

TITLE 89: SOCIAL SERVICES  
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES  
SUBCHAPTER f: GENERAL ADMINISTRATION

PART 434  
AUDITS, REVIEWS, AND INVESTIGATIONS

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22  
23 **AUTHORITY:** Implementing and authorized by Section 4 of the Children and Family Services Act [20 ILCS 505/4] and the Fiscal Control and Internal Auditing Act [30 ILCS 10/1002].

24  
25  
26 **SOURCE:** Adopted and codified at 5 Ill. Reg. 8634, effective September 1, 1981; amended at 8 Ill. Reg. 133, effective December 30, 1983; amended at 18 Ill. Reg. 6697, effective May 1, 1994; emergency amendment at 18 Ill. Reg. 8944, effective June 3, 1994, for a maximum of 150 days; emergency expired on October 31, 1994; amended at 19 Ill. Reg. 2760, effective February 27, 1995; amended at 21 Ill. Reg. 15469, effective December 15, 1997; amended at 26 Ill. Reg. 3021, effective February 15, 2002; amended at 27 Ill. Reg. 7971, effective April 30, 2003; amended at 29 Ill. Reg. 8732, effective June 8, 2005; amended at 31 Ill. Reg. 7625, effective May 31, 2007; amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

34  
35 **Section 434.2 Definitions**

36  
37 "Audit/Review" means an examination of financial transactions, accounts and reports, and an evaluation of internal controls or an evaluation of compliance with applicable laws and regulations. An audit/review may also include an examination of efficiency and economy in the use of resources (such as personnel, property, space), or an examination to determine whether desired results are effectively achieved.

44 "Certified Audits" means the entity's annual financial and compliance report that  
45 has been examined by an Independent Licensed Certified Public Accountant.

46  
47 "Cost Report" means a report of all costs incurred and revenue earned by a  
48 provider that are directly associated with services purchased by the Department  
49 for its clients.

50  
51 "Department" or "DCFS" means the Illinois Department of Children and Family  
52 Services.

53  
54 "Desk Review", as used in this Part, means a review by the Department's Office  
55 of Financial Review~~Field Audits~~ of certified public audits and cost reports  
56 submitted by the provider agency.

57  
58 "Field Auditor" is a Department employee whose responsibilities include  
59 conducting audits of contracted purchase of service providers to confirm their  
60 compliance with applicable laws and regulations, and to make recommendations  
61 to the Director regarding the results of those audits.

62  
63 "Follow-up Review" means a viewing of past occurrences or contemplation or  
64 consideration of past events, circumstances, or facts.

65  
66 "Investigation" means an examination of employee conduct, security systems, and  
67 contractor conduct to assure compliance with State, federal and Departmental  
68 rules and regulations. A Department investigation is not intended to focus on  
69 criminality or prepare cases for prosecution, but rather to obtain sufficient  
70 documentation to assure the Director of the appropriateness of Department and  
71 service provider employee conduct and the safeguarding of Department assets.

72  
73 "Limited Review" means an examination of financial transactions, accounts and  
74 reports, an evaluation of internal controls, or an evaluation of compliance with  
75 applicable laws and regulations that is limited in scope to examine only certain  
76 areas. (Although this is not a full scope audit, it may include an examination of  
77 efficiency and economy in the use of resources (such as personnel, property,  
78 space) and an examination to determine whether desired results are effectively  
79 achieved.)

80  
81 "Preliminary Review" means a limited review of financial transactions, accounts,  
82 reports and internal controls and compliance with contract provisions to assess the  
83 full scope needed during an upcoming audit.

84  
85 "Related Party Transaction" means a financial transaction in which one party has  
86 the ability to influence the management or operating policies of the other party.

87 Disclosure of related party transactions should include the nature of the  
88 relationship, a description of the transactions, including dollar amounts, and  
89 amounts due to and from related parties.  
90

91 "Scope of the Audit or Investigation" means the activities and testing procedures  
92 that the auditor or investigator deems necessary to conduct an examination or  
93 investigation.  
94

95 (Source: Amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
96

97 **Section 434.3 Audit Standards to be Applied and Audit Procedures to be Followed for the**  
98 **Office of Financial Review – OFR~~Field Audits – OFA~~**  
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100 Compliance audits and/or reviews of entities shall be performed in accordance with the Fiscal  
101 Control and Internal Auditing Act [30 ILCS 10], 44 Ill. Adm. Code 7000, the Grant  
102 Accountability and Transparency Act [30 ILCS 708], 2 CFR. 200, and the Requirements for  
103 Single Audits (31 U.S.C. 75).~~The audits of entities shall be performed in accordance with the~~  
104 ~~Government Auditing Standards (United States General Accounting Office, 2002).~~  
105

106 (Source: Amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
107

108 **Section 434.4 Scope of the OFROFA Audit/Review or Investigation**  
109

110 a) The Department reserves the right to conduct audits/reviews, limited reviews,  
111 follow-up reviews and/or investigations of entities that contract with or are  
112 licensed by the Department. The Department may elect to designate qualified  
113 individuals to do this on its behalf when an independent (non-DCFS) audit is  
114 required by law or contract. Outside independent auditors will be used to conduct  
115 audits when ana grant award from an outside funding source requires an  
116 independent certified audit as a condition of the award grant. Audits/reviews and  
117 investigations shall encompass some or all of the following general objectives:  
118

- 119 1) an examination of financial transactions, accounts, and reports, including  
120 an evaluation of compliance with applicable laws and regulations and  
121 Department rules.  
122
- 123 2) an evaluation of whether the entity is maintaining effective control over  
124 revenues, expenditures, assets and liabilities.  
125
- 126 3) an examination to verify that financial and cost reports contain accurate  
127 and reliable financial and client service data, and are presented fairly.  
128
- 129 4) an examination to verify that related party transactions are properly

- 130 accounted for and disclosed appropriately.  
131  
132 5) an examination to verify that funds are used for their stated purpose as  
133 prescribed in the contract with the Department.  
134  
135 6) an examination to verify that costs and services were incurred, expended  
136 or provided as billed.  
137  
138 b) A preliminary review of entities may be conducted prior to the full audit. The  
139 purpose of the preliminary review is to define and limit the general objectives of  
140 the audit so that the audit can be conducted in an efficient manner. The  
141 preliminary review may encompass a selective review of financial transactions,  
142 accounts, reports, internal controls and compliance with contract provisions. At  
143 the conclusion of this review and based upon the results, the auditors may:  
144  
145 1) conduct a full scope audit that encompasses all of the general objectives.  
146 A full scope audit will be conducted when major internal control  
147 weaknesses or significant deviations from generally accepted accounting  
148 principles are observed during the preliminary review.  
149  
150 2) conduct a limited scope audit to include only the areas of observed  
151 weaknesses in the entity's recordkeeping or compliance with contracts. A  
152 limited scope audit will be conducted when weaknesses in internal  
153 controls are observed or minor deviations from generally accepted  
154 accounting principles are observed during the preliminary review.  
155  
156 3) cancel additional field work if no major areas of weaknesses are observed  
157 in the entity's recordkeeping or compliance with contracts.  
158  
159 c) In the event that a full or limited scope audit is not completed, a written report of  
160 the results of the preliminary review shall be prepared and distributed as specified  
161 in Section 434.5 of this Part.  
162  
163 d) Current employees of entities or licensees and/or clients of the Department will be  
164 interviewed as necessary in conjunction with audits/reviews, limited reviews, and  
165 investigations.  
166  
167 e) The scope of the [OFR's](#)~~OFA's~~ audit/review or investigation is not intended to  
168 identify fraud; but when fraud is suspected, the Department reserves the right to  
169 surrender all records pertaining to the audit/review or investigation to the  
170 appropriate law enforcement body without notice to the entity with whom the  
171 Department has the contracts.  
172

- 173 f) Follow-up reviews may be conducted when entities have had major internal  
 174 control weaknesses identified in the final audit report. Major internal control  
 175 weaknesses include, but are not limited to, the following:  
 176
- 177 1) lack of controls over cash accounts or petty cash controls,
  - 178 2) lack of control over fixed assets,
  - 179 3) noncompliance with recordkeeping contractual requirements,
  - 180 4) major deviations from generally accepted accounting principles in the  
 181 provider's financial reporting and recordkeeping practices,  
 182
  - 183 5) major deviations from federal or State law or Department rules and  
 184 procedures,  
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186 (Source: Amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
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 188

189 **Section 434.5 Reports of ~~OFROFA~~ Auditors**  
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- 191
- 192 a) All entities that undergo a Department audit, review or investigation shall be  
 193 provided a draft copy and a final copy of the report.  
 194
  - 195 b) The audited entity shall be provided with a draft copy of the audit or review  
 196 within 30 business days after the fieldwork is completed. Fieldwork may include  
 197 additional work after the "onsite" work has been completed. At that time, the  
 198 entity will be requested to provide written comments on the findings and  
 199 recommendations corresponding to each issue. The draft copy will be distributed  
 200 to the appropriate officials of the Department and the audited entity.  
 201
  - 202 c) The draft report shall present findings and detailed supporting information to the  
 203 extent necessary to clarify the findings. Where possible, the report shall contain  
 204 the auditor's recommendations to effect improvements in problem areas noted in  
 205 the audit and to otherwise make improvements in operations.  
 206
  - 207 d) Upon receipt of the draft report, the entity may submit a response to the findings  
 208 and recommendations. The response must be submitted to the Office of [Financial](#)  
 209 [Review](#)~~Field Audits~~ within 30 business days after the date of receipt of the draft  
 210 report.  
 211
  - 212 e) A final report shall be issued within 30 business days after the date of the draft  
 213 report unless the entity requests an exit conference or an administrative hearing of  
 214 the audit findings per Sections 434.6 and 434.10 of this Part.  
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(Source: Amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 434.6 Exit Conferences**

All entities that undergo a Department audit, review or investigation shall be given the opportunity for an exit conference and an administrative hearing of the Department's findings and recommendations. The requirements for requesting a review of the findings and recommendations are as follows:

- a) After receipt of the draft report or desk review report, the entity may request an exit conference. The request for an exit conference must be received within 15 business days after receipt of the draft report or desk review report. The request must be sent to the Department's Office of [Financial Review](#)~~Field Audits~~ and must explain which findings and recommendations the entity does not understand or does not agree with.
  - 1) The exit conference shall be scheduled within 15 business days after the request and shall be a general discussion between the agency representatives and the auditors who performed the fieldwork or desk review. Proposed responses to the draft report or desk review may be presented at the time of the discussion.
  - 2) When an exit conference is held, the final report shall contain a brief narrative regarding the date that the conference was held; the names of the persons attending; the topics discussed; and any mutually agreed changes to the draft or report that were decided upon during the exit conference.
- b) If the entity disagrees with the audit findings, it may request an administrative hearing regarding the findings and recommendations. A request for an administrative hearing must be received in writing within 15 business days after the conclusion of the exit conference and shall be directed to the administrator of the Administrative Hearings Unit with a copy forwarded to the Office of [Financial Review](#)~~Field Audits~~. A request for an administrative hearing must be accompanied by supporting documents or factual matter that refutes or modifies the Department's draft findings.

(Source: Amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 434.7 Certified Audits, Cost Reports and Desk Reviews**

- a) The Department's requirements for providers include the annual filing of a cost report in accordance with 89 Ill. Adm. Code 356 (Rate Setting) and an audit

- 259 report in accordance with 89 Ill. Adm. Code 357 (Purchase of Service) and 360  
260 (Grants-in-Aid).  
261
- 262 b) The certified audit reports are reviewed by the Office of Financial Review~~Field~~  
263 ~~Audits~~ and the cost reports are reviewed by the Rate Setting Unit and, when  
264 appropriate, a report on the certified audit or cost reports will be issued to  
265 Department officials who are responsible for the contracts. The general objectives  
266 of the desk review and report shall determine whether:  
267
- 268 1) financial and service unit information is appropriately presented and is  
269 consistent with the generally accepted accounting principles;  
270
  - 271 2) costs incurred in operating the contracted service are not less than the  
272 revenues received directly for the program;  
273
  - 274 3) related party transactions are appropriately recorded and disclosed;  
275
  - 276 4) significant accounting practices and other information that require  
277 disclosure (as described by generally accepted accounting principles) are  
278 disclosed appropriately; and  
279
  - 280 5) funds were used in accordance with Department policy and whether the  
281 entity has received monies in excess of actual reimbursable costs.  
282
- 283 c) The Office of Financial Review~~Field~~ ~~Audits~~ is responsible for answering all  
284 questions regarding the preparation of a certified audit. If the Department has not  
285 received the certified audit by the deadline of 180 calendar days after the  
286 completion of the entity's fiscal year, the Department will notify the entity of the  
287 delinquency and send a copy of the notice to the Department's Contracts and  
288 Grants unit and regional administrative staff.  
289
- 290 d) All certified audit reports are logged in upon receipt by the Office of Financial  
291 Review~~Field~~ ~~Audits~~ and a check-in list is prepared for each audit received. If the  
292 audit does not contain adequate information, the Office of Financial Review~~Field~~  
293 ~~Audits~~ will send a letter to the entity to request additional information. If the  
294 certified audit does not meet the standards set out in 89 Ill. Adm. Code 357.120  
295 (Purchase of Service Fiscal Reports and Records), the entity will be given 10  
296 business days to submit omitted items or 30 business days to submit a new  
297 certified audit.  
298
- 299 e) The Office of Financial Review~~Field~~ ~~Audits~~ will prepare a desk review report that  
300 will highlight any deficiencies that are found in the audit and will contain specific  
301 recommendations for procedural changes in the preparation of certified audits.



- 302 The completed desk review report will be sent directly to the entity, with a copy  
303 to appropriate Department regional staff.  
304
- 305 f) Department regional staff are responsible for reviewing the recommendations  
306 contained in the desk review report and providing assistance as necessary to the  
307 entity in follow-up on the recommendations made. The desk review report may  
308 contain recommendations for contract or budget revisions that must be acted upon  
309 by the regional staff.  
310
- 311 g) The desk review report may contain recommendations that require an additional  
312 response from the entity before the certified audit is accepted. The entity's  
313 response and concurrence with the recommendations of the desk review report  
314 will close the desk review process.  
315
- 316 h) Effective with cost reports received for contract periods ending after July 1,  
317 ~~2023~~2003, excess revenue calculations shall be based on the information reported  
318 in the Cost Report [as defined in 89 Ill. Adm. Code 356.20 \(Definitions\)](#) or other  
319 suitable financial report accepted by the Department. The certified independent  
320 audit report may be used to develop excess revenue calculations if sufficient detail  
321 exists within the report to support the excess revenue calculations, and an accurate  
322 cost report or other suitable financial report is not available.  
323
- 324 1) Programs Subject to Excess Revenue Determination:  
325 The Department shall determine individual program excess revenues  
326 attributable to Department funding for contracted provider agency 24-hour  
327 substitute care programs. Examples of provider agency programs include,  
328 but are not limited to:  
329
- 330 A) childcare institutions;  
331  
332 B) shelter care;  
333  
334 C) group homes;  
335  
336 D) independent living;  
337  
338 E) community integrated living arrangements;  
339  
340 F) agency foster care; and  
341  
342 G) other programs or contracted agencies, as determined by the  
343 Director or his/her designee.  
344



- 345 2) Excess Revenue Calculation~~Determination Procedure~~
- 346
- 347 A) The Department determines excess revenue for every individual
- 348 Program reported separately on the Cost Report. Excess revenue is
- 349 the amount of Child Welfare Contributing Agency (contributing
- 350 agency)~~purchase of service~~ fees and governmental grant funding
- 351 that exceeds Total~~total audited~~ costs, ~~less:~~
- 352
- 353 B) Total Cost is the amount of total reimbursable cost on the Cost
- 354 Report
- 355
- 356 C) Total Costs do not include:
- 357
- 358 i) disallowable costs as listed in 89 Ill. Adm. Code 356.60
- 359 (Disallowable Cost and Reduced Reimbursement); or
- 360
- 361 ~~ii) fringe benefit costs, as defined in 89 Ill. Adm. Code 356.20~~
- 362 ~~(Definitions), that exceed 25% of salaries and wages; and~~
- 363
- 364 ~~iii) administrative costs that exceed 20% of all other allowable~~
- 365 ~~costs.~~
- 366
- 367 DB) For excess revenue determinations, profit is considered as an
- 368 allowable cost to the extent permitted in 89 Ill. Adm. Code 356
- 369 (Rate Setting).
- 370
- 371 EC) Excess revenue attributable to Department funding is the amount of
- 372 program excess revenues times Departmental revenue divided by
- 373 all program Child Welfare Contributing Agency (contributing
- 374 agency)~~purchase of service~~ fees and government non-restricted
- 375 grants.
- 376
- 377 3) Excess Revenue Amounts that May Be Retained
- 378
- 379 A) In each fiscal year, provider agencies may retain an amount of
- 380 program excess revenues attributable to substitute care programs
- 381 reimbursed through payments made according to standard
- 382 reimbursement levels or through individual historical cost-
- 383 based~~cost based~~ program rates calculated consistent with the
- 384 process and standards defined in 89 Ill. Adm. Code 356, provided
- 385 that:
- 386
- 387 i) for programs with a licensed capacity, the total utilization is

- 388 between 85% and 95% of the licensed or approved program  
389 capacity;  
390  
391 ii) for all programs receiving an enhancement, the provider  
392 agency demonstrates that the intended funding of the  
393 enhancement has been met without supplanting other  
394 contracted services or costs; and  
395  
396 iii) the provider agency demonstrates that program staffing  
397 level meets the minimum requirements defined in the  
398 contract program plan and licensing standards where  
399 applicable.  
400  
401 B) The amount retained may not exceed the DCFS portion of 7% of  
402 the program reimbursable costs less the DCFS portion of excess  
403 administrative costs. Programs reimbursed through rates  
404 containing an enhancement add-on (~~see~~ 89 Ill. Adm. Code 356.80)  
405 are not eligible to retain excess revenue amounts in the year in  
406 which the enhancement was ~~awarded~~ granted.  
407  
408 C) All DCFS identified program excess revenue amounts retained by  
409 the provider agency must be invested in direct service (non-  
410 administrative) activities in programs funded by the Department.  
411 Provider agencies unable to demonstrate that retained program  
412 excess revenue amounts have been invested consistent with the  
413 provisions of this subsection (h)(3) will be subject to forfeiture of  
414 the retained funds.  
415  
416 4) Amounts Returned to the Department  
417 Amounts to be returned to the Department must be received within 60  
418 days after the date the excess revenue amount has been finalized and  
419 notification is mailed to the provider agency's director or his/her designee  
420 or after a payment plan has been approved.  
421  
422 5) Program Excess Revenue Offsets  
423 Program excess revenue may not be offset against other program deficits  
424 occurring in the year reviewed, or any other year, without the approval of  
425 the Director or his/her designee.  
426

427 (Source: Amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
428

429 **Section 434.9 Responsibilities of the Office of Financial Review~~Field Audits~~**  
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431 The Department of Children and Family Services is mandated by the Fiscal Control and Internal  
432 Auditing Act [30 ILCS 10] to monitor, report on, and enforce Department compliance with  
433 federal and State statutes, Department rules, policy, and management directives, as well as to  
434 ensure the integrity of Department assets through the review and monitoring of internal  
435 accounting controls. The Associate Deputy Director reports and is directly responsible to the  
436 Deputy Director of the Budget and Finance~~Purchase of Service Monitoring~~ Division. In order to  
437 fulfill their duties, the Department's Office of Financial Review~~Field Audits~~ regularly undertakes  
438 audits and annual Desk Reviews of Child Welfare Contributing Agency~~purchase of service~~  
439 providers and other entities that have contracts with or are licensed by the Department in order to  
440 assess their compliance with contracts, federal and State rules and regulations.

441

442 (Source: Amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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444 **Section 434.10 Administrative Hearings of Draft Audit Findings and Recommendations**

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446 a) When a request for an administrative hearing is received, the administrator of the  
447 Administrative Hearings Unit may grant a request for a hearing only when:

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449 1) the written request for an administrative hearing is received by the  
450 Department within the 15 business days following the conclusion of the  
451 exit conference;

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453 2) the request is accompanied by supporting documents or factual matters  
454 which refute or modify the Department's draft finding; and

455

456 3) the issue is ~~an audit issue encompassed~~ within the jurisdiction of the  
457 Administrative Hearings Unit.

458

459 b) The administrator of the Administrative Hearings Unit shall dismiss a request for  
460 an administrative hearing only when:

461

462 1) The appeal has been withdrawn in writing;

463

464 2) The appeal has been abandoned. Abandonments shall be deemed to have  
465 occurred if the appellant, the appellant's authorized representative, or an  
466 individual legally authorized to act on behalf of the appellant fails to  
467 appear at the hearing and the appellant~~appellent~~ does not have an adequate  
468 cause for failing to appear. Adequate cause for failing to appear at an  
469 administrative hearing may include but is not limited to:

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471 A) death in the family of the appellant or in the family of the  
472 appellant's representative;

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- B) serious illness of the appellant or the appellant's representative or serious illness in either person's immediate family;
  - C) transportation difficulties that make it impossible for the appellant or representative to appear at the hearing; or
  - D) failure of the Department to give notice of the hearing to the appellant or representative at the last known address available to the Department. However, it is the appellant's responsibility to keep the Department updated on any change of address;
- 3) the issue is not within the jurisdiction of the appeal system;
- 4) the request for an administrative hearing was not received within 15 calendar days following the conclusion of the exit conference;
- 5) the appellant failed to notify the administrator of the Administrative Hearings Unit of a change of address, and a notice of the administrative hearing cannot be delivered.
- c) The Department shall provide written notice of the decision to grant or deny the request for an administrative hearing within 20 calendar days after receipt of the request for an administrative hearing. If the administrator of the Administrative Hearings Unit finds that the issue is not appealable under this Part, but can be appropriately heard through another appeal process, in accordance with 89 Ill. Adm. Code 435 (Administrative Appeals and Hearings), the Department shall forward the appeal to the proper hearing authority and notify the appellant of this action.
- d) The administrator of the Administrative Hearings Unit shall:
- 1) schedule the hearing at a date within 30 calendar days after the date of the appellant's written request for hearing;
  - 2) ensure that the administrative hearing is scheduled at a time and place reasonably convenient for all parties. If the parties cannot agree to a reasonably convenient time and place, the administrator shall make this determination and proceed to schedule the hearing;
  - 3) provide a written notice to the appellant at least 15 calendar days before the scheduled hearing, which shall contain the following information:
    - A) the date, time and location of the hearing;

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- B) a statement that the appellant or appellant's representative's failure to appear at the hearing without adequate cause may be deemed an abandonment of the request, thus constituting a waiver by the appellant of the right to a hearing; and
  - C) a statement of the parties' rights during the appeal process.
- e) An appellant may bring a representative, including legal counsel, to the hearing. Expenses of a representative or of an appellant's witnesses shall be paid by the appellant.
  - f) An appellant may request the Department employee who had direct involvement in the audit, or other persons who may have information relevant to the issues in dispute, to attend the hearing by asking the administrator of the Administrative Hearings Unit to issue appropriate subpoenas. Witness fees and travel expenses for persons other than Department employees are the responsibility of the party requesting the subpoena.
  - g) Any motions from the appellant or the Department shall be filed with the administrative law judge at least 10 calendar days before the hearing. Copies shall be provided simultaneously to the Department's representative and the appellant.
  - h) At the appellant's request, the Department shall provide an interpreter at no cost to the appellant if English is not the appellant's primary language or a sign interpreter if the appellant is hearing impaired.
  - i) Both the appellant and the Department have the right to examine and copy documents and other information to be used by either party and to receive a list of ~~witnessess~~ witnesses to be called by either party at the hearing by requesting them at least 10 calendar days before the hearing. If a party fails to disclose evidence and then seeks to introduce it at the hearing, the administrative law judge shall consider the surprise or prejudice to the other parties, including prior disclosure during the audit process. The administrative law judge's authority includes adjourning or continuing the hearing to a later time or date to permit the other parties to examine the evidence and prepare their cases accordingly.
  - j) During the administrative hearing, the appellant and the Department have the right to:
    - 1) present and question witnesses;

- 560 2) present any information relevant to the issues;  
561  
562 3) question or disprove any information, including an opportunity to question  
563 opposing witnesses; and  
564  
565 4) dispose of any disputed issue by mutually agreeing to a resolution any  
566 time prior to the conclusion of the administrative hearing.  
567
- 568 k) In an administrative hearing concerning audit findings:  
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570 1) the Department carries the burden of proof by preponderance of the  
571 evidence; and  
572  
573 2) the administrative law judge has the authority to recommend changes in  
574 the audit findings record.  
575
- 576 l) Appointment of the Administrative Law ~~Judge~~judge  
577 The administrator of the Administrative Hearings Unit shall select, and the  
578 Director shall appoint a trained impartial administrative law judge from the  
579 available pool to conduct the appeal hearing. The administrative law judge shall:  
580  
581 1) be an attorney licensed to practice law in the State of Illinois;  
582  
583 2) possess knowledge and information acquired through training and/or  
584 experience relevant to the field of child and family welfare law including  
585 familiarity with Department rules, procedures and functions;  
586  
587 3) not have been involved in the decision to take the action being appealed or  
588 have rendered legal advice to the decision maker on the issue; and  
589  
590 4) not have a personal or professional interest which interferes with  
591 exercising objectivity or have any bias against the parties or issues  
592 appealed. An adverse ruling, in and of itself, shall not constitute bias or  
593 conflict of interest.  
594
- 595 m) Functions of the Administrative Law Judge  
596 The administrative law judge shall have all authority allowed under the Illinois  
597 Administrative Procedure Act (Ill. Rev. Stat. 1991, ch. 127, par. 1001-1 et seq.) [5  
598 ILCS 100]. This authority shall include, but is not limited to, the following:  
599  
600 1) conduct a fair, impartial and formal hearing in which the strict rules of  
601 evidence do not apply;  
602

- 603 2) provide for the recording of the hearing;  
604  
605 3) inform participants of their individual rights and their responsibilities;  
606  
607 4) conduct preliminary and prehearing telephone conferences, if necessary,  
608 between the parties and/or their attorneys to provide information about the  
609 procedural aspects of the hearing, narrow the issues and discuss possible  
610 stipulations and contested points of law in order to expedite the actual  
611 hearing;  
612  
613 5) take necessary steps to develop a full and fair record which contains all  
614 relevant facts;  
615  
616 6) administer an oath or an affirmation to all witnesses;  
617  
618 7) quash or modify subpoenas for good cause, including but not limited to  
619 relevance, scope, materiality and emotional harm or trauma to the  
620 subpoenaed witness;  
621  
622 8) preserve all documents and evidence for the record;  
623  
624 9) rule upon evidentiary issues and contested issues of law at the hearing or  
625 take matters under advisement pending issuance of the written opinion and  
626 recommendation;  
627  
628 10) order the removal of any person from the hearing room who is creating a  
629 disturbance whether by physical action, profanity or otherwise engaging in  
630 conduct which disrupts the hearing;  
631  
632 11) identify the issues, consider all relevant facts and receive or request any  
633 additional information necessary to decide the matter in dispute, including  
634 but not limited to the submission of briefs, memoranda of law, affidavits  
635 or post hearing briefs; and  
636  
637 12) present a written opinion and recommendation to the Director within 30  
638 calendar days after the record of the administrative hearing is completed  
639 or transcript is received. The opinion shall contain a summary of the  
640 evidence, findings of fact, conclusions of law and a recommendation.  
641  
642 n) Combined Hearings  
643 When a common issue is raised, the Department may respond to requests for  
644 hearings from more than one appellant by conducting a single group hearing. The  
645 Department may also combine all issues raised by a single petitioner in one



646 hearing. In all group ~~hearings~~hearing, the appeal system in this Part shall apply.  
647 Individuals shall be permitted to present their own cases separately. The  
648 Department, if required for the fair, efficient administration of the hearing or to  
649 prevent possible prejudice to the appellant, may sever any party or any issue from  
650 the combined hearing. The severed party or issue shall be heard separately.

651  
652 o) Making the Final Administrative Decision  
653 The Director of the Department shall receive the recommended decision from the  
654 administrative law judge and shall agree, disagree, or modify the recommended  
655 decision. The Director's decision is the final administrative decision of the  
656 Department and shall be based upon good business practices and generally  
657 accepted accounting principles. If the decision requires corrective action by the  
658 Department, the Director shall appoint a Department staff person who shall be  
659 responsible for assuring compliance with the decision and within the timeframes  
660 prescribed within the decision.

661  
662 p) Notice of the Availability of Judicial Review  
663 The Department shall include a notice to appellants as part of the final  
664 administrative decision. This notice shall include the name of the person  
665 responsible for compliance, if applicable, and shall advise the appellants that  
666 under the provisions of the ~~Code of Civil Procedure~~Administrative Review Law  
667 (Ill. Rev. Stat. 1991, ch. 110, par. 3-101 et seq.) [735 ILCS 5/Art. 3] that they may  
668 seek judicial review of the Department's decisions if it is unfavorable to them,  
669 within the statutory time frame.

670  
671 q) Who Receives Copies of the Final Administrative Decision  
672 The appellant or authorized representative, the Department's representative, the  
673 administrative law judge, and the administrator of the Administrative Hearings  
674 Unit shall receive a copy of the final administrative decision.

675  
676 r) Records of Administrative Hearings  
677 The permanent record of the administrative hearing and the final administrative  
678 decision shall be maintained by the administrator of the Administrative Hearings  
679 Unit. All hearing decisions shall be available for public inspection during regular  
680 business hours. However, confidential information shall be deleted in  
681 conformance with 89 Ill. Adm. Code 431 (Confidentiality of Personal Information  
682 of Persons Served by the Department) and federal or State laws and regulations  
683 on confidentiality.

684  
685 (Source: Amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)