a projected net loss or gain in**

**such revenues if it can be projected by the Agency:** The amendments impact OCA investigations regarding abuse or neglect of vulnerable adults and individuals filing grievances with facilities or providers. There are no costs to OKDHS or to other agencies in implementing or enforcing the proposed rule. The probable cost to OKDHS of printing and distributing the rules is estimated to be less than \$100.

- F. A determination whether implementation of the proposed rule will have an impact on any political subdivisions or require their cooperation in implementing or enforcing the rule:** The proposed amendments do not have an economic impact on any political subdivision, nor will the cooperation of any political subdivisions be required in implementation or enforcement of the rules.
- G. A determination whether implementation of the proposed rule will have an adverse economic effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act:** There are not anticipated adverse effects on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act.
- H. An explanation of the measures the Agency has taken to minimize compliance costs and a determination whether there are less costly or nonregulatory methods or less intrusive methods for achieving the purpose of the proposed rule:** There are neither less costly, nor non-regulatory methods, nor less intrusive methods to achieve compliance.
- I. A determination of the effect of the proposed rule on the public health, safety, and environment and, if the proposed rule is designed to reduce significant risks to the public health, safety, and environment, an explanation of the nature of the risk and to what extent the proposed rule will reduce the risk:** Implementation of the proposed OCA rules would have a positive impact regarding safety of vulnerable adults by ensuring the policies relating to investigation referrals are in conformity.
- J. A determination of any detrimental effect on the public health, safety, and environment if the proposed rule is not implemented:** Failure to implement the proposed rule would create non-conformity between the rules of different divisions of OKDHS. This would have a detrimental impact on public safety.
- K. The date the rule impact statement was prepared and, if modified, the date modified:** Prepared April 11, 2023

## SUBCHAPTER 3. OFFICE OF CLIENT ADVOCACY

### PART 3. INVESTIGATIONS

#### **340:2-3-33. Procedure for reporting suspected abuse, neglect, verbal abuse, caretaker misconduct, and exploitation**

Revised ~~9-15-15~~9-14-24

(a) **Reporting abuse or neglect of a child under 18 years of age.** Persons having reason to believe that a child under 18 years of age is a victim of abuse or neglect are required per Section 1-2-101 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-2-101) to promptly report it to the Oklahoma Department of Human Services (~~DHS~~) (OKDHS) Abuse and Neglect Hotline (Hotline) at 1-800-522-3511. Any allegation of abuse or neglect reported in any manner to a ~~DHS~~ OKDHS county office is immediately referred to the Hotline, per Section 10A O.S. § 1-2-101.

(b) **Reporting abuse, neglect, verbal abuse, or exploitation of a vulnerable adult.** Any person having reasonable cause to believe that a vulnerable adult is a victim of abuse, neglect, verbal abuse, or exploitation reports to ~~DHS~~ OKDHS or the municipal police department or sheriff's office in the county where the suspected abuse, neglect, verbal abuse, or exploitation occurred as soon as the person is aware of the situation. The reporting requirement applies to providers, per Oklahoma Administrative Code (OAC) 340:2-3-2 and the provider's employees and agents.

(c) **Reporting caretaker misconduct regarding a child.** ~~When A report is made to the Hotline when~~ the ~~DHS~~ Specialized Placement and Partnerships Unit, Child Care Licensing Services office, the Office of Juvenile Affairs, or another source determines a:

- (1) pattern of misconduct exists by a facility or person responsible for the child of interest (PRFCI); or
- (2) facility administration fails to take appropriate corrective action in response to an investigation or written plan of compliance, ~~a report should be made to the Hotline.~~

(d) **Reporting caretaker misconduct regarding a vulnerable adult.** Persons who have reason to believe caretaker misconduct, per OAC 340:2-3-2, has occurred with regard to a vulnerable adult residing at the Robert M. Greer Center (Greer), promptly reports the allegation to the Office of Client Advocacy (OCA).

(e) **Reporting a vulnerable adult's death, serious physical injury, or sexual assault.** In addition to the mandatory reporting requirements per OAC 340:2-3-33(b) the events listed in (1) through (7) of this subsection are reported to OCA intake when a vulnerable adult's caretaker is alleged to be involved in the vulnerable adult's:

- (1) violent death, whether apparently homicidal, suicidal, or accidental; ■ 1
- (2) death under suspicious, unusual, or unnatural circumstances;
- (3) death when the vulnerable adult is a resident Greer;
- (4) death when the vulnerable adult is a Hissom class member;
- (5) serious physical injury, per OAC 340:2-3-2;
- (6) physical injury when the injury is:
  - (A) unexplained; and
  - (B) suspicious; or
- (7) rape, sodomy, or other sexual activity prohibited by state law.

**(f) Interference, retaliation, or discrimination related to the reporting obligations required by the Oklahoma Children's Code and the Protective Services for Vulnerable Adults Act prohibited.**

(1) Per 10A O.S. § 1-2-101, the reporting obligations under the Oklahoma Children's Code are individual and no employer, supervisor, or administrator interferes with the reporting obligations of any employee or other person or in any manner discriminates or retaliates against the employee or other person who in good faith reports suspected child abuse or neglect, or who provides testimony in any proceeding involving child abuse or neglect. Any employer, supervisor, or administrator who discharges, discriminates, or retaliates against the employee or other person is liable for damages, costs, and attorney fees.

(2) Per 43A O.S. § 10-104, no employer terminates the employment, prevents or impairs the practice, or occupation of, or imposes any other sanction on any employee solely for the reason the employee made or caused to be made a report or cooperated with an investigation pursuant to the Protective Services for Vulnerable Adults Act.

**(g) Immunity from liability for good faith report of abuse, neglect, or exploitation of a child or vulnerable adult.** Per 10A O.S. § 1-2-104, the Oklahoma Children's Code and 43A O.S. § 10-104, the Oklahoma Protective Services for Vulnerable Adults Act, any person exercising good faith and due care in making a report of alleged abuse, neglect, or exploitation has immunity from any civil or criminal liability the person might otherwise incur. The person has the same immunity with respect to participation in any judicial proceeding resulting from the report.

**(h) Failure to report abuse, neglect, or exploitation of a child or vulnerable adult.** Any person who knowingly and willfully fails to promptly report abuse, neglect, or exploitation or who interferes with the prompt reporting of suspected child abuse or neglect as required per 10A O.S. § 1-2-101 and 43A O.S. § 10-104 may be subject to administrative action or criminal sanctions upon conviction. In addition, an OKDHS employee's failure to report by a DHS employee may result in disciplinary action.

**(i) False report of abuse, neglect, or exploitation of a child or vulnerable adult.**

(1) Per 10A O.S. § 1-2-101, any person who knowingly and willfully makes a false report regarding alleged maltreatment of a child, or a report the person knows lacks factual foundation, may be reported ~~by DHS~~ to local law enforcement for criminal investigation, and upon conviction, is guilty of a misdemeanor.

(2) Per 43A O.S. § 10-104, any person who willfully or recklessly makes a false report of abuse, neglect, or exploitation of a vulnerable adult may be liable in a civil action for actual damages and for punitive damages set by the court or jury regarding the reported party.

**(j) Method of reporting.**

(1) ~~Each~~ The OKDHS Hotline screens each report alleging abuse or neglect of a child ~~is screened by the DHS Hotline~~ in compliance with Child Welfare Services policies and procedures. Each accepted report of a child within ~~Office of Client Advocacy~~ (OCA) investigative authority and scope is assigned to OCA for possible investigation. Reports may be phoned to the Hotline at 1-800-522-3511, faxed to 405-936-0922, emailed to [STO.Hotline.Referral@OKDHS.org](mailto:STO.Hotline.Referral@OKDHS.org), or mailed to Child Abuse and Neglect Hotline, DHSOKDHS, PO Box 25352, Oklahoma City, Oklahoma 73125-0352.

(2) Reports of abuse, neglect, or exploitation of a Hissom class member, resident of Greer, or other vulnerable adults receiving Developmental Disabilities Services (DDS) services Medicaid waiver services, when the alleged abuse, neglect, or exploitation was committed by a paid caregiver, are reported to OCA except for weekends and after business hours when the reports are made to the Hotline at 1-800-522-3511. Reports to OCA may be phoned to ~~1-800-522-8014~~ or 405-522-2720, faxed to 405-522-2680, or emailed to oca.intake@okdhs.org.

~~(3) Reports of abuse, neglect, verbal abuse, financial neglect, or exploitation of a vulnerable adult receiving services from a Medicaid personal care services provider are reported to the Adult Protective Services office, except for weekends and after business hours when the reports are made to the Hotline at 1-800-522-3511.~~

(4) Reports of allegations may be submitted by completing Form 15GN001E, Office of Client Advocacy-Intake Referral, and sent sending the form to the applicable intake unit.

(k) **Confidentiality of reporting party's identity.** The identity of the person who reports abuse or neglect of a child per 10A O.S. § 1-6-102(H)(7), or abuse, neglect, or exploitation of a vulnerable adult per 43A O.S. § 10-105.1(C)(2), is kept confidential and is not disclosed. DHSOKDHS accepts anonymous reports of abuse, neglect, or exploitation of a child or vulnerable adult.

(l) **Staff training regarding reporting obligations.** Each administrator ensures the employee receives relevant training regarding the employee's responsibility to report a child or vulnerable adult's alleged abuse, neglect, or exploitation. Except for employees of a Developmental Disabilities Services (DDS) provider, the employee receives the training within 30-calendar days of the employee's initial employment and receives subsequent annual training. DDS provider employee training is as specified per OAC 340:100-3-38 et seq.

## **INSTRUCTIONS TO STAFF 340:2-3-33**

**Revised ~~9-15-14~~ 9-14-24**

**1. The death of a Developmental Disabilities Services client is reviewed per Oklahoma Administrative Code 340:100-3-35.**

## **PART 5. GRIEVANCES**

### **340:2-3-45. Grievance system protocols**

Revised ~~9-15-21~~ 9-14-24

(a) **Legal authority, scope, and purpose.**

(1) **Legal authority.**

(A) Per Sections 1-9-112 and 1-9-120 of Title 10A of the Oklahoma Statutes (10A O.S. §§ 1-9-112 and 1-9-120), the Office of Client Advocacy (OCA) established and maintains a fair, simple, and expeditious grievance system for resolution of grievances of:

(i) all children in ~~the custody of~~ Oklahoma Human Services (OKDHS) custody regarding:

(l) the substance or application of any written or unwritten OKDHS policy or rule by OKDHS or an OKDHS agent; or

(II) any decision or action by an employee or agent of OKDHS, or of any child in the custody of OKDHS; or

(ii) foster parents relating to the provision of foster care services, per 10A O.S. §§ 1-9-112 and 1-9-117;

(iii) all persons receiving services from OKDHS Developmental Disabilities Services (DDS); ~~or~~ and

(iv) any child being served by OKDHS Child Welfare Services (CWS), per 10A O.S. § 1-9-119.1.

(B) 10 O.S. § 1415.1(A)(2) requires that OKDHS establish an ombudsman program for each OKDHS-operated institution and residential facility for individuals with intellectual disabilities that include an appeals procedure for the resolution of grievances and complaints of residents, their parents, and court-appointed guardians. OKDHS conferred this responsibility on OCA.

(C) OKDHS conferred OCA with the responsibility for grievance systems for other clients listed in (2) of this subsection.

(2) **Scope.** OCA administers and monitors grievance programs for the individuals listed in (A) through (G) of this paragraph, collectively referred to as the "client" throughout this Section and Oklahoma Administrative Code (OAC) 340:2-3-46. Further grievance details for:

(A) any child served by OKDHS CWS ~~is~~ are found at: OAC 340:2-3-47;

(B) OKDHS-approved foster parents are found at: OAC 340:2-3-50;

(C) Robert M. Greer Center (Greer) residents are found at: OAC 340:2-3-51;

(D) Hissom Class Members and persons who are transitioned to the community from state-run facilities are found at OAC: 340:2-3-52;

(E) DDS clients receiving community-based services from DDS are found at: OAC 340:2-3-53;

(F) residents of group homes for persons with developmental or physical disabilities subject to 10 O.S. §§ 1430.1 et seq. are found at: OAC 340:2-3-54; and

(G) clients receiving OKDHS services who want to file a grievance about a problem, concern, or complaint for which another grievance system within OKDHS does not exist are found at: OAC 340:2-3-55.

(3) **Purpose.** The purpose of OCA grievance policies is to provide clients a fair, simple, effective, and timely system of problem resolution with access to procedures where clients may obtain a thorough review, fair consideration, and correction, when appropriate. These policies also ensure that persons filing grievances are free from reprisal or discrimination. To further this purpose, OCA independently reviews and monitors the implementation of grievance systems subject to this Section.

(4) **Informal problem resolution.** Clients have the right to file grievances; however, resolving problems and concerns informally before filing a grievance is encouraged. Not all client inquiries and requests for explanation are considered grievances. Most are resolved within the relationship between clients and OKDHS, providers, and facility staff. Efforts are made to resolve issues and reach a consensus with the client on a plan of action to resolve the problem informally unless the client chooses to proceed directly to the grievance process.



(b) **Definitions.** In addition to the definitions in OAC 340:2-3-2, the following words and terms when used in Part 5, OAC 340:2-3-45 through 340:2-3-55, shall have the following meanings, unless the context clearly indicates otherwise:

(1) **"Area manager"** means a manager of one of the three service delivery areas, designated by OKDHS DDS.

(2) **"Business day"** means Monday through Friday, not including federal or state holidays.

(3) **"Child-placing agency"** means an agency that arranges for, or places a child in a foster family home, family-style living program, group home, adoptive home, or successful adulthood program, per 10A O.S. § 1-1-105.

(4) **"Client"** means any of the individuals listed in (a) of this Section, on whose behalf OCA maintains a grievance system.

(5) **"Complaint"** means a report communicating a grievance, concern, or perceived harm, submitted by phone, email, or in writing by the foster parent or child being served by CWS to the Oklahoma Commission on Children and Youth Office of Juvenile System Oversight (OJSO). If not submitted in writing, the complaint is entered into the written format established by OCA and OJSO.

(6) **"Contested grievance"** means a grievance that was not resolved at the local level (~~first and second levels~~), meaning the first and second levels, and at the request of the grievant or decision-maker, is submitted to a higher authority for response.

(7) **"Decision-maker"** means the person with authority to decide to accept a proposed resolution at each level of the grievance process set forth in OAC 340:2-3-45 through 340:2-3-55; typically, the client who filed the grievance or on whose behalf a grievance was filed. For clients unable to advocate for themselves, such as young children and persons with severe cognitive limitations, the decision-maker is a person who speaks on the client's behalf, depending on the circumstances and the nature of the decision.

(A) With regard to minors, the decision-maker includes, but is not ~~be~~ limited to, a parent, guardian, guardian ad litem, foster parent, or court-appointed legal custodian.

(B) With regard to adult DDS clients, the decision-maker may be a guardian or the client's personal support team.

(C) When the grievant is not the decision-maker, the local grievance coordinator (LGC) does not inform the grievant when the proposed resolution is issued or if it was accepted or rejected. The decision-maker may share this information with the person grieving on behalf of the client.

(8) **"Deputy director"** means a director of one of the five regional delivery areas designated by OKDHS CWS.

(9) **"District director"** means a director of a district within one of the regional delivery areas, designated by OKDHS CWS.

(10) **"Due date"** means the date a response or action is required, such as the date a respondent must respond to a grievance. When calculating the due date, the first day of the period computed is not included and only business days are included. When the last day of the period computed is a Saturday, Sunday, or legal holiday, the period runs until the end of the next business day.

(11) **"Email"** communication with OCA or with the advocate general means an email sent to the email address: oca.grievances@okdhs.org.

(12) **"Grievance"** means a problem or concern, including a complaint of unfair treatment, that an individual needs assistance in resolving.

(13) **"Grievant"** means a client or the person who files a grievance on behalf of a client.

(14) **"Local grievance coordinator"** or **"LGC"** means regarding:

(A) children who live in a residential facility, the individual designated by the facility as its grievance coordinator;

(B) DDS Greer clients, or the OCA advocate assigned to the facility;

(C) DDS clients who are pursuing a grievance with a provider of residential, vocational, or in-home supports, the individual designated by the provider as its grievance coordinator; and

(D) other DDS clients, the applicable DDS area manager, or the area manager's designee.

(15) **"OCA grievance liaison"** means the individual(s) designated by the advocate general to coordinate and monitor contested grievances and local grievance programs.

(16) **"Respondent"** means the person at each level in the grievance process, who has the responsibility for reviewing the grievance and proposing a resolution to resolve the grievance.

(c) **Grievances: general principles.**

(1) **General principles.** An unresolved problem, concern, complaint, or dispute is processed as a grievance. When a client verbally communicates a complaint to an OKDHS employee or a facility or provider employee that is not resolved, the client is informed of the right to have the problem or concern processed as a grievance. At the client's request, the OKDHS employee or a facility or provider employee prepares a written statement of the client's complaint or refers him or her to the local grievance coordinator for assistance.

(A) **Facility or provider grievances.** The subject of a facility grievance or a provider grievance includes:

(i) the substance or application of policy, rule, or regulation, written or unwritten, of a facility, agency, or provider that contracts with OKDHS or a child-placing agency; or

(ii) a decision, act, or omission of an employee, agent, or contractor of such a facility, agency, or provider, or any client residing in the same placement setting.

(B) **OKDHS grievances.** The subject of an OKDHS grievance includes:

(i) the substance or application of policy, rule, or regulation, of OKDHS or a child-placing agency;

(ii) a decision, act, or omission of an employee; and includes case managers, child welfare specialists, and county office employees; or

(iii) a facility grievance filed by a Greer resident.

(2) **Summary dispositions.** When a grievance is submitted and it falls into subparagraphs (A) through (K) of this paragraph, when appropriate, the LGC contacts the client to provide assistance to the client, as needed, in rewriting the grievance to state the problem(s) or concern(s) the client wants to grieve. When it is determined the client is asking to grieve a problem or concern covered by any of the categories in

(A) through (K) of this paragraph, the LGC informs the client why the grievance is not being processed, using Forms 15GR012E, Notice of Summary Disposition of Grievance – DHS County Offices; 15GR013E, Notice of Summary Disposition of Facility Grievance; 15GR014E, Notice of Summary Disposition of Grievance – Developmental Disabilities Services (DDS) Clients; 15GR015E, Notice of Summary Disposition of Developmental Disabilities Services (DDS) Provider Grievance; as applicable. Notices of Summary Disposition for an approved Foster Parent are located at OAC 340:2-3-50. The LGC writes the reason on the bottom of Form 15GR001P (paper version) or 15GR001E (electronic version), Grievance Form, and dates and signs the form. The grievance is logged on Form 15GR009E, Grievance Tracking Log. The form used to notify the grievant, with a copy of the grievance form, is sent within three-business days to the advocate general for review, and the original is filed in the grievance file. Within three-business days of receipt, the OCA grievance coordinator reviews the grievance. When the OCA grievance liaison determines the grievance was improperly given a summary disposition, the OCA grievance liaison informs the LGC who immediately processes the grievance. When the OCA grievance liaison concurs with the summary disposition, the OCA grievance liaison informs the LGC in writing. When the complaint was filed by, or on behalf of, a child being served by CWS, or by a foster parent, the client is informed the grievance is not being processed and the reason why, per OAC 340:2-3-47 and 340:2-3-50.

(A) **Untimely grievances.** A grievance not timely filed, per OAC 340:2-3-45(g), may be accepted and processed when good cause exists for the delay in filing the grievance. There are no time limits for filing grievances on behalf of individuals served by OKDHS DDS.

(B) **Discrimination based on race, color, national origin, sex, age, religion, or disability, unless authorized by law.** When a grievance alleges discrimination or other civil rights matters, the client is referred to the OKDHS Office for Civil Rights (OCR) and the LGC immediately forwards the grievance to the OKDHS OCR administrator and informs the grievant.

(C) **A moot problem.** A moot problem is one that was decided or settled, or one that has no practical resolution, such as a placement grievance with regard to a child who is no longer in OKDHS custody or a grievance with regard to an event that is now in the past, or when the dispute is unlikely to occur again with regard to this client.

(D) **Duplicate grievances.** A grievance that duplicates another pending grievance in the same grievance system by, or on behalf of the client involving the same incident or problem, is a duplicative grievance.

(E) **Requests that violate laws.** A grievance that requests an action that violates federal or state law.

(F) **Collateral complaint.** A collateral complaint does not involve a problem concerning the client who filed or on whose behalf the grievance was filed.

(G) **Remote grievances.** When the grievance requires action by an individual or an entity outside of OKDHS authority or control, such as a grievance about the action of a public school teacher, a guardian, or a physician in private practice. In these situations, the LGC assists the grievant with external grievance or complaint systems that may be available.

(H) **Pending proceedings.** When the grievance involves a matter that is the subject of a court or administrative hearing decision, pending civil, criminal, or administrative proceeding, or is the subject of a pending OCA, Office of Inspector General, or CWS investigation.

(I) **Investigation findings.** Investigation results regarding abuse, neglect, verbal abuse, caretaker misconduct, or exploitation ~~cannot~~ may not be grieved.

(J) **Fair hearing decisions.** The fair hearing results ~~cannot~~ may not be grieved.

(K) **Frivolous grievances.** A frivolous grievance does not state a substantive complaint or problem. Before declining a grievance of this nature, the LGC contacts the grievant to inquire if he or she needs assistance in submitting a substantive grievance.

(3) **Documenting exclusions.** When a grievance is submitted and it falls into an excluded category listed in (2) of this subsection, the LGC dates and signs Form 15GR001P as received, and notes on the form the reason he or she does not process it. The grievant is informed of the reason and decision. The grievance is logged on Form 15GR009E and is filed in the client's grievance file. The LGC sends copies of Form 15GR001P (paper version) or 15GR0014E (electronic version) and the applicable Notice of Summary Disposition to the advocate general or the advocate general's designee for review.

(4) **Who may file a grievance.** A grievance may be filed by any client listed in (a) of this Section. A grievance may also be filed on a client's behalf, by any person who knows the client and is interested in ~~his or her~~ the client's welfare including, but not limited to, a parent, guardian, relative, foster parent, court appointed special advocate, guardian ad litem, case manager, personal support team member, job coach, or others, including OKDHS and residential, in-home supports, and vocational provider employees.

(5) **Group grievances.** Grievants whose complaints address the same issue(s) may file a group grievance. At any time during the group grievance process, an individual grievant may withdraw. When separate grievances are filed by two or more grievants, regarding an identical complaint, the grievants' interests are identical, and the grievants do not object, a an LGC ~~can~~ may combine the grievances for processing as a group, provided this does not unduly delay the processing of a particular grievance. When multiple grievances are grouped for processing, the LGC informs each grievant. When a group grievance is filed, the LGC may ask the grievants to designate a spokesperson for the group in writing.

(6) **Grievances involving reportable incidents.** When a grievance alleges a reportable incident including, but not limited to, facts that may constitute abuse, neglect, exploitation, or caretaker misconduct, per OAC 340:2-3-2, the LGC immediately reports the allegation to the Centralized Abuse and Neglect Hotline for children or to the OCA intake for vulnerable adults. A grievance involving a reportable incident may be processed during a pending investigation provided the grievance does not interfere with the investigation and as needed, is held in abeyance pending the investigation's conclusion. When the grievance alleges additional facts that do not constitute abuse, neglect, exploitation, or caretaker misconduct, the grievance is processed as to those facts. The LGC contacts OCA and other law enforcement agencies investigating the matter to coordinate grievance processing.

(d) **Required provider and facility grievance policies.** Every provider and facility providing services to a client living in Oklahoma, is required to operate a system for grievance resolution by clients, using policies and procedures meeting the requirements of this Part. This Section does not apply to foster parents.

(1) **LGC designation.**

(A) Every public and private facility and provider subject to, OAC 340:2-3-45 through 340:2-3-55, every OKDHS county office, and every DDS area office designates an employee to serve as LGC to carry out the responsibilities described in this Section. Facilities and providers inform the advocate general of the name, phone number, mailing and email addresses of its LGC, and of changes to the information within 30-calendar days of the effective date of a change on Form 15GR021E, Designation of Local Grievance Coordinator-Facilities and Provider Agencies, and submit it to OCA. The OCA advocate assigned to Greer serves as the LGC for Greer. The LGC duties include:

- (i) implementing grievance policies and procedures;
- (ii) maintaining knowledge of and experience with the programs and functions of the facility, provider, county office, or DDS area office;
- (iii) impartial and independent administration of the grievance system;
- (iv) reporting directly to the facility administrator with regard to the LGC grievance duties and functions;
- (v) completing the online OCA Grievance Course within 60-calendar days of LGC designation, and annually thereafter;
- (vi) meeting the two-business day deadline on client requests regarding how to file a grievance; and
- (vii) being accessible and available to meet with grievants in person.

(B) Each facility, provider, OKDHS county office, and DDS area office subject to this Part displays, in a conspicuous place readily accessible to clients, a poster notifying clients of the grievance system and the name of its LGC, using the appropriate form. ■ 5

(2) **Advocate general review of grievance programs.** The grievance system operated by each facility and provider, per OAC 340:2-3-45 through 340:2-3-55, is subject to advocate general approval. Each provider and facility is required to submit its grievance policies, procedures, forms, and adopted revisions, with proof that the policies or revisions were approved by the applicable approving authority, typically the facility's board of directors, to the advocate general. Revised policies are submitted to the advocate general for approval within 30-calendar days of the provider or facility adopting the revised policy.

(3) **Notifying clients of their grievance rights.** Each client covered by these grievance policies is notified of ~~his or her~~ the client's grievance rights, using the applicable form. ■ 6 Notice is also provided to the guardian, when applicable. Hissom Class Members are provided notice, per OAC 340:2-3-52. Each provider or facility provides the required notice annually. Providers are also encouraged to provide a simplified version of their grievance policies using language appropriate to the clients' age level and cognitive functioning.

(4) **Monitoring and evaluation.** OCA ensures the quality of grievance systems by establishing minimum standards and a monitoring program. The advocate general

and OCA staff have immediate and unlimited access to clients, staff, facility files, records, and documents relating to grievance procedures and practices.

(5) **Reporting deficiencies.** An LGC, who becomes aware of a deficiency in a grievance system including a failure to follow or implement the grievance policy, must report it to the advocate general.

(6) **Advocate general deficiency report.** When the advocate general determines a deficiency exists in a facility's or agency provider's grievance system, the advocate general sends a deficiency report to the administrator and, when applicable, the State Office administrator.

(7) **Advocate general grievance.** The advocate general may, on behalf of any or all clients served by the grievance policy in this Section, originate a grievance. An advocate general grievance is filed with the provider or facility administrator or with the State Office administrator and is processed as a contested grievance.

(8) **Advocate general report.**

(A) The advocate general may initiate an inquiry on behalf of any client served by the grievance policy in this Section regarding:

(i) any aspect of client care that affects the quality of the client's life;

(ii) the substance, application, or interpretation of a policy or rule, of a facility or agency that contracts with OKDHS or of a placement provider; or

(iii) any decision, behavior, or action of an employee, agent, or OKDHS contractor, or of any client residing in the same placement setting.

(B) The person to whom the advocate general inquiry is addressed has seven-business days to respond in writing to the advocate general.

(C) The advocate general issues a report that sets forth the inquiry subject matter, pertinent facts, and recommendations. An advocate general report is submitted to the provider or facility administrator, when applicable, and the State Office administrator. A copy is submitted to the OKDHS Director.

(e) **The grievance form.** A grievant files a grievance by obtaining Form 15GR001P, from the LGC, filling it out, and returning it to the LGC, or to the facility or to OKDHS staff, who immediately transmits it to the LGC. A grievance may also be filed using electronic Form 15GR001E at <http://www.okdhs.org>. The grievant submits the completed form to the OCA grievance unit at [oca.grievances@okdhs.org](mailto:oca.grievances@okdhs.org). Within one-business day of receipt of the grievance, OCA staff assigns a grievance number, sends it to the assigned LGC, and contacts the grievant. Approved kinship or foster parents and children being served by CWS contact OJSO to initiate a grievance. ■ 1

(f) **Retaliation prohibited.** A person filing a grievance may not be retaliated or discriminated against or harassed in reprisal for filing a grievance, seeking advice, or inquiring about filing a grievance. Clients are encouraged to use available grievance systems and are not discouraged from filing a grievance. Allegations of retaliation, discrimination, or harassment made by foster parents are forwarded to the foster care ombudsman or designee. All allegations, made by other clients, of retaliation, discrimination, and harassment for filing a grievance, seeking advice, or inquiry about filing a grievance are reported to the OCA grievance unit and may result in an OCA investigation or an advocate general inquiry or grievance.

(g) **Grievance time limits.** Except for DDS clients, foster parents, and children being served by CWS, in order to be processed for action and resolution, a grievance must be

filed within 15-business days of the date of the incident, decision, act, or omission complained about in the grievance, or within 15-business days of the date the grievant becomes aware of, or with reasonable effort, should have become aware of a grievable issue. The LGC may extend the time limit for filing a grievance. Time limits for filing grievances for children being served by CWS and foster parent are found in OAC 340:2-3-47 and 340:2-3-50 respectively.

(1) Filing and other time requirements contained in this Section are counted in OKDHS-business days unless otherwise specified. In computing any time requirement, the day of the incident, decision, act, or omission at issue is not included. The next calendar day is the first day of the time requirement.

(2) When the LGC or a respondent fails to meet grievance processing time requirements without obtaining an extension, the LGC processes the grievance to the next step within three business days of the grievant's request.

(3) Responses, notices, and other documents issued during the grievance process are delivered to the grievant in person or by mail at the grievant's last known address. A grievance is considered administratively resolved when a correctly addressed letter with proper postage is sent to the last known address of the grievant, and is returned undeliverable with no forwarding address.

(4) There is no time limit on allegations of abuse, neglect, verbal abuse, exploitation, or caretaker misconduct. When a grievance, timely or untimely, consists of such an allegation, the OCA Intake Unit or the Abuse and Neglect Hotline is immediately notified per OAC 340:2-3-33.

(5) There are no time limits for grievances filed on behalf of individuals clients served by OKDHS DDS.

(h) **Grievance records, logs, and quarterly reports.** The LGC maintains an accurate and complete record of each grievance filed, ~~as well as~~ and summary information about the number, nature, and outcome of all grievances. Grievance records are kept separate and apart from other client records and files. OKDHS grievance records and files are retained per federal and state laws governing record retention and destruction.

(1) Each LGC tracks grievances as they progress through the system and logs every OCA-numbered grievance form issued on Form 15GR009E. For grievances submitted by a client, Form 15GR009E includes the:

- (A) grievance number;
- (B) name of the grievant given the form;
- (C) date the form was submitted by the grievant;
- (D) nature and outcome of the grievance;
- (E) date of final resolution; and
- (F) level where it was resolved.

(2) When Form 15GR001P is provided to a client and not turned in, the facility tracks only the identification number copy of Form 15GR001P given to the client, the name of the client to whom the form was given, and the date it was given to the client. This information is tracked on Form 15GR009E.

(3) Each LGC submits a ~~quarterly~~ monthly grievance report, ~~Form 15GR010E, Quarterly Grievance Report, to the advocate general no later than the 21st day following the end of each calendar quarter~~ as directed by the administrator of the relevant OCA program. ~~Quarterly reports are submitted by mail, fax, or emailed to:~~

~~oca.grievances@okdhs.org. When grievance activity did not occur or was pending during a particular fiscal year quarter, the LGC indicates it on Form 15GR010E.~~

(4) When a grievance becomes moot at any point during the grievance, the LGC may stop the grievance process and declare the grievance, administratively resolved. The LGC informs the grievant, notes it on Forms 15GR001P or 15GR001E and 15GR009E, and sends a copy of Form 15GR001P or 15GR001E to OCA with the next quarterly grievance report.

(i) **Processing grievances.** After completing Form 15GR001P, the grievant submits the form directly to the LGC, ~~other~~ facility employee, lockbox, or OCA. When the grievant completes and submits Form 15GR001E, the OCA grievance unit submits the grievance directly to the assigned LGC within one-business day. Grievances of a child being served by CWS are processed, per OAC 340:2-3-47. Foster parent grievances are processed per OAC 340:2-3-50. When a facility employee or OKDHS employee, other than the LGC receives a grievance, the employee submits it directly to the LGC within one business day. ■ 2 & 3

(j) **Informal resolution of grievance.** When the LGC can promptly resolve the grievance to the grievant's satisfaction without further processing, the LGC fills out the bottom of Form 15GR001P or 15GR001E, signs it, and files it in the appropriate grievance file.

(k) **First level problem resolution.** Within three-business days of receipt of Form 15GR001P or 15GR001E, when the grievance is not resolved to the decision-maker's satisfaction, the LGC fills out Form 15GR002E, Local Grievance Coordinator (LGC) Worksheet.

(1) The LGC identifies who has the authority to provide the quickest and surest resolution to the problem at the lowest level in the organizational structure. For adults receiving services from DDS, the first level respondent may be the DDS case manager supervisor.

(2) The LGC completes the first box in the first level section on Form 15GR002E, attaches corresponding Form 15GR001P or 15GR001E, and other relevant documentation and information, and submits it to the first level respondent, by the most efficient means practicable, within three-business days of receipt of the grievance from the grievant.

(3) The first level respondent responds to the grievance within five-business days of receipt of Form 15GR002E by completing the second box in the first level section on Form 15GR002E. When the proposed resolution contains a promise of some future action, a target date is specified for full implementation of that future action. The grievant may contest the target date by proceeding to the second problem resolution level.

(4) The LGC monitors the timely response by the first level respondent. When a complete response is not timely received by the LGC, the LGC notes this on Form 15GR002E, and the grievance immediately proceeds to the second problem resolution level.

(5) Within three-business days of receipt of the first level response, the LGC or the LGC's designee contacts the decision-maker to inform the decision-maker of the proposed resolution, the right to take the grievance to the second problem resolution level, and determines if the decision-maker is satisfied with the proposed resolution. The first level respondent may meet with the decision-maker with or without the LGC



present. The LGC is responsible for informing the decision-maker that he or she has three-business days to accept or appeal the respondent's proposed resolution. When a decision is not communicated to the LGC within three-business days, the decision-maker is deemed to have accepted the proposed resolution.

(6) When the decision-maker is satisfied with the proposed resolution, the LGC indicates ~~his or her~~ acceptance on Form 15GR002E, notifies those responsible for grievance resolution, and places the form in the grievance file.

(7) When the proposed resolution has been accepted by the decision-maker, but involves a future target date, the LGC monitors compliance with the target date. If the LGC determines that the resolution was not achieved by the target date, the LGC immediately reopens the grievance and processes it for the second problem resolution level.

(8) When the decision-maker does not accept the proposed resolution and elects to take the grievance to the second problem resolution level, the LGC processes the grievance for the second problem resolution level per (l) of this Section.

**(l) Second level problem resolution.**

(1) When the grievance is not resolved at the first problem resolution level, the LGC processes it per this subsection within three-business days of the grievant requesting the second problem resolution level, per (k) of this Section.

(2) The LGC fills out the first box in the second level section on Form 15GR002E, ensures the corresponding Form 15GR001P (paper version) or 15GR001E (electronic version) and other relevant documents are attached, and immediately submits it to the second level respondent. For facilities and providers subject to these rules, the administrator or the administrator's designee is the second level respondent. For OKDHS grievances, the OKDHS district director or the DDS area manager, as applicable, is the second level respondent. However, when the district director was the first level respondent, then the second level respondent is the applicable deputy director or the deputy director's designee. When the provider administrator or DDS area manager is the first level respondent, the second level review is bypassed and processed as a contested grievance; per OAC 340:2-3-46.

(3) The administrator or the administrator's designee responds to the grievance within seven-business days of receipt of Form 15GR002E by completing the applicable box in the second level section. When the proposed resolution contains a promise of some future action, a target date is specified for full implementation of that future action.

(4) The second level respondent for a placement grievance regarding a specific foster child is the applicable deputy director or the deputy director's designee.

(5) The LGC monitors the timely response by the respondent. When a complete response is not timely received by the LGC, the LGC notes this on Form 15GR002E and the grievance immediately is processed as a contested grievance. A contested OKDHS grievance is processed, per OAC 340:2-3-46. Contested facility grievances are processed per (m) of this Section.

(6) Within three-business days of receipt of the second level response, the LGC or the LGC's designee contacts the decision-maker to inform him or her of the proposed resolution, the right to contest the response to the grievance, and determines if the decision-maker is satisfied with the proposed resolution. The LGC is responsible for informing the decision-maker that he or she has three-business days to accept or

appeal the respondent's proposed resolution. When no decision is communicated to the LGC within three-business days, the grievant is deemed to have accepted the proposed resolution.

(7) When the decision-maker is satisfied with the proposed resolution, the LGC documents the decision-maker's acceptance on Form 15GR002E, notifies those responsible for resolution of the grievance, and places Form 15GR002E in the grievance file.

(8) When the proposed resolution is accepted by the decision-maker, but involves a future target date, the LGC monitors compliance with the target date. When the LGC determines the resolution was not completed by the target date, the LGC immediately reopens the grievance and processes it as a contested grievance.

(9) When the decision-maker does not accept the proposed resolution and elects to contest the response, a contested OKDHS grievance is processed, per OAC 340:2-3-46. Contested facility or provider grievances are processed per (m) of this Section.

**(m) Contested facility or provider grievances.** When the decision-maker does not accept the proposed resolution or the target date of the second level proposed resolution, a facility or provider grievance is appealed to the chair of the board of directors of the facility or provider or an appeals committee designated by the board. This Section does not apply to grievances of Hissom Class Members or individuals who previously resided at NORCE or SORC after November 1, 2012.

(1) The LGC transmits a contested facility or provider grievance to the chair of the board of directors of the facility or provider, or an appeals committee designated by the board, within three-business days of notice that the decision-maker does not accept the proposed resolution and is contesting it.

(2) In reviewing the contested grievance, the board of directors, or appeals committee if applicable, is not required to conduct an evidentiary hearing or hear argument. In the event the board determines evidentiary hearing evidence would assist in resolving the grievance, the board has the option of conducting an informal hearing.

(3) Within 10-business days of receipt of a contested grievance, the chair of the board of directors or the appeals committee responds by submitting a written decision to the LGC.

(4) Within three-business days of receipt of the written decision of the chair of the board of directors or the appeals committee, the LGC informs the decision-maker of the decision and provides the decision-maker with a copy of the board's decision. This concludes the grievance process and the grievant's administrative remedies have been exhausted.

**(n) Fast track grievances.** When an OKDHS grievance is such that time is of the essence, with the advocate general's or ~~his or her~~ advocate general's designee's approval, a grievance ~~can~~ may be submitted directly to the OCA grievance liaison for processing as a contested grievance, per OAC 340:2-3-46. When a grievance involves a time-sensitive problem, the OCA grievance liaison may shorten the response time as circumstances warrant.

**(o) Communication with OCA.** Any notices, forms, or other information that facilities, providers, or OKDHS county offices are required to submit to OCA or to the advocate general are submitted by email at [oca.grievances@okdhs.org](mailto:oca.grievances@okdhs.org).

(p) **Grievance training required.** LGCs are required to take the OCA-approved grievance training within 60-calendar days of their appointments, and annually thereafter.

#### **INSTRUCTIONS TO STAFF 340:2-3-45**

**Revised ~~9-15-219-14-24~~**

- 1. Oklahoma Human Services (OKDHS) local grievance coordinators (LGC)s order Form 15GR001P, Grievance Form, from the OKDHS warehouse. Private provider and facility LGCs obtain copies of Form 15GR001P from the Office of Client Advocacy (OCA) by calling 1-405-522-2720 or ~~1-800-522-8014~~. Those who need assistance to complete a grievance may contact the OCA grievance unit. A grievance received on paper other than on Form 15GR001P, is attached to Form 15GR001P and filled out by the LGC for the grievant.**
- 2. Form 15GR001P is printed in duplicate sets with a yellow copy. The grievant submits the white copy and keeps the yellow copy.**
- ~~3. When someone other than the LGC receives a grievance, he or she submits it directly to the LGC within one-business day.~~**