TO: ALL OFFICES

SUBJECT: MANUAL MATERIAL

OAC 340:2, Table of Contents; 340:2-3, Table of Contents; 2-3-1 through 2-3-2; 2-3-45 through 2-3-48; 2-3-50 through 2-3-51; 2-3-54; 2-3-64; and 2-3-71 through 2-3-75.

EXPLANATION: Policy revisions were approved by the Commission and the Governor as required by the Administrative Procedures Act.

OAC 340:2-3-1 is revised to update language to current terminology.

OAC 340:2-3-2 is revised to define "maltreatment."

OAC 340:2-3-45 is revised to: (1) add clarifying language pertaining to the actions of the local grievance coordinator (LGC) when the grievance decisionmaker elects to accept or reject the proposed resolution; (2) require LGCs to be accessible to clients and have a primary work station in the State of Oklahoma; (3) update language to current terminology; and (4) add clarifying language.

OAC 340:2-3-64 is revised to: (1) allow grievants five days to submit additional evidence to the Grievance Abuse Review Committee (GARC) after requesting review of a grievance; (2) update language to current terminology; (3) add clarifying language; and (4) require the OCA grievance liaison to prepare a GARC review summary for all grievances under review.

OAC 340:2-3-71 is revised to: (1) eliminate the OCA on-call system which duplicates the efforts of other on-call systems; (2) update
case names and numbers; (3) update language to current terminology; (4) add clarifying language; and (5) remove internal procedures from the rule.

OAC 340:2-3-74 is revised to: (1) update case names and numbers; (2) update language to current terminology; (3) add clarifying language; (4) remove the requirement that advocates attend Behavior Review Committee and Human Rights Committee meetings; and (5) increase number of advocate visits with their clients.

Original signed on 5-19-09
Mark Lawton Jones, Advocate General
Office of Client Advocacy

Sandra Harrison, Coordinator
Office of Legislative Relations and Policy

WF # 09-03 (NAP)
INSTRUCTIONS FOR FILING MANUAL MATERIAL

OAC is the acronym for Oklahoma Administrative Code. If OAC appears before a number on an Appendix or before a Section in text, it means the Appendix or text contains rules or administrative law. Lengthy internal policies and procedures have the same Chapter number as the OAC Chapter to which they pertain following an "OKDHS" number, such as personnel policy at OKDHS:2-1 and personnel rules at OAC 340:2-1. The "340" is the Title number that designates OKDHS as the rulemaking agency; the "2" specifies the Chapter number; and the "1" specifies the Subchapter number.

The chronological order for filing manual material is: (1) OAC 340 by designated Chapter and Subchapter number; (2) if applicable, OKDHS numbered text for the designated Chapter and Subchapter; and (3) all OAC Appendices with the designated Chapter number. For example, the order for filing personnel policy is OAC 340:2-1, OKDHS:2-1, and OAC 340:2 Appendices behind all Chapter 2 manual material. Any questions or assistance with filing manual material will be addressed by contacting Policy Management Unit staff at 405-521-4326.

<table>
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<tr>
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<tbody>
<tr>
<td>340:2, Table of Contents</td>
<td>340:2, Table of Contents, pages 1-2, revised 7-1-09</td>
</tr>
<tr>
<td>340:2-3, Table of Contents</td>
<td>340:2-3, Table of Contents, pages 1-3, revised 7-1-09</td>
</tr>
<tr>
<td>340:2-3-1</td>
<td>340:2-3-1, 1 page only, revised 7-1-09</td>
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<td>340:2-3-2</td>
<td>340:2-3-2, pages 1-16, revised 7-1-09</td>
</tr>
<tr>
<td>340:2-3-45</td>
<td>340:2-3-45, pages 1-17, revised 7-1-09</td>
</tr>
<tr>
<td>340:2-3-46</td>
<td>340:2-3-46, pages 1-3, revised 7-1-09</td>
</tr>
<tr>
<td>340:2-3-47</td>
<td>340:2-3-47, 1 page only, revised 7-1-09</td>
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<td>340:2-3-48</td>
<td>340:2-3-48, 1 page only, revised 7-1-09</td>
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<td>340:2-3-50</td>
<td>340:2-3-50, pages 1-3, revised 7-1-09</td>
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<tr>
<td>340:2-3-51</td>
<td>340:2-3-51, pages 1-4, revised 7-1-09</td>
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<td>340:2-3-54</td>
<td>340:2-3-54, 1 page only, revised 7-1-09</td>
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<tr>
<td>340:2-3-64</td>
<td>340:2-3-64, pages 1-4, revised 7-1-09</td>
</tr>
<tr>
<td>340:2-3-71</td>
<td>340:2-3-71, pages 1-13, revised 7-1-09</td>
</tr>
<tr>
<td>340:2-3-72</td>
<td>340:2-3-72, pages 1-3, revised 7-1-09</td>
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<tr>
<td>340:2-3-73</td>
<td>340:2-3-73, pages 1-4, revised 7-1-09</td>
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<td>340:2-3-74</td>
<td>340:2-3-74, pages 1-7, revised 7-1-09</td>
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<td>340:2-3-75</td>
<td>340:2-3-75, 1 page only, revised 7-1-09</td>
</tr>
</tbody>
</table>
## CHAPTER 2. ADMINISTRATIVE COMPONENTS

<table>
<thead>
<tr>
<th>Subchapter</th>
<th>Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Human Resources Management Division (HRMD)</td>
<td>340:2-1-1</td>
</tr>
<tr>
<td>3. Office of Client Advocacy</td>
<td>340:2-3-1</td>
</tr>
<tr>
<td>5. Fair Hearings</td>
<td>340:2-5-1</td>
</tr>
<tr>
<td>7. Office of Inspector General</td>
<td>340:2-7-1</td>
</tr>
<tr>
<td>8. Health Insurance Portability and Accountability Act (HIPAA)</td>
<td>340:2-8-1</td>
</tr>
<tr>
<td>11. Finance</td>
<td>340:2-11-1</td>
</tr>
<tr>
<td>13. Contracts and Purchasing Unit</td>
<td>340:2-13-1</td>
</tr>
<tr>
<td>17. Staff Development Unit</td>
<td>340:2-17-1</td>
</tr>
<tr>
<td>21. Departmental Services Unit</td>
<td>340:2-21-1</td>
</tr>
<tr>
<td>22. Commodities [REVOKED]</td>
<td>340:2-22-1</td>
</tr>
<tr>
<td>23. Administrative Reviews</td>
<td>340:2-23-1</td>
</tr>
<tr>
<td>25. Office of General Counsel</td>
<td>340:2-25-1</td>
</tr>
<tr>
<td>31. Legislative Relations and Policy</td>
<td>340:2-31-1</td>
</tr>
<tr>
<td>33. Rates and Standards</td>
<td>340:2-33-1</td>
</tr>
<tr>
<td>35. Volunteer Services</td>
<td>340:2-35-1</td>
</tr>
<tr>
<td>37. Communications</td>
<td>340:2-37-1</td>
</tr>
</tbody>
</table>

Appendix A. Application for Employment [REVOKED]
Appendix B. Employment Supplement [REVOKED]
Appendix C. Employment Eligibility Handout [REVOKED]
Appendix D. Applicant Availability Letter [REVOKED]
Appendix E. Statement of Grievance and Resolution [REVOKED]
Appendix F. Student Grievance [REVOKED]
Appendix G. Request for Fair Hearing [REVOKED]
Appendix H. Request for Review of Decision on Appeal Before the Oklahoma Commission for Human Services [REVOKED]
Appendix I. Withdrawal of Request for Hearing [REVOKED]
Appendix J. Claim Form [REVOKED]
Appendix K. Professional Service Contract Affidavit Form
Appendix L. Access Clause for Purchase Contract [REVOKED]
Appendix M. Material Safety Data Sheet Surrogate Statement [REVOKED]
Appendix N  Application for Occupational Therapy/Physical Therapy Scholarship [REVOKED]
Appendix O. [RESERVED]
Appendix P. Affidavit or Lost or Destroyed Warrant [REVOKED]
Appendix Q. [RESERVED]
Appendix R. Release of Information Regarding Juveniles [REVOKED]
SUBCHAPTER 3. OFFICE OF CLIENT ADVOCACY

PART 1. ADMINISTRATION

Section
340:2-3-1. Purpose
340:2-3-2. Definitions
340:2-3-3. Legal basis and authority [REVOKED]
340:2-3-4. Scope of rules [REVOKED]
340:2-3-5. Child abuse, neglect or mistreatment shall not include [REVOKED]
340:2-3-6. Procedure for reporting incidents of abuse, neglect or mistreatment [REVOKED]
340:2-3-7. Ensuring client safety [REVOKED]
340:2-3-8. Office of Advocate Defender [REVOKED]
340:2-3-10. Review of investigative reports [REVOKED]
340:2-3-11. Role of the Grievance and Abuse Review Committee [REVOKED]
340:2-3-12. Disciplinary options regarding Oklahoma Department of Human Services (OKDHS) employees
340:2-3-13. Grievance and abuse review committee [REVOKED]
340:2-3-14. Grievance rules [REVOKED]
340:2-3-15. Resolving the Grievance [REVOKED]
340:2-3-16. Grievance logs, files and reports [REVOKED]
340:2-3-17. Monitoring and evaluation [REVOKED]
340:2-3-18. Group homes [REVOKED]
340:2-3-19. Community based programs [REVOKED]
340:2-3-20. Appeals procedures - State Office [REVOKED]
340:2-3-21. Grievance rules, guidelines and procedures for Department operated facilities and community based services for the mentally retarded and developmentally disabled [REVOKED]
340:2-3-22. Grievance rules, guidelines and procedures for private group homes for the mentally retarded and developmentally disabled [REVOKED]
340:2-3-23. Rules, guidelines and procedures for investigating allegations of abuse, neglect and exploitation of Hissom class members who reside in the community [REVOKED]
340:2-3-24. Grievance policy and procedure for clients receiving services from the Department of Human Services [REVOKED]
340:2-3-25. Investigation of foster parent complaints of retaliation, harassment, or discrimination by an employee of the Department or child placing agency [REVOKED]
340:2-3-26. Customer complaint process
PART 3. INVESTIGATIONS

340:2-3-32. Office of Client Advocacy (OCA) investigation protocols
340:2-3-33. Procedure for reporting suspected abuse, neglect, verbal abuse, caretaker misconduct, and exploitation
340:2-3-34. Administrator's responsibilities regarding allegations reportable to Office of Client Advocacy (OCA)
340:2-3-35. Processing referrals received by the Office of Client Advocacy (OCA)
340:2-3-36. Investigation procedures
340:2-3-37. Caretaker conduct review (CCR)
340:2-3-38. Investigation of foster parent complaints of retaliation and discrimination

PART 5. GRIEVANCES

340:2-3-45. Grievance system protocols
340:2-3-46. Contested grievances appealed to the state office
340:2-3-47. Grievances of minors in OKDHS custody living in private residential facilities
340:2-3-48. Grievances of minors in DHS operated shelters and group homes
340:2-3-49. Grievances of minors in OKDHS custody and youth in voluntary care living in other residential settings
340:2-3-50. Grievances of foster parents
340:2-3-51. Grievances of residents of DDSD Facilities: Southern Oklahoma Resource Center (SORC), Northern Oklahoma Resource Center of Enid (NORCE), and the Greer Center Facility (GREER)
340:2-3-52. Grievances of Hissom class members
340:2-3-53. Grievances of clients receiving services from the Developmental Disabilities Services Division (DDSD)
340:2-3-54. Grievances of residents of private group homes for individuals with developmental disabilities
340:2-3-55. Grievances of OKDHS clients not covered by another grievance system

PART 7. GRIEVANCE AND ABUSE REVIEW COMMITTEE

340:2-3-61. Grievance and Abuse Review Committee (GARC)
340:2-3-62. Grievance and Abuse Review committee (GARC) review of Office of Client Advocacy (OCA) investigation reports
340:2-3-63. Grievance and Abuse Review Committee (GARC) review of Office of Client Advocacy (OCA) investigation reports regarding foster parent complaints
340:2-3-64. Grievance and Abuse Review Committee (GARC) review of unresolved contested grievances
340:2-3-65.  Grievance and Abuse Review Committee (GARC) review of care and treatment of clients

PART 9. ADVOCACY PROGRAMS

340:2-3-71.  Advocacy services of the Office of Client Advocacy (OCA) in general
340:2-3-72.  Advocacy services for residents of Northern Oklahoma Resource Center of Enid (NORCE), the Southern Oklahoma Resource Center (SORC), and the Greer Center Facility (Greer)
340:2-3-73.  Advocacy services for former residents of the Northern Oklahoma Resource Center of Enid (NORCE), the Southern Oklahoma Resource Center (SORC), and the Greer Center Facility (Greer)
340:2-3-74.  Advocacy services for Hissom class members
340:2-3-75.  Advocacy services for clients with a special advocacy need
340:2-3-1. Purpose

Revised 7-1-09

The purpose of this Subchapter is to outline the rules governing the operation of the Office of Client Advocacy (OCA). Policies relating to:

(1) administrative investigations conducted by OCA are in OAC 340:2-3-32 through 340:2-3-38;

(2) investigations of alleged retaliation or discrimination against a foster parent are in OAC 340:2-3-38;

(3) disciplinary options regarding Oklahoma Department of Human Services (OKDHS) employees in response to OCA investigation findings are in OAC 340:2-3-12;

(4) grievance systems maintained by OCA are in OAC 340:2-3-45 through 340:2-3-55;

(5) the Grievance and Abuse Review Committee (GARC) are in OAC 340:2-3-61 through 340:2-3-65; and

(6) OCA Advocacy Programs are in OAC 340:2-3-71 through 340:2-3-75.
340:2-3-2. Definitions

Revised 7-1-09

The following words and terms when used in this Subchapter shall have the following meanings, unless the context clearly indicates otherwise.

"Abuse" means, with regard to:

(A) minors and youth, the causing or permitting harm or threatened harm to the health, safety, or welfare of the minor or youth by a caretaker responsible for the minor's or youth's health, safety, or welfare, including but not limited to sexual abuse, sexual exploitation, and the intentional use of excessive or unauthorized force aimed at hurting or injuring the minor or youth; or

(B) vulnerable adults, abuse as defined by Section 10-103(8) of Title 43A of the Oklahoma Statutes.  ■ 1

"Administrator," including the person designated by an administrator to act on the administrator's behalf, means, with regard to:

(A) minors in Oklahoma Department of Human Services (OKDHS) custody living in a private residential facility, the chief administrative officer of the facility;

(B) minors in OKDHS custody in an OKDHS operated shelter or group home, the director of the shelter or group home;

(C) minors in OKDHS custody and youth in voluntary care of OKDHS who live in any other setting, including any type of out-of-home placement, the applicable OKDHS county director;

(D) foster parents, the applicable OKDHS county director or area director, as appropriate;

(E) minors and youth in residential care facilities operated by Office of Juvenile Affairs (OJA) or Department of Rehabilitation Services (DRS), facilities which contract with or are licensed by OJA, Department of Mental Health and Substance Abuse Services (DMHSAS), the J.D. McCarty Center, or OKDHS, and other residential care facilities, the superintendent, director, chief administrative officer, or head of the facility regardless of the person's working title;
(F) day treatment programs, the person charged with responsibility for administering the program;

(G) adults and minors who are in Developmental Disabilities Services Division (DDSD) specialized foster care and DDSD specialized foster parents, the applicable DDSD area manager;

(H) residents of Southern Oklahoma Resource Center (SORC), the Northern Oklahoma Resource Center of Enid (NORCE), or the Greer Center Facility (Greer), the facility director;

(I) providers of residential services, vocational services, or in-home paraprofessional supports to individuals with developmental disabilities living in the community, the chief executive officer of the provider; and

(J) residents of group homes for persons with developmental disabilities, the director of the group home.

"Adult Protective Services" or "APS" means the Adult Protective Services Unit of OKDHS.

"Advocate," means an Office of Client Advocacy (OCA) employee who provides assistance to OCA clients in exercising their rights, listening to their concerns, encouraging them to speak for themselves, seeking to resolve problems, helping protect their rights, and seeking to improve the quality of their life and care.

"Advocate general" means the chief administrative officer of the OCA designated in Section 7004-3.4(B)(1) of Title 10 of the Oklahoma Statutes. The e-mail address for the advocate general is *OCA.advocategeneral@okdhs.org.

"Authorized use of physical force" by a caretaker of minors and youths residing outside their homes, other than minors and youth in foster care means:

(A) the use of physical contact to control or contain a person when the caretaker reasonably considers that person to:

   (i) pose a risk of inflicting harm to self or others; or

   (ii) be in the process of leaving a facility without authorization; and

(B) when the use of physical force is authorized, the least force necessary under the circumstances is employed. In determining whether excessive force has
been used, all of the circumstances surrounding the incident are taken into consideration, including:

(i) the grounds for belief that force was necessary;

(ii) the age, gender, and strength of the parties involved;

(iii) the nature of the force employed;

(iv) the availability of alternative means of force or control; and

(v) the extent of the harm inflicted.

"Caretaker" means, with regard to:

(A) minors and youth, an agent or employee of:

(i) a public or private residential home, institution, or facility above the level of foster family care; or

(ii) a day treatment program as defined in Section 175.20 of Title 10 of the Oklahoma Statutes; and

(B) vulnerable adults, caretaker as defined in Section 10-103(6) of Title 43A of the Oklahoma Statutes.

"Caretaker misconduct":

(A) means an act or omission that:

(i) violates a statute, regulation, written rule, procedure, directive, or accepted professional standards and practices;

(ii) is not found to be abuse or neglect; and

(iii) results in or creates the risk of harm to a minor or vulnerable adult.

(B) includes, but is not limited to:

(i) acts or omissions that contribute to the delinquency of a minor;

(ii) unintentional excessive or unauthorized use of force not rising to abuse or
neglect;

(iii) unintentionally causing mental anguish;

(iv) other acts exposing a client to harm or threatened harm to the health, safety or welfare of the client; or

(v) use of abusive or professionally inappropriate language not rising to the level of verbal abuse.

"Case manager" means the person assigned by DDSD who has the responsibility for ensuring that services to an individual are planned and provided in a coordinated fashion.

"Child placing agency" means an agency that provides social services to children and their families that supplement, support, or substitute parental care and supervision for the purpose of safeguarding and promoting the welfare of children. The agency may provide full time placement services for children away from their own homes, such as adoptive homes, foster family homes, group homes, and transitional or independent living programs.

"Client" means, with regard to:

(A) OCA investigation services, those individuals listed in OAC 340:2-3-32(a)(2);

(B) OCA grievance services, those individuals listed in OAC 340:2-3-45(a)(2); and

(C) OCA advocacy program, those individuals listed in OAC 340:2-3-71(b).

"Community services worker" or "CSW" means any person not a licensed health professional who is employed by or under contract with a community services provider to provide, for compensation or as a volunteer, health-related services, training, or supportive assistance as those terms are defined in Section 1025.1 of Title 56 of the Oklahoma Statutes.

"Community Services Worker Registry" or "CSW Registry" means the Community Services Worker Registry established by OKDHS in accordance with Section 1025.3 of Title 56 of the Oklahoma Statutes.

"Day treatment program" means a non-residential, partial hospitalization program, day treatment program, or day hospital program in which minors are provided intensive
services, psychiatric, or psychological treatment.

"DDSD" means the Developmental Disabilities Services Division of OKDHS.

"DHS" or "Department" or "OKDHS" means the Oklahoma Department of Human Services.

"Disposition," with regard to OCA intake processes, means the action taken by OCA intake in response to a referral received, pursuant to OAC 340:2-3-35.

"DMHSAS" means the Oklahoma Department of Mental Health and Substance Abuse Services.

"DRS" means the Oklahoma Department of Rehabilitation Services.

"E-mail" means:

(A) with regard to the advocate general, an e-mail sent to *oca.advocategeneral@okdhs.org;

(B) with regard to OCA grievance matters, an e-mail sent to *oca.grievances@okdhs.org;

(C) with regard to OCA investigation matters, an e-mail sent to *oca.investigations@okdhs.org; and

(D) with regard to OCA intake matters, *oca.intake@okdhs.org.

"Emergency" means a situation in which a person is likely to suffer death or serious physical harm without immediate intervention.

"Excessive use of force" by a caretaker, with regard to minors and youths residing outside their homes, other than minors and youth in foster care, means the failure to employ the least amount of physical force necessary under the circumstances, taking into consideration all of the circumstances surrounding the incident, including:

(A) the grounds for belief that force was necessary;

(B) the age, gender, and strength of the parties involved;

(C) the nature of the force employed;
(D) the availability of alternative means of force or control;

(E) the extent of the harm inflicted; and

(F) the method(s) of restraint and intervention approved for use with the person against whom the force was used.

"Exploitation" or "exploit" with regard to vulnerable adults, means exploitation or exploit as defined in Section 10-103(9) of Title 43A of the Oklahoma Statutes.  ■ 3

"Facility" means:

(A) a public or private agency, corporation, partnership, or other entity which:

(i) operates a residential child care center; or

(ii) contracts with or is licensed or funded by OKDHS, OJA, or DMHSAS for the physical custody, detention, or treatment of minors;

(B) an OKDHS operated shelter;

(C) an OKDHS, OJA, DMHSAS, or DRS operated residential child care center;

(D) a community-based youth services shelter or community intervention center;

(E) the J.D. McCarty Center;

(F) a day treatment program;

(G) a private psychiatric facility for minors;

(H) sanctions programs certified by OJA to provide programming for minors who are court ordered to participate in that program; or

(I) SORC, NORCE, and Greer.

"Financial neglect" with regard to vulnerable adults, means financial neglect as defined in Section 10-103(10) of Title 43A of the Oklahoma Statutes.  ■ 4

"Foster care" or "foster care services" means continuous 24-hour care and supportive services provided for an individual in a foster placement, including but not limited to the care, supervision, guidance, and rearing of a foster child by the foster
"Foster child" means a child placed in a foster family placement.

"Foster parent" means an individual maintaining a foster family home who is responsible for the care, supervision, guidance, rearing, and other foster care services provided to another individual.

"GARC" means the Grievance and Abuse Review Committee described in OAC 340:2-3-61.

"Guardian" means a person appointed by a court to ensure that the essential requirements for the health and safety of an incapacitated or partially incapacitated person, the ward, are met, to manage the estate or financial resources of the ward, or both. As used in this Subchapter, guardian includes: a general or limited guardian of the person; a general or limited guardian of the estate; a special guardian; and a temporary guardian. The term does not include a person appointed as guardian ad litem.

"Guardian ad litem" or "GAL" means a person appointed by a court, pursuant to Section 1415 of Title 10 of the Oklahoma Statutes, to represent the interests of an individual as specified in the court order.

"Harm or threatened harm to the health, safety, or welfare" includes but is not limited to:

(A) non-accidental physical injury or mental anguish; │ 5

(B) sexual abuse;

(C) sexual exploitation;

(D) failure to provide protection from harm or threatened harm;

(E) the unauthorized use of force; or

(F) the use of excessive force.

"Hissom class member" means an individual certified by the United States District Court for the Northern District of Oklahoma as a member of the plaintiff class in Homeward Bound, Inc., et al. vs. Hissom Memorial Center, et al., Case No. 85-C-437-TCK-SAJ.
"Hotline" means the statewide, toll free hotline, 1-800-522-3511, maintained by OKDHS for the purpose of receiving reports of abuse, neglect, or exploitation of children and adults. The hotline is in operation 24 hours a day, 7 days a week.

"ICF/MR" or "Intermediate Care Facility for the Mentally Retarded," also known as a "specialized facility for the mentally retarded," means a private or public residential facility, licensed in accordance with state law and certified by the federal government as a provider of Medicaid services, for mentally retarded persons as that term is defined in Title XIX rules and regulations of the Social Security Act.

"Incapacitated person" means:

(A) any person 18 years of age or older who is impaired by reason of mental or physical illness or disability, dementia, or related disease, mental retardation, developmental disability, or other cause, and whose ability to receive and evaluate information effectively or to make and to communicate responsible decisions is impaired to such an extent that the person lacks the capacity to manage financial resources or to meet essential requirements for mental or physical health or safety without assistance from others; or

(B) a person for whom a guardian, limited guardian, or conservator has been appointed pursuant to the Oklahoma Guardianship and Conservatorship Act, Title 30 of the Oklahoma Statutes.

"Indecent exposure" means indecent exposure as defined by Section 10-103(12) of Title 43A of the Oklahoma Statutes.

"In-home supports" and "IHS" means services funded through Medicaid Home and Community-Based Waivers (HCBW) as defined in Section 1915(c) of the Social Security Act and administered by OKDHS DDSD, which are provided in the service recipient's home and are not residential services as defined in OAC 340:100-5-22.1 or group home services as defined in Title 10, Section 1430.2 of the Oklahoma Statutes.

"Injury" means any hurt, harm, appreciable physical pain, or mental anguish.

"Maltreatment" means abuse, verbal abuse, sexual abuse, neglect, financial neglect, exploitation or sexual exploitation of vulnerable adults as defined in Section 10-103 of Title 43A of the Oklahoma Statutes; or abuse, neglect, sexual abuse or sexual exploitation of children as defined in Section 7102 of Title 10 of the Oklahoma Statutes.

"Medicaid personal care assistant" or "MPCA" means a person who provides
Medicaid services funded under Oklahoma's personal care program who is not a certified nurse aide or a licensed professional.

"Mental anguish" means mental damage evidenced by distress, depression, withdrawal, severe anxiety, or unusually aggressive behavior toward self or others.

"Minor" means any person under the age of 18 years except any person convicted of a crime specified in Section 7306-1.1 of Title 10 of the Oklahoma Statutes or any person certified as an adult pursuant to Section 7303-4.3 of Title 10 and convicted of a felony.

"Minor physical injury" means a demonstrable injury reasonably expected to be treated with the administration of first aid, over the counter remedies, or both. A demonstrable injury includes damage to bodily tissue caused by non-therapeutic conduct, illness, new or an increased impairment of physical or cognitive functioning, evidence of a physical injury (for example, a laceration, bruise, or burn), and an injury which is confirmed by a physician, dentist, nurse, or other health care professional.

"Neglect" means, with regard to:

(A) minors and youth, the failure of a caretaker to provide:

(i) adequate food, clothing, shelter, medical care, or supervision which includes, but is not limited to, lack of appropriate supervision which results in sexual activity between minors; or

(ii) special care made necessary by the physical or mental condition of the minor or youth;

(B) vulnerable adults, neglect as defined in Section 10-103(10) of Title 43A of the Oklahoma Statutes.

"OCA" means the Office of Client Advocacy of OKDHS.

"OCA intake" means the centralized intake system maintained by OCA in its Oklahoma City office that receives referrals of alleged abuse, neglect, verbal abuse, and financial exploitation.

"OJA" means the Oklahoma Office of Juvenile Affairs.

"Ombudsman" or "ombuds," means "advocate" as defined in this subsection.
"Personal support team" or "team," formerly known as the "interdisciplinary team," means the decision-making body for service planning, implementation, and monitoring of the individual plan, as more fully described in OAC 340:100-5-52.

"Preponderance of the evidence" means information or evidence that is of a greater weight or more convincing than the information or evidence offered in opposition. It is that degree of proof which is more probable than not.

"Problem resolution" means verbal or written communications which seek to resolve concerns, complaints, service inadequacies, or issues identified by the client or members of the client's team, including the client's guardian, the OCA advocate for the client, a volunteer advocate for the client, or other persons interested in the welfare of the client.

"Provider" means a program, corporation, partnership, association, individual, or other entity that contracts with, or is licensed or funded by, OKDHS to provide community-based residential or vocational services to persons with mental retardation or developmental disabilities, or which contracts with the Oklahoma Health Care Authority to provide residential or vocational services or in-home supports to individuals with mental retardation through the Home and Community-Based Waiver.

"Referring party" means the individual who informs OCA verbally or in writing that an incident occurred.

"Reporting party" means the individual who initially tells someone verbally or in writing that an incident occurred.

"Residential child care center" means a 24-hour-a-day residential group care facility at which a specified number of minors, normally unrelated, reside with adults other than their parents.

"Self-neglect" means self-neglect as defined in Section 10-103(13) of Title 43A of the Oklahoma Statutes.

"Serious physical injury" means a physical injury to a person's body determined to be serious by a physician, dentist, or nurse. It includes, but is not limited to, death, suicide attempt, fracture, dislocation of any major joint, internal injury, concussion, head injury with loss of consciousness, ingestion of foreign substances and objects that are harmful; near drowning, lacerations involving injuries to tendons or organs and those for which complications are present, lacerations requiring four or more stitches or staples to close, heat exhaustion or heatstroke, injury to an eyeball, irreversible loss of mobility, permanent damage to or loss of a tooth, skin deterioration, and a second or third
degree burn and other burns for which complications are present. It also includes multiple abrasions, bruises, and minor physical injuries on the body of a person, identified around the same time or over a period of several weeks, that have no clear, known explanation.

"Sexual abuse" means, with regard to:

(A) minors and youth, rape, incest, and lewd or indecent acts or proposals, as defined by state law, by a caretaker responsible for the health, safety, or welfare of the minor or youth; or

(B) vulnerable adults, sexual abuse as defined by Section 10-103(11) of Title 43A of the Oklahoma Statutes.

"Sexual exploitation" means, with regard to:

(A) minors and youth:

(i) allowing, permitting, or encouraging a minor or youth to engage in sexual acts with others or prostitution, as defined by state law, by a caretaker responsible for the minor's or youth's health, safety, or welfare; or

(ii) allowing, permitting, encouraging, or engaging in the lewd, obscene, or pornographic photographing, filming, or depicting of a minor or youth in those acts as defined by the state law, by a caretaker responsible for the minor's health, safety, or welfare; or

(B) vulnerable adults, sexual exploitation as defined by Section 10-103(14) of Title 43A of the Oklahoma Statutes.

"Specialized foster care" means foster care provided to a minor or adult in a specialized foster home or agency-contracted home which has been certified by DDSD, is monitored by DDSD, and is funded through the Home and Community-Based Waiver Services Program administered by DDSD.

"State office" means the administrative offices of OKDHS in Oklahoma City.

"State office administrator," including the person designated by a state office administrator to act on the state office administrator's behalf, means, with regard to:

(A) grievances of minors, youths, and foster parents regarding the substance or application of any policy, rule, or regulation, written or unwritten, of OKDHS or an
OKDHS operated shelter or residential facility, or of an agent or contractor of OKDHS, or a child placement agency, the director of OKDHS Children and Family Services Division (CFSD);

(B) grievances regarding a decision, behavior, or action by an OKDHS employee, agent, contractor, foster parent, or by any person residing in the same placement setting, the director of the OKDHS Field Operations Division;

(C) DDSD clients, the director of DDSD; and

(D) other OKDHS clients, the appropriate chief officer or division director.

"Subpoena" means a command to appear at a certain time and place to give testimony. A "subpoena duces tecum" is a command requiring the person subpoenaed to bring records with them.

"Suspicious injury" means an injury for which there is no credible explanation that makes it unlikely to be the result of client maltreatment.

(A) It includes but is not limited to an injury that:

(i) appears inconsistent with the offered explanation(s) for the injury;

(ii) is unusual;

(iii) cannot be explained as the result of an accident, self-injurious behavior or normal activities of daily living; ■ 5

(iv) is a minor injury located on or near a private part of the body or on a part of the body that makes it unlikely to have been the result of self-injury or an accident during the course of daily living activities; and

(v) involves multiple abrasions, bruises, and minor injuries on the body of a person, identified around the same time or over a period of several weeks, but have no clear, known explanation.

(B) The determination whether an injury is suspicious is made from the point of view of an independent skeptical reviewer. An injury is suspicious if there is no credible explanation for it consistent with the injury not being the result of maltreatment. ■ 13

"Unauthorized use of force" means, with regard to minors and youths residing
outside their homes, other than minors and youth in foster care, a use of force that is not an authorized use of physical force as defined in this subsection. It includes unacceptable physical handling of and contact with clients including, but not limited to, slapping, kicking, punching, poking, pulling hair or an ear, pinching, using a choke hold, smothering, spitting, head butting, and tugging.

"Unexplained injury" means an injury for which there is no known credible origin or cause, even though a possible explanation for the injury may be offered.

"Verbal abuse" means verbal abuse as defined in Section 10-103(15) of Title 43A of the Oklahoma Statutes.

"Vulnerable adult" means vulnerable adult as defined by Section 10-103(5) of Title 43A of the Oklahoma Statutes.

"Ward" means a person over whom a guardianship has been given by the court.

"Youth" means, with regard to:

(A) OCA investigation programs, a person over the age of 18 in OJA custody and residing in an OJA operated facility or a facility which contracts with OJA; or

(B) OCA grievance programs, a person over the age of 18 in OJA custody or voluntary care of OKDHS.

INSTRUCTIONS TO STAFF 340:2-3-2

Revised 7-1-08

1. The definition of abuse in Section 10-103(8) of Title 43A of the Oklahoma Statutes is: "Abuse" means causing or permitting: a. the infliction of physical pain, injury, sexual abuse, sexual exploitation, unreasonable restraint or confinement, or mental anguish, or b. the deprivation of nutrition, clothing, shelter, health care, or other care or services without which serious physical or mental injury is likely to occur to a vulnerable adult by a caretaker or other person providing services to a vulnerable adult.

2. The definition of caretaker in Section 10-103(6) of Title 43A of the Oklahoma Statutes is: "Caretaker" is a person who has: a. the responsibility for the care of a vulnerable adult or the financial management of the resources of a vulnerable adult as a result of a family relationship; b. assumed the responsibility for the care of a vulnerable adult voluntarily, by contract, or as a
result of the ties of friendship; or c. been appointed a guardian, limited guardian, or conservator pursuant to the Oklahoma Guardianship and Conservatorship Act.

3. The definition of exploitation or exploit in Section 10-103(9) of Title 43A of the Oklahoma Statutes is: "Exploitation" or "exploit" means an unjust or improper use of the resources of a vulnerable adult for the profit or advantage, pecuniary or otherwise, of a person other than the vulnerable adult through the use of undue influence, coercion, harassment, duress, deception, false representation or false pretense.

4. The definition of financial neglect in Section 10-103(10) of Title 43A of the Oklahoma Statutes is: "Financial neglect" means repeated instances by a caretaker, or other person, who has assumed the role of financial management, of failure to use the resources available to restore or maintain the health and physical well-being of a vulnerable adult, including but not limited to: a. squandering or negligently mismanaging the money, property, or accounts of a vulnerable adult; b. refusing to pay for necessities or utilities in a timely manner; or c. providing substandard care to a vulnerable adult despite the availability of adequate financial resources.

5. "Accident" means an event that could not be anticipated or prevented through the exercise of reasonable care.

6. The definition of indecent exposure in Section 10-103(12) of Title 43A of the Oklahoma Statutes is: "Indecent exposure" means forcing or requiring a vulnerable adult to: a. look upon the body or private parts of another person or upon sexual acts performed in the presence of the vulnerable adult, or b. touch or feel the body or private parts of another.

7. Neglect can result from lack of supervision appropriate under the circumstances and failure to report client maltreatment pursuant to OAC 340:2-3-33.

8. Neglect includes, but is not limited to, use of a restraint under circumstances that the person(s) involved in executing the restraint knew or should have known that:

   (1) the restraint was not an authorized use of physical force;

   (2) the type of restraint used is not an approved method;
(3) the physical surroundings where the restraint was executed would result in a risk of serious injury; or

(4) the amount of force used was excessive.

9. The definition of neglect in Section 10-103(10) of Title 43A of the Oklahoma Statutes is: "Neglect" means: a. the failure to provide protection for a vulnerable adult who is unable to protect his or her own interest, b. the failure to provide a vulnerable adult with adequate shelter, nutrition, health care, or clothing, or c. negligent acts or omissions that result in harm or the unreasonable risk of harm to a vulnerable adult through the action, inaction, or lack of supervision by a caretaker providing direct services. It may include neglect of a client's financial interests due to a breach of a fiduciary relationship.

10. The definition of self-neglect in Section 10-103(13) of Title 43A of the Oklahoma Statutes is: "Self-neglect" means the action or inaction of a vulnerable adult which causes that person to fail to meet the essential requirements for physical or mental health and safety due to the vulnerable adult's lack of awareness, incompetence or incapacity.

11. The definition of sexual abuse in Section 10-103(11) of Title 43A of the Oklahoma Statutes is: "Sexual abuse" means: a. oral, anal, or vaginal penetration of a vulnerable adult by or through the union with the sexual organ of a caretaker or other person providing services to the vulnerable adult, or the anal or vaginal penetration of a vulnerable adult by a caretaker or other person providing services to the vulnerable adult with any other object; b. for the purpose of sexual gratification, the touching, feeling or observation of the body or private parts of a vulnerable adult by a caretaker or other person providing services to the vulnerable adult; or c. indecent exposure by a caretaker or other person providing services to the vulnerable adult.

12. The definition of sexual exploitation in Section 10-103(14) of Title 43A of the Oklahoma Statutes is: "Sexual exploitation" includes, but is not limited to, a caretaker’s causing, allowing, permitting or encouraging a vulnerable adult to engage in prostitution or in the lewd, obscene, or pornographic photographing, filming or depiction of the vulnerable adult as those acts are defined by state law.

13. In making that assessment, consideration is given to the credibility of the source of information as well as the information provided. "He fell in the shower" may be an excuse for abuse. "She tripped on her shoe laces" may be
an excuse for lack of supervision. In making a determination whether an injury is suspicious, a nurse's assessment that an injury is not suspicious is only one factor considered but is not conclusive.

14. The definition of verbal abuse in Section 10-103(15) of Title 43A of the Oklahoma Statutes is: "Verbal abuse" means the use of words, sounds, or other communication including, but not limited to, gestures, actions or behaviors, by a caretaker or other person providing services to a vulnerable adult that are likely to cause a reasonable person to experience humiliation, intimidation, fear, shame or degradation.

15. The definition of vulnerable adult in Section 10-103(5) of Title 43A of the Oklahoma Statutes is: "Vulnerable adult" means an individual who is an incapacitated person or who, because of physical or mental disability, incapacity, or other disability, is substantially impaired in the ability to provide adequately for the care or custody of himself or herself, or is unable to manage his or her property and financial affairs effectively, or to meet essential requirements for mental or physical health or safety, or to protect himself or herself from abuse, verbal abuse, neglect, or exploitation without assistance from others.
340:2-3-45. Grievance system protocols

Revised 7-1-09

(a) Legal authority, scope, and purpose.

(1) Legal authority.

(A) Section 7004-3.4 of Title 10 of the Oklahoma Statutes confers on the Office of Client Advocacy (OCA) the responsibility to establish and maintain a fair, simple, and expeditious grievance system for complaints filed by or on behalf of children in the custody of the Oklahoma Department of Human Services (OKDHS).

(B) Section 1415.1(A)(2) of Title 10 of the Oklahoma Statutes requires OKDHS to establish an ombudsman program for each institution and residential facility for the mentally retarded operated by OKDHS, including an appeals procedure for the resolution of grievances and complaints of residents, their parents, and their court-appointed guardians. OKDHS has conferred this responsibility on OCA.

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

(2) Scope. OCA administers and monitors grievance programs for the individuals listed in (A) through (H) of this paragraph, all of whom are collectively referred to as the "client" throughout this Section and OAC 340:2-3-46. Further detail about grievances for:

(A) minors who are in the custody of OKDHS regardless of placement, refer to OAC 340:2-3-47 through 340:2-3-49;

(B) youth in voluntary care of OKDHS, refer to OAC 340:2-3-49;

(C) foster parents approved by OKDHS, refer to OAC 340:2-3-50;

(D) residents of the Southern Oklahoma Resource Center (SORC), the Northern Oklahoma Resource Center of Enid (NORCE), and the Greer Center Facility (Greer), refer to OAC 340:2-3-51;

(E) Hissom class members, refer to OAC 340:2-3-52;
(F) other clients receiving services in the community from the Developmental Disabilities Services Division (DDSD) of OKDHS, refer to OAC 340:2-3-53;

(G) residents of group homes for persons with developmental or physical disabilities due to a developmental disability that are subject to Section 1430.1 et seq. of Title 10 of the Oklahoma Statutes, refer to OAC 340:2-3-54; and

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

(3) **Purpose.** The purpose of OCA grievance policies and procedures is to provide clients a fair, simple, effective, and timely system of problem resolution with access to procedures through which clients can obtain a thorough review, fair consideration, and correction when appropriate. These policies also ensure that persons filing grievances are free from restraint, coercion, reprisal, or discrimination. To further this purpose, OCA independently reviews and monitors the implementation of grievance programs 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 can be handled within the regular relationship between clients and OKDHS, provider, and facility staff. Efforts are made at the local level to resolve issues and reach a consensus with the client on a plan of action to resolve the problem informally unless the client desires to proceed with 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 director**" means a director of one of the six service delivery areas designated by OKDHS Field Operations Division (FOD).

2. "**Area manager**" means a manager of one of the three service delivery areas designated by OKDHS DDSD.

3. "**Business day**" or "**working day**" means Monday through Friday, not including federal or state holidays.

4. "**CFSD**" means the Children and Family Services Division of OKDHS.
(5) "Client" means any of the individuals listed in subsection (a) of this Section on whose behalf OCA maintains a grievance system.

(6) "Contested grievance" means a grievance that has not been resolved at the local level (first and second levels) and, at the request of the grievant or decisionmaker, is submitted to a higher authority for response.

(7) "Decisionmaker" means the person who has authority to decide whether to accept any resolution proposed at each level of the grievance process. It typically is the client who filed the grievance or on whose behalf a grievance was filed. For clients unable to advocate for themselves (for example, young children and persons with severe cognitive limitations), it is a person who speaks on the client's behalf, depending on the circumstances and the nature of the decision to be made.

(A) With regard to minors, it might be a parent, guardian, guardian ad litem, foster parent, or a legal custodian appointed by a court.

(B) With regard to DDSD clients who are adults, it might be a guardian or the individual support team for the client.

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

(8) "Due date" means the date by which some response or action is required, for example, the date by when a respondent must respond to a grievance. In calculating the due date, the first day of the period computed is not included and only business days are included. If 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.

(9) "E-mail" communication with OCA or with the advocate general means an e-mail sent to the e-mail address: oca.grievances@okdhs.org.

(10) "Facility grievance" means a grievance that involves:

(A) the substance or application of any policy, rule, or regulation, written or unwritten, of a facility as defined in OAC 340:2-3-2; or

(B) a decision, act, or omission of an employee, agent, or contractor of a facility.
(11) "FOD" means the Field Operations Division of OKDHS.

(12) "Grievance" is defined in subsection (c) of this Section.

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

(14) "Local grievance coordinator" or "LGC" means, with regard to:

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

(B) minors in OKDHS custody who do not live in a residential facility, including minors in foster care and foster parents, the individual designated as grievance coordinator in the OKDHS county office where the grievant resides;

(C) DDSD clients who are residents of Southern Oklahoma Resource Center (SORC), the Northern Oklahoma Resource Center of Enid (NORCE), or the Greer Center Facility (Greer), the OCA advocate staff assigned to each facility;

(D) foster parents approved by OKDHS, the county director in the OKDHS county office where the grievant resides;

(E) DDSD 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

(F) all other DDSD clients, the applicable DDSD area manager or 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) "OKDHS grievance" means a grievance that involves:

(A) the substance or application of any policy, rule, or regulation, written or unwritten, of OKDHS (other than policies, rules, and regulations of OKDHS operated shelters and residential facilities for minors); or

(B) a decision, act, or omission of an employee of OKDHS, including but not limited to a Child Welfare (CW) specialist, a case manager, and OKDHS county directors, but not including an employee of an OKDHS operated facility.
(17) "Placement grievance" means a complaint about a present or proposed placement of a minor in OKDHS custody.

(18) "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) **Grievance defined.**

(1) "Grievance" means a problem or concern that an individual needs assistance resolving, including a complaint of unfair treatment. At the request of a client, 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 request of the client, the employee prepares a written statement of the client's complaint or refers the client to the local grievance coordinator to assist in doing that.

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

   (i) the substance or application of any policy, rule, or regulation, written or unwritten, of an OKDHS operated shelter or residential facility for minors, or a facility, agency, or provider which 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, 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 any policy, rule, or regulation, written or unwritten, of OKDHS, but this does not include policies, rules and regulations of OKDHS operated shelters and residential facilities for minors;

   (ii) a decision, act, or omission of an employee in an OKDHS operated facility; this includes a case manager, a CW specialist, and county office employees; or

   (iii) a facility grievance filed by a resident of SORC, NORCE, or Greer.

(C) **Placement grievances.** A placement grievance is defined in subsection (b)
of this Section.

(2) **Summary dispositions.** If a grievance is submitted and it falls into one of the categories listed in (A) through (K) of this paragraph, when appropriate, the LGC contacts the client to provide assistance to the client in rewriting the grievance to state the problem(s) or concern(s) the client wants to grieve. If it is determined the client is asking to grieve a problem or concern covered by any of the categories below, the LGC informs the client why the grievance is not being processed, using Form 15GR012E, Notice of Summary Disposition of Grievance – OKDHS County Offices, 15GR013E, Notice of Summary Disposition of Facility Grievance, 15GR014E, Notice of Summary Disposition of Grievance – Developmental Disabilities Services Division (DDSD) Clients, 15GR015E, Notice of Summary Disposition of Developmental Disabilities Services Division (DDSD) Provider Grievance, or 15GR016E, Notice of Summary Disposition of Foster Parent Grievance, whichever is applicable. The LGC also writes the reason on the bottom of Form 15GR001P, Grievance Form, and then dates and signs the form. The grievance is logged on Form 15GR009E, Grievance Tracking Log. The form used to notify the grievant along 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 appropriate grievance file. Within three business days of receipt, the OCA grievance coordinator reviews the grievance. If 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. If the OCA grievance liaison concurs with the summary disposition, the OCA grievance liaison informs the LGC in writing.

(A) **Untimely grievances.** A grievance which is not timely filed in accordance with OAC 340:2-3-45(g) can 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 the OKDHS DDSD.

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

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

(D) **Duplicative grievances.** This is a grievance which duplicates another pending grievance in the same grievance system by or on behalf of the client involving the same incident or problem.

(E) **Requests to violate laws.** This is a grievance which requests an action that violates state or federal 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.** The grievance requires action by a private or public individual or entity over which OKDHS does not have 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 in using any grievance or complaint system which may be available regarding the subject of the grievance.

(H) **Pending proceedings.** The grievance involves a matter which is the subject of a pending civil, criminal, or administrative proceeding, or a decision of a court or administrative hearing, or the subject of a pending OCA, Office of Inspector General (OIG), or Child Welfare investigation.

(I) **Investigative findings.** The results of an investigation regarding abuse, neglect, verbal abuse, caretaker misconduct, or exploitation cannot be grieved.

(J) **Fair hearing decisions.** The results of a fair hearing cannot be grieved pursuant to OAC 340:2-5-50.

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

(3) **Documenting exclusions.** If a grievance is submitted and it falls into an excluded category listed in the preceding paragraph, the LGC dates and signs Form 15GR001P as received, and notes on the form the reason the LGC does not process it. The grievant is informed of this decision and the reason. The grievance is logged in the grievance tracking log and the form is filed in the client's grievance file. The LGC sends a copy of the Form 15GR001P and a copy of the applicable Notice of Summary Disposition to the advocate general, or designee, for review.
(4) **Who may file a grievance.** A grievance may be filed by any client listed in subsection (a) of this Section. A grievance may also be filed by or on behalf of a client by any person who knows the client and is interested in 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, and others. This includes OKDHS employees and employees of residential, in-home supports, and vocational providers.

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

(6) **Grievances involving reportable incidents.** When a grievance alleges a reportable incident, including but not limited to, facts which constitute abuse, neglect, exploitation, or caretaker misconduct, as defined in OAC 340:2-3-2, the LGC immediately reports it to OCA intake pursuant to OAC 340:2-3-33. 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 conclusion of the investigation. If the grievance alleges additional facts which do not constitute abuse, neglect, exploitation, or caretaker misconduct, the grievance is processed as to those facts. The LGC contacts OCA and any other law enforcement agency investigating the matter to coordinate processing the grievance.

(d) **Grievance policies required.** Every provider and facility providing services to a client listed in OAC 340:2-3-45(a)(2) who is living in Oklahoma is required to operate a system for resolution of grievances by clients using policies and procedures meeting the requirements of this Part.

(1) **Designation of LGC.**

(A) Every public and private facility and provider subject to Part 5, OAC 340:2-3-45 through 340:2-3-55, OKDHS county office, and DDSD 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 address, and e-mail address of its LGC, and inform the advocate general of any changes within 30 calendar days of the effective date of a change by completing Form 15GR021E, Designation of Local Grievance Coordinator, Facilities and Provider Agencies, and submitting it to the Office of Client Advocacy. OCA advocates assigned to SORC, NORCE, and Greer serve as the LGC at those facilities. The LGC is an individual who:

(i) implements grievance policies and procedures;

(ii) has experience with the programs and functions of the facility, provider, county office, or DDSD area office;

(iii) functions impartially and independently in the processing of grievances;

(iv) reports directly to the administrator with regard to the LGC grievance duties and functions;

(v) within 60 calendar days of being designated LGC, completes the online OCA Grievance Course;

(vi) ensures that client requests regarding how to file a grievance are responded to within two business days; and

(vii) is accessible and available to meet in person with grievants.

(B) Each facility and provider subject to this Part, each OKDHS county office, and each DDSD area office displays in a place conspicuous to its clients a poster notifying clients of its grievance system and the name of its local grievance coordinator, using Form 15GR017E, Grievance Poster - Child Welfare Contracted Facilities, Form 15GR018E, Grievance Poster- Oklahoma Department of Human Services (OKDHS) County Offices, Form 15GR019E, Grievance Poster - Developmental Disabilities Services Division Providers, or 15GR020E, Grievance Poster - Oklahoma Department of Human Services (OKDHS) Developmental Division Services Division (DDSD) Offices, whichever is applicable.

(2) Advocate general review of grievance programs. The grievance system operated by each facility and provider subject to Part 5, OAC 340:2-3-45 through 340:2-3-55, is subject to the approval of the advocate general. Each provider and facility other than an OKDHS operated facility is required to submit to the advocate general for approval its grievance policies, procedures, forms, and any revisions which are adopted, along with proof that the policies or revisions have been
approved by the applicable approving authority. Revised policies are submitted to the advocate general for approval within 30 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 right to and how to access the grievance resolution procedures using Form 15GR004E, Notice of Grievance Rights - Minors in OKDHS Custody, Form 15GR005E, Notice of Grievance Rights - Minors in OKDHS Custody - Youth in Voluntary OKDHS Care, Form 15GR006E, Notice of Grievance Rights - DDSD Service Recipients (General), Form 15GR007E, Notice of Grievance Rights - Hissom Class Members, or Form 15GR008E, Notice of Grievance Rights - Foster Parents, whichever is applicable. Hissom class members are provided notice in accordance with OAC 340:2-3-52. In addition, providers are encouraged to provide a simplified version of their grievance policies using language appropriate to the age level and cognitive functioning of its clients.

(4) **Monitoring and evaluation.** OCA ensures the quality of grievance systems by establishing minimum standards and through an ongoing monitoring program. The advocate general and OCA staff have immediate and unlimited access to clients, staff, and 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 by phone at 1-405-525-4850 or 1-800-522-8014, fax at 1-405-525-4855, or e-mail.

(6) **Advocate general deficiency report.** If the advocate general determines a deficiency exists in the grievance system of a facility or provider, the advocate general sends a report of deficiency to the administrator and, where applicable, to 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 administrator or the state office administrator and processed as a contested grievance.

(8) **Advocate general report.**

(A) The advocate general may initiate an inquiry on behalf of any client as defined in subsection (a) of this Section regarding:
(i) any aspect of the care of a client that affects the quality of the client's life;

(ii) the substance, application, or interpretation of any policy, rule, or regulation, written or unwritten, of OKDHS operated shelter or residential facility, or a facility or agency that contracts with OKDHS, or a placement provider; or

(iii) any decision, behavior, or action of an employee, agent, or contractor of OKDHS, 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 which sets forth the subject matter of the inquiry, the pertinent facts, and recommendations. An advocate general report is submitted to the 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 from the LGC Form 15GR001P, filling it out, and turning it in to the LGC or to any facility or OKDHS staff, who immediately transmits it to the LGC.

1) LGCs for OKDHS order this form from the OKDHS Warehouse. Private provider and facility LGCs obtain copies of this form from the OCA in Oklahoma City, 1-405-525-4850 or 1-800-522-8014.

2) Any person who needs assistance in completing the grievance form is given assistance by the LGC or any other staff member.

3) A grievance received on paper other than Form 15GR001P is attached to a Form 15GR001P filled out by the LGC on behalf of the grievant.

(f) Retaliation prohibited. No person filing a grievance shall be retaliated or discriminated against or harassed, solely or in part, for having asserted a grievance, or sought advice or inquired about filing a grievance. Clients are encouraged to use available grievance systems. Clients are not discouraged from filing a grievance.

(g) Grievance time limits. Except for DDSD clients, 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 time limit for filing a grievance
may be extended by the LGC. When a foster parent requests an extension in order to pursue mediation through the Oklahoma Commission on Children and Youth (OCCY) Foster Parent Mediation Program as provided in Section 601.6 of Title 10 of the Oklahoma Statutes, an LGC must grant the requested extension. The grievance is then not processed until the mediation has been completed, and grievance timeframes are suspended for the duration of the mediation. When mediation resolves the original grievance, the foster parent(s) may withdraw the grievance, or the LGC may declare the grievance "administratively resolved" consistent with OAC 340:2-3-45(h). When a foster parent grieves, but has requested mediation of the dispute through the OCCY mediation program before filing a grievance that alleges retaliation, the LGC counts from the date of the mediation when computing timeliness.

(1) The filing time and all other time periods contained in this Section are counted in business days unless otherwise specified. In computing any period of time, 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 period.

(2) If the LGC or any respondent fails to meet any time limit for processing a grievance 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 processing of a grievance are delivered to the grievant in person or by mail at the last known address of the grievant. A grievance is considered administratively resolved when a correctly addressed letter sent to the last known address of the grievant with proper postage is returned undeliverable with no forwarding address.

(4) There is no time limit on allegations of abuse, neglect, verbal abuse, exploitation, or caretaker misconduct. If a grievance, timely or untimely, consists of such an allegation, OCA intake is immediately notified in accordance with OAC 340:2-3-33.

(h) Grievance records, logs, and quarterly reports. The LGC maintains an accurate and complete record of each grievance filed as well as summary information about the number, nature, and outcome of all grievances filed. Records of grievances are kept separate and apart from other client records and files. Grievance records relating to DDSD clients are retained in accordance with OAC 340:100-3-40. OKDHS grievance records and files are retained in accordance with state and federal laws governing retention and destruction of records.

(1) Each LGC tracks grievances as they progress through the system and keeps a log of every numbered grievance form issued by OCA. Form 15GR009E, Grievance Tracking Log, can be used for this purpose. For grievances submitted by a client,
the tracking log includes: the grievance number; the name of the grievant given the form; the date the form was submitted by the grievant; the nature and outcome of the grievance; the date of final resolution; and the level where it was resolved. If a grievance form is provided to a client and not turned in, the facility tracks only the number on the form, the name of the client to whom the form was given, and the date it was given to the client.

(2) Each LGC submits to the advocate general a quarterly grievance report, Form 15GR010E, Quarterly Grievance Report. The quarterly report is transmitted to the advocate general no later than the 21st day following the end of each calendar quarter. Quarterly reports are submitted by mail, fax, or e-mail. The e-mail address is: *oca.grievances@okdhs.org. When no grievance activity occurred or was pending during a particular fiscal year quarter, the LGC so indicates on Form 15GR010E.

(3) If a grievance becomes moot at any point during the local processing of the grievance, the LGC can stop the grievance process and declare the grievance "administratively resolved." The LGC informs the grievant, notes it on the applicable Form 15GR001P and Form 15GR009E, and sends a copy of Form 15GR001P to OCA with the next quarterly grievance report.

(i) **Processing the grievance form.** After completing Form 15GR001P, the grievant submits the form directly to the LGC or any other employee of the facility or OKDHS. Form 15GR001P is printed in duplicate sets with a carbonless yellow copy. The grievant submits the white copy and keeps the yellow copy. If someone other than the LGC receives a grievance, that person submits it directly to the LGC within one business day of receipt.

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

(k) **First level problem resolution.** Within three business days of receipt of Form 15GR001P, if the grievance has not been resolved to the decisionmaker'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.

(A) For OKDHS grievances of minors in OKDHS custody and youths in voluntary OKDHS care, the first level respondent may be the supervisor of the grievant's Child Welfare specialist.
(B) For grievances regarding placements above the therapeutic foster care level made by Children and Family Services Division (CFSD) placement services, the respondent is the applicable CFSD programs manager.

(C) For placement grievances regarding a specific foster child, the respondent is the applicable county director.

(D) If the minor also is a DDSD client, this may be the DDSD case manager supervisor.

(E) For adults receiving services from DDSD, the first level respondent may be the DDSD case manager supervisor.

(2) The LGC completes the first box in the first level section on Form 15GR002E, attaches the corresponding Form 15GR001P, 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. If the proposed resolution contains a promise of some future action, a target date is specified for full implementation of that future action. The grievant can contest the target date by taking the grievance to the next level of problem resolution.

(4) The LGC monitors the timely response by the first level respondent. If 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 level of problem resolution.

(5) Within three business days of receipt of the first level response, the LGC or designee contacts the decisionmaker to inform the decisionmaker of the proposed resolution and the right to take the grievance to the second level of problem resolution, and determines if the decisionmaker is satisfied with the proposed resolution. The first level respondent may meet with the decisionmaker with or without the LGC present. If the decisionmaker needs time to decide whether to accept the proposed resolution, the decisionmaker has three business days to make a decision. If no decision is communicated to the LGC within three business days, the decisionmaker is deemed to have accepted the proposed resolution. The LGC is responsible for informing the decisionmaker that he or she has three business days to accept or appeal the respondent's proposed resolution.
(6) If the decisionmaker is satisfied with the proposed resolution, the LGC indicates his or her acceptance on Form 15GR002E, notifies those responsible for resolution of the grievance, and places the form in the appropriate grievance file.

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

(8) If the decisionmaker does not accept the proposed resolution and elects to take the grievance to the second level of problem resolution, the LGC processes the grievance for the second level of problem resolution in accordance with subsection (l) of this Section.

(l) Second level problem resolution.

(1) If the grievance is not resolved at the first level of problem resolution, the LGC processes it in accordance with this subsection within three business days of the grievant requesting the second level of problem resolution pursuant to subsection (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 and other relevant documents are attached, and submits it immediately to the second level respondent. For facilities and providers subject to these rules, the administrator or designee is the second level respondent. For OKDHS grievances, the OKDHS county director or the DDSD area manager, whichever is applicable, is the second level respondent. If the administrator, county director, or DDSD area manager was the first level respondent, then the second level of problem resolution is skipped and the grievance may be processed as a contested grievance pursuant to OAC 340:2-3-46.

(3) The administrator or designee responds to the grievance within seven business days of receipt of Form 15GR002E by completing the applicable box in the second level section on Form 15GR002E. If 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 area director.

(5) The LGC monitors the timely response by the respondent. If 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 in accordance with OAC 340:2-3-46. Contested facility grievances are processed in accordance with subsection (m) of this Section.

(6) Within three business days of receipt of the second level response, the LGC contacts the decisionmaker to inform him or her of the proposed resolution and the right to contest the response to the grievance, and determines if the decisionmaker is satisfied with the proposed resolution. If the decisionmaker needs time to decide whether to accept the proposed resolution, the grievant has three business days to make a decision. If no decision is communicated to the LGC within three business days, the grievant is deemed to have accepted the proposed resolution.

(7) If the decisionmaker is satisfied with the proposed resolution, the LGC documents the decisionmaker’s acceptance on Form 15GR002E, notifies those responsible for resolution of the grievance, and places the form in the appropriate grievance file.

(8) If the proposed resolution has been accepted by the decisionmaker but involves a future target date, the LGC monitors compliance with the target date. If the LGC determines that the resolution has not been completed by the target date, the LGC immediately reopens the grievance and processes it as a contested grievance.

(9) If the decisionmaker does not accept the proposed resolution and elects to contest the response, a contested OKDHS grievance is processed in accordance with OAC 340:2-3-46. Contested facility grievances are processed in accordance with subsection (m) of this Section.

(m) Contested facility or provider grievances. If the decisionmaker 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. Grievances at OKDHS operated facilities are appealed as a contested grievance in accordance with OAC 340:2-3-46.

(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 decisionmaker does not accept the proposed resolution and is contesting the proposed resolution.

(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 that an evidentiary hearing evidence would assist it in resolving the grievance, the board has the option of conducting an informal hearing.

(3) Within ten business days of receiving 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 receiving the written decision of the chair of the board of directors or the appeals committee, the LGC informs the decisionmaker of the decision and provides the decisionmaker 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 the subject of an OKDHS grievance is such that time is of the essence, with the approval of the advocate general or designee a grievance can be submitted directly to the OCA grievance liaison for processing as a contested grievance in accordance with 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) Communications with OCA. Any notices, forms or other information that facilities, providers, or OKDHS county offices are required to submit to OCA or the advocate general can be submitted by e-mail, using the e-mail address *oca.grievances@okdhs.org.

(p) Grievance training required. LGCs are required to take the OCA online grievance training within 60 days of their appointments, and annually thereafter.
340:2-3-46. Contested grievances appealed to the state office

Revised 7-1-09

(a) **Application.** This Section describes the processes for contesting the second level response to Oklahoma Department of Human Services (OKDHS) grievances, facility grievances at OKDHS operated facilities, and provider grievances of Hissom class members.

(b) **Definitions.** The definitions in OAC 340:2-3-2 and 340:2-3-45(b) apply to this Section unless the context clearly indicates otherwise.

(c) **Initiating the contested grievance.** When a decisionmaker asks to appeal a grievance to the state office administrator, within three business days of notice of the request, the local grievance coordinator (LGC) transmits to the Office of Client Advocacy (OCA), Attn. OCA grievance liaison, Form 15GR002E, Local Grievance Coordinator (LGC) Worksheet, attaching the corresponding Form 15GR001P, Grievance Form, and other documents and information relevant to the subject matter of the grievance.

(d) **Documentation requirements.** When Form 15GR002E is submitted to OCA, it has attached:

   (1) the corresponding Form 15GR001P;

   (2) supporting facts relating to the proposed resolution by the second level respondent, including documentation relating to the first level and second level of problem resolution processes; and

   (3) any written rule, policy, procedure, regulation, and other information relevant to the subject matter of the grievance.

(e) **OCA processing of grievance.** Within three business days of OCA receipt of a contested grievance, the OCA grievance liaison reviews the contested grievance and accompanying documentation and determines if any additional information is necessary for disposition of the appeal. When any information appears to be missing, the OCA grievance liaison contacts the person(s) in possession of the needed information and sets deadlines for submission of the information by the most efficient means to avoid delays in processing the contested grievance.

(f) **Rejected grievances.** If OCA determines the subject matter of a grievance falls in one of the categories listed in OAC 340:2-3-45(c)(2), the OCA grievance liaison returns
the grievance to the LGC with a cover letter indicating the reason the grievance was not accepted for processing as a contested grievance. Within three business days of receipt of the letter, the LGC contacts the grievant to inform the grievant of the status of the grievance.

(g) **OCA transmittal to state office administrator.** Within three business days of OCA receipt of a contested grievance and all documents required by subsection (d) of this Section, the advocate general or designee prepares and sends Form 15GR011E, Contested Grievance Transmittal, to the state office administrator with decision-making authority to respond to the subject of the grievance.

(h) **State office administrator's response.** The state office administrator who receives a contested grievance responds to the grievant within ten business days or by the due date on Form 15GR011E. The advocate general or designee may grant an extension when good cause is shown. The state office administrator sends his or her response directly to the LGC after completing the middle portion of Form 15GR011E. A copy is sent to the advocate general, or designee. The state office administrator attaches his or her response to Form 15GR011E and includes:

1. the proposed resolution and how it is to be implemented;
2. the person(s) responsible for implementing the proposed resolution;
3. the target date for the proposed resolution;
4. facts and analysis supporting the proposed resolution, including relevant documentation; and
5. any relevant written rules, policies, procedures, regulations, and other information.

(i) **Timely response required.** The OCA grievance liaison monitors the timely response by the state office administrator. If a complete response is not timely received by the OCA grievance liaison and an extension has not been granted, the OCA grievance liaison immediately processes the grievance for review by the Grievance and Review Committee (GARC) in accordance with OAC 340:2-3-64(b). In that event, OCA notifies the grievant and affected state office administrator that the grievance is being processed for GARC.

(j) **Presentation of proposed resolution.** The LGC or designee contacts the decisionmaker within three business days of receipt by the LGC of the state office administrator's response. If the decisionmaker accepts the proposed resolution, the
LGC notes this on the OCA transmittal memo and files it in the client’s grievance file.

(k) **Request for GARC review.** If the grievant does not accept the response of the state office administrator, the LGC completes the bottom portion of Form 15GR011E and returns it to the OCA grievance liaison within three business days. Upon receipt by OCA of Form 15GR011E, the grievance is processed for review by GARC in accordance with OAC 340:2-3-64.
340:2-3-47. Grievances of minors in OKDHS custody living in private residential facilities

Revised 7-1-09

(a) Application. This Section describes processes relating to grievances of minors in the Oklahoma Department of Human Services (OKDHS) custody who are residing in a private residential child care center which contracts with OKDHS.

(b) Definitions. The definitions in OAC 340:2-3-2 and 340:2-3-45(b) apply to this Section unless the context clearly indicates otherwise.

(c) Notice of grievance rights. The applicable Child Welfare liaison gives Form 15GR004E, Notice of Grievance Rights - Minors in OKDHS Custody, to the client within 24 hours of placement of the client in a private residential placement, and annually thereafter. This form is used to identify the local grievance coordinator (LGC) for the facility and to explain the client's right to grieve. After the client signs the form, a copy is made for the client and the original is maintained in the permanent record for the client. If the designated LGC changes, the facility notifies the clients and the person(s) responsible for the clients' custody of the name and contact information of the new LGC within ten business days.

(d) Filing and processing of grievance at the facility. If the grievant files a facility grievance as defined in OAC 340:2-3-45(b), the grievance is processed in accordance with OAC 340:2-3-45 unless otherwise provided in this Section.

(e) Contested grievances. Contested OKDHS grievances of residents are processed in accordance with OAC 340:2-3-46. Contested facility grievances are processed in accordance with this subsection. When a decisionmaker elects to appeal a grievance, within three business days of the request the LGC transmits to the chair of the facility's board of directors, or an appeals committee designated by the board, Form 15GR002E, Local Grievance Coordinator (LGC) Worksheet, which has attached to it the corresponding Form 15GR001E, Grievance Form, and other documents and information relevant to the subject matter of the grievance. The chair of the board of directors or appeals committee responds within ten business days by sending a written response to the LGC. A copy is attached to the applicable quarterly grievance report sent to the OCA grievance liaison in accordance with OAC 340:2-3-45(h)(2). Within three calendar days of receipt of the response, the LGC communicates the response to the decisionmaker. This concludes the grievance process and the grievant's administrative remedies have been exhausted.
340:2-3-48. Grievances of minors in OKDHS operated shelters and group homes

Revised 7-1-09

(a) Application. This Section describes processes relating to grievances of minors in DHS custody who are residing in an Oklahoma Department of Human Services (OKDHS) operated shelter or residential facility.

(b) Definitions. The definitions in OAC 340:2-3-2 and 340:2-3-45(b) apply to this Section unless the context clearly indicates otherwise.

(c) Notice of grievance rights. Form 15GR004E, Notice of Grievance Rights: Minors in OKDHS Custody, is given to the client within 24 hours of placement of the client in the facility by the shelter or group home Child Welfare (CW) specialist. This form is used to identify the local grievance coordinator (LGC) and to explain the client’s right to grieve. After the client signs the form, a copy is given to the client and the original is maintained in the permanent record for the client. If the designated LGC changes, the shelter or group home notifies the clients and the person(s) responsible for the clients’ custody of the name and contact information of the new LGC within ten business days.

(d) Filing and processing of grievance at the facility. If the grievant files a facility grievance as defined in OAC 340:2-3-45(b), the grievance is processed in accordance with OAC 340:2-3-45 unless otherwise provided in this Section.

(e) Contested grievances. Contested grievances of residents are processed in accordance with OAC 340:2-3-46 unless otherwise provided in this Section. When a grievant in an OKDHS operated shelter or residential facility asks to appeal a grievance, the appeal is processed in accordance with OAC 340:2-3-46.
340:2-3-50. Grievances of foster parents

Revised 7-1-09

(a) Application. This Section describes processes relating to grievances of foster parents approved by the Oklahoma Department of Human Services (OKDHS). Section 7213 of Title 10 of the Oklahoma Statutes confers on OKDHS the responsibility to establish grievance procedures for foster parents contracting with state agencies or child-placing agencies.

(b) Definitions. The definitions in OAC 340:2-3-2 and 340:2-3-45(b) apply to this Section unless the context clearly indicates otherwise.

(c) Notice of grievance rights. Form 15GR008E, Notice of Grievance Rights - Foster Parents, is given to each foster parent when approved as an OKDHS foster parent and at reassessment. It is given to the foster parent by the Child Welfare (CW) specialist assigned to the foster home within two business days of the approval or the reassessment. This form is used to identify the local grievance coordinator (LGC) and to explain the foster parent’s right to grieve. After the foster parent signs the form, a copy is given to the foster parent and the original is maintained in the permanent record for the foster parent. If the designated LGC changes, the state agency or child-placing agency notifies the foster parent(s) of the name and contact information of the new LGC within ten business days.

(d) Grievance defined. Foster parents may file grievances with respect to the provision or receipt of services.

(1) Grievable issues. Except for the limitations listed in subsection (d)(2) of this Section, matters which can be the subject of a grievance include:

(A) the substance or application of any policy, rule, or regulation, written or unwritten, of OKDHS; or

(B) a decision, act, or omission of an employee of OKDHS.

(2) Summary dispositions. If it is determined that the foster parent is asking to grieve a problem or concern covered by any of the categories in Section OAC 340:2-3-45(c)(2) or by any of the categories listed in (A) through (G), the LGC informs the foster parent why the grievance is not being processed, using Form 15GR016E, Notice of Summary Disposition of Foster Parent Grievance. In addition to the categories in Section OAC 340:2-3-45(c)(2), situations that are not grievable by foster parents under this grievance system are:
(A) a decision of a court;

(B) findings of a child abuse and neglect investigation or assessment in a foster home. The process for appealing these findings is found at OAC 340:75-1-12.2;

(C) disposition of a fair hearing regarding closure of a foster home. The fair hearing process regarding closure of a foster home is found at OAC 340:75-7-94;

(D) disputes with other foster parents;

(E) written plans of compliance. The foster parents provide their written input on the compliance documentation;

(F) replacement of a child in a foster home after removal due to a child abuse or neglect investigation. The fair hearing process regarding replacement in foster care is found at OAC 340:75-1-12.6; and

(G) complaint alleges retaliation by an employee of OKDHS, the complaint is forwarded to the OCA Investigations Unit for review and disposition.

(3) **Allegations of retaliation.** Allegations of retaliation or discrimination, as those terms are defined in OAC 340:2-3-38(b), are processed in accordance with that Section.

(4) **Allegations of discrimination.** Allegations of discrimination based on sex, age, national origin, religion, color or disability, are referred to the OKDHS Office for Civil Rights and the LGC immediately forwards the complaint to the OKDHS civil rights administrator, and so informs the foster parent using Form 15GR016E.

(e) **Filing and processing of grievance.** A grievance filed by a foster parent is processed as an OKDHS grievance in accordance with OAC 340:2-3-45 unless otherwise provided in this Section.

(1) The county director serves as the LGC for grievances filed by foster parents. For grievances involving specialized foster care, the applicable Developmental Disabilities Services Division (DDSD) area manager or designee serves as the LGC.

(2) Foster parent grievances must be filed within 45 calendar days of the occurrence.

(3) After the grievance procedure has been completed, a foster parent or former
foster parent has a right of access to the grievance record of grievances the foster parent filed.

(f) **Contested grievances.** Contested grievances are processed in accordance with OAC 340:2-3-46 unless otherwise provided in this Section.
340:2-3-51. Grievances of residents of DDSD Facilities: Southern Oklahoma Resource Center (SORC), Northern Oklahoma Resource Center of Enid (NORCE), and the Greer Center Facility (Greer)

Revised 7-1-09

(a) **Application.** This Section describes processes relating to grievances of residents of Oklahoma Department of Human Services (OKDHS) operated facilities listed in Sections 1406 and 1414.1 of Title 10 of the Oklahoma Statutes. Section 1415.1 of Title 10 of the Oklahoma Statutes confers on OKDHS the responsibility for establishing an ombudsman program which includes a grievance system at each OKDHS operated facility for persons with developmental disabilities.

(b) **Definitions.** The definitions in OAC 340:2-3-2 and 340:2-3-45(b) apply to this Section unless the context clearly indicates otherwise.

(c) **Notice of grievance rights.** Form 15GR006E, Notice of Grievance Rights - DDSD Clients (General), is given by the Developmental Disabilities Services Division (DDSD) facility to a resident and his or her guardian within 24 hours of the resident's admission to a facility and yearly thereafter at the annual individual planning meeting. This form is used to identify the local grievance coordinator (LGC) and to explain the resident's right to grieve. After the resident or guardian signs the form, a copy is given to the resident or to the resident's guardian, or responsible family member if the resident does not have a guardian, or both, and the original is maintained in the permanent record for the resident. If the designated local grievance coordinator (LGC) changes, the facility notifies the residents and their guardians or a responsible relative of the name and contact information of the new LGC within 20 business days.

(d) **Filing and processing of grievance at the facility.** Grievances of residents are processed in accordance with OAC 340:2-3-45(g) unless otherwise provided in this Section.

   (1) The Office of Client Advocacy (OCA) maintains an office on campus at SORC and NORCE. OCA assigns advocates to its offices at the facilities who serve as the LGC at those facilities and Greer and provides assistance to residents, their guardians, and persons interested in their welfare who want to file a grievance. [OAC 340:2-3-71(h)(4)]

   (2) The OCA advocates at a facility send a copy of a grievance to the guardian or guardian ad litem of the resident and to a responsible relative, unless contraindicated.
(3) If a grievance involves a decision of a resident's team, the first level respondent is the applicable unit coordinator, unless the unit coordinator is involved in the decision being grieved.

(e) **Time limits on filing grievances.** The time limit in OAC 340:2-3-45(g) does not apply to grievances filed by or on behalf of residents.

(f) **Second level problem resolution.** The facility director is the second level respondent.

(g) **Contested grievances.** When a resident elects to contest the facility director's response to a grievance, the contested grievance is processed in accordance with OAC 340:2-3-46. The DDSD director or designee is the state office administrator responsible for responding to contested grievances of residents.

(h) **Request for review by Grievance and Review Committee (GARC).** When a resident requests review by GARC of the DDSD director's response to a grievance, the OCA grievance liaison prepares a request for GARC review using a format prescribed by OCA which includes the information listed in subsection (i) of this Section.

(i) **Advocate inquiry.** An OCA advocate may file a formal inquiry to request information relating to: the treatment of one or more residents; the substance, application, or interpretation of any policy, rule or regulation, written or unwritten, of OKDHS or an agent or contractor of OKDHS; or any decision, behavior, or action of an OKDHS employee, agent, or contractor, or of another resident.

   (1) An advocate formal inquiry is submitted directly to the facility director or any other OKDHS employee believed to have the knowledge to respond to the inquiry. The person to whom the inquiry is submitted has seven business days from receipt of the inquiry to respond in writing. The advocate general may grant an extension for good cause shown.

   (2) If the response does not resolve the concern which prompted the formal inquiry, or if a response is not timely received, the matter may be treated as a formal grievance and processed as a contested grievance pursuant to OAC 340:2-3-46.

   (3) The advocate general issues a report that sets forth the subject matter of the inquiry, the pertinent facts, and recommendations. An advocate general report is submitted to the facility director, when applicable, and the state office administrator. A copy is submitted to the OKDHS Director.

(j) **Advocate grievance.** An OCA advocate may file a grievance on behalf of a resident
even when a grievance has not been filed by or on behalf of a resident.

(1) At the discretion of the advocate general or designee, an advocate grievance is filed directly with the facility director. The facility director has seven business days to respond in writing. The advocate general or designee may grant an extension for good cause shown.

(2) If the facility director's response is not acceptable or is not timely submitted, it is processed as a contested grievance pursuant to OAC 340:2-3-46.

(k) Fast track grievances. When the subject of an OKDHS grievance is such that time is of the essence, with the approval of the advocate general or designee a grievance can be submitted directly to the facility director or to the OCA grievance liaison for processing as a contested grievance in accordance with OAC 340:2-3-46. When a grievance involves a time sensitive problem, the OCA grievance liaison can shorten the time for responding as warranted by the circumstances.

INSTRUCTIONS TO STAFF 340:2-3-51

Revised 7-1-07

1. The Office of Client Advocacy (OCA) advocate prepares a contested grievance cover memo using a format prescribed by OCA which includes:

   (1) the grievance number and the name of the client, grievant, guardian(s) or the parent(s), Developmental Disabilities Services Division (DDSD) case manager, and OCA advocate;

   (2) the problem the grievance seeks to resolve;

   (3) the procedural history of the grievance, including what efforts were made to resolve the problem by means of informal problem resolution;

   (4) the grievant's proposed resolution;

   (5) relevant statutes, policies, and other authorities;

   (6) relevant documents;

   (7) the advocacy position of OCA; and

   (8) copies attached of the applicable Form 15GR001E, Grievance Form, and
Form 15GR002E, Local Grievance Coordinator (LGC) Worksheet.
340:2-3-54. Grievances of residents of private group homes for individuals with developmental disabilities

Revised 7-1-09

(a) Application. This Section describes processes relating to grievances of residents of private group homes subject to Section 1430.01, et seq., of Title 10 of the Oklahoma Statutes. The Oklahoma Department of Human Services (OKDHS) legal authority includes Sections 1430.11 and 1430.20 of Title 10 of the Oklahoma Statutes.

(b) Definitions. The definitions in OAC 340:2-3-2 and 340:2-3-45(b) apply to this Section unless the context clearly indicates otherwise.

(c) Notice of grievance rights. Upon admission, each individual and, if appropriate, the resident's family or designated representative is given a copy of the group home's grievance procedure and a written notice which identifies the group home's grievance coordinator and explains the resident's right to file grievances. After the resident or the resident's guardian signs the notice form, a copy is made for the resident or the resident's guardian. A copy also is sent to the resident's DDSD case manager if one is assigned. The original is maintained in the resident's permanent record. The grievance procedure is reviewed with the resident or the resident's guardian at least one time a year. If the designated LGC changes, the group home notifies the residents and the residents' guardian or a responsible relative of the name and contact information of the new LGC within ten business days.

(d) Grievance policies required. Every private group home to which this Section applies is required to operate a system for resolution of grievances by residents using policies and procedures in compliance with OAC 340:2-3-45. If a grievance involves a decision of a resident's team and the resident has a DDSD case manager, the first level respondent is the supervisor of the client's case manager.

(e) Contested grievances appealed to the state office. When a grievant asks to appeal an OKDHS grievance, the appeal is processed in accordance with OAC 340:2-3-46.

(f) Monitoring grievance programs. The Office for Client Advocacy, in cooperation with other monitoring entities to avoid unnecessary duplication, monitors group home grievance programs in accordance with OAC 340:2-3-45(d) through (h).
340:2-3-64. Grievance and Abuse Review Committee (GARC) review of unresolved contested grievances

Revised 7-1-09

(a) Application. Grievance and Abuse Review (GARC) reviews unresolved contested grievances when the advocate general receives a proper request for GARC review in accordance with OAC 340:2-3-46(k).

(b) The GARC worksheet. If the grievance was filed by or on behalf of a Developmental Disabilities Services Division (DDSD) services recipient who receives Office of Client Advocacy (OCA) advocacy services, including residents of the Southern Oklahoma Resource Center (SORC), the Northern Oklahoma Resource Center of Enid (NORCE), or the Greer Center Facility (Greer), the OCA advocate prepares a GARC worksheet using a format prescribed by OCA which includes:

1. the grievance number and the names of the resident, grievant, guardian, parent(s), case manager, and OCA advocate;

2. a summary of the grievance process, resolutions offered at each level and the decision makers' responses;

3. the applicable statutes, policies, and other authorities;

4. the resolution sought by the grievant;

5. relevant documentation;

6. the OCA advocacy position with regard to the subject of the grievance; and

7. a copy of Form 15GR001E, Grievance Form, and Form 15GR002E, Local Grievance Coordinator (LGC) Worksheet.

(c) GARC review summary. For all grievances being reviewed by GARC, the OCA grievance liaison prepares a GARC review summary that is included in the GARC file.

(d) Scope of GARC review. GARC conducts a de novo paper review of the grievance.

1. Within three business days of receiving a proper request for GARC review pursuant to OAC 340:2-3-46(k), the advocate general or designee informs the affected state office administrator and administrator of the date of the GARC meeting.
(2) The grievant, administrators, state office administrators, and their designees may attend the GARC meeting to answer questions. If a grievance involves a Hissom class member, the OCA programs administrator for the community advocacy program may also attend.

(3) If the grievant wants to submit additional evidence not considered during the processing of the grievance, it is submitted to the advocate general within five business days of the request for GARC review, but not less than seven business days prior to the GARC meeting. If the administrator or affected state office administrator wants to submit additional evidence not considered during the processing of the grievance, or when GARC review is the result of an untimely response in accordance with OAC 340:2-3-46(I), or for good cause shown, evidence can be submitted to the advocate general seven business days before the GARC meeting.

(4) When additional information is needed in order for GARC to complete its review, GARC may continue its review of a grievance until its next meeting. GARC may request additional information from OCA, an administrator, or a state office administrator.

(e) **GARC report contents.** Within 15 business days of a GARC meeting to review an unresolved grievance, GARC prepares a report that includes:

1. the subject of the grievance and identifying information about the grievant, the administrator, and the state office administrator;

2. the procedural history of the grievance, identifying proposed resolutions and responses at each level in the grievance process prior to the GARC review;

3. the resolution sought by the grievant and the resolution proposed by the state office administrator;

4. GARC recommended resolution of the grievance;

5. the facts on which GARC bases its recommendation;

6. the information GARC considered in making its recommendation; and

7. areas of concern identified by GARC during its review of the grievance.

(f) **Distribution of GARC report.** The advocate general forwards the GARC report to the applicable local grievance coordinator (LGC). Within three business days of receipt
of the GARC report, the LGC contacts the decisionmaker to inform him or her of the GARC recommended resolution, and determines if the decisionmaker is satisfied with it.

1. If the decisionmaker needs time to decide whether to accept the proposed resolution, the decisionmaker has three business days to make a decision. If no decision is communicated to the LGC within three business days, the decisionmaker is deemed to have accepted the proposed resolution.

2. If the decisionmaker is satisfied, the LGC notifies the advocate general, and the advocate general then notifies interested parties. An affected state office administrator has three business days from receipt of this notification to submit to the advocate general a written request for review by the Oklahoma Department of Human Services (OKDHS) Director.

3. If the decisionmaker is not satisfied with the GARC recommended resolution and elects to contest it, the LGC notifies the advocate general within four business days of receipt of the GARC report. The advocate general or designee transmits the request and the GARC report for review by the OKDHS Director.

(g) OKDHS Director's review of a GARC recommendation. Upon receipt by the advocate general of a proper and timely written request for review by the OKDHS Director, pursuant subsection (e) of this Section, the advocate general or designee-transmits the request and the GARC report to the OKDHS Director.

1. Within 15 business days of receipt of the GARC report, the OKDHS Director decides whether to:

   A. adopt the GARC recommended resolution;
   
   B. adopt the GARC recommendation with modifications;
   
   C. return the matter to GARC for further consideration; or
   
   D. direct another resolution of the grievance.

2. If the OKDHS Director does not respond within 15 business days, the grievance is deemed resolved in accordance with the GARC recommended resolution.

3. The advocate general notifies the grievant and other interested parties of the result of the OKDHS Director's review. The decisionmaker is informed that this concludes the grievant's administrative remedies. If the grievant is a minor, a copy
of the grievance and related materials are forwarded to the Office of Juvenile Systems Oversight in the Oklahoma Commission for Children and Youth.

(h) **Monitoring of resolution.** If the resolution of the grievance involves an action to be taken by an OKDHS employee by a future target date, the OCA grievance liaison monitors compliance with that target date. In the event the resolution is not implemented or not implemented within the time specified, the OCA grievance liaison informs the advocate general and the advocate general notifies the OKDHS Director in writing.
340:2-3-71. Advocacy services of the Office of Client Advocacy (OCA) in general

Revised 7-1-09

(a) Legal authority.

(1) Section 1415.1(A)(2) of Title 10 to the Oklahoma Statutes requires the Oklahoma Department of Human Services (OKDHS) to establish an ombudsman program for each institution and residential facility for the mentally retarded operated by OKDHS. OKDHS has conferred this responsibility on the Office of Client Advocacy (OCA).

(2) Orders of the United States District Court for the Northern District of Oklahoma in Homeward Bound, Inc., et al. v. Hissom Memorial Center, et al., Case No. 85-C-437-TCK-SAJ, require OKDHS and OCA to provide advocacy services to individuals certified by the court as members of the plaintiff class, known as Hissom class members.

(3) OKDHS also has conferred on OCA other advocacy responsibilities as outlined in Part 9, OAC 340:2-3-71 through 340:2-3-75.

(b) Scope. OCA provides advocacy services to clients of the OKDHS Developmental Disabilities Services Division (DDSD) listed in this subsection, who are collectively referred to as "clients" in Part 9, OAC 340:2-3-71 through 340:2-3-75.

(1) OCA advocacy services for residents of the Northern Oklahoma Resource Center of Enid (NORCE), the Southern Oklahoma Resource Center (SORC), and the Greer Center Facility (Greer) are outlined in greater detail in OAC 340:2-3-72.

(2) OCA advocacy services for former residents of SORC, NORCE, and Greer for whom the director of the facility is guardian ad litem (GAL) are outlined in greater detail in OAC 340:2-3-73.

(3) OCA advocacy services for Hissom class members are outlined in greater detail in OAC 340:2-3-74.

(4) OCA provides advocacy services on a short-term or emergency basis for other DDSD clients who have a special advocacy need pursuant to OAC 340:2-3-75.

(c) Mission statement and guiding principles.

(1) Mission statement. OCA advocacy programs advance the capacity and
recognition of individual choice, the realization of rights and responsibilities of citizenship, and the personal well-being of recipients of DDSD services.

(2) **Guiding principles.** In addition to those listed in OAC 340:100-1-3.1, the guiding principles for OCA advocacy on behalf of clients are listed in (A) through (D) of this paragraph.

(A) **Self-determination.** Advocates promote the individual as the driving force of life choices and decisions.

(B) **Meaningful choice.** Advocates promote the development of meaningful choices for persons with developmental disabilities consistent with their unique strengths, resources, priorities, concerns, abilities, capabilities, and interests.

(C) **Active citizenry.** Advocates promote the inclusion and involvement of persons with developmental disabilities in the social and political structures of the community.

(D) **Well-being.** Advocates promote access to physical and emotional supports necessary for a healthy life-style.

(d) **Definitions.** In addition to the definitions in OAC 340:2-3-2, the following words and terms when used in OAC 340:2-3-71 through 340:2-3-75 shall have the following meaning, unless the context clearly indicates otherwise:

(1) "**Behavior Review Committee**" or "BRC" means the BRC established pursuant to OAC 340:100-3-5 and 340:100-3-5.1 and defined in OAC 340:100-1-2.

(2) "**Capacity assessment**" means the process of determining an individual's capacity to make informed decisions and the need for assistance with decision-making regarding personal and financial matters, in accordance with OAC 340:100-1-2.

(3) "**Human Rights Committee**" or "HRC" means the HRC created by OAC 340:100-3-6 and defined in OAC 340:100-1-2.

(4) "**Individual plan**" or "IP" or "**plan**" means an individual plan established pursuant to OAC 340:100-5-51.

(5) "**Informed consent**" means informed consent as defined in OAC 340:100-1-2.

(6) "**Program coordinator**" or "PC" means a program coordinator as defined in
OAC 340:100-1-2.

(7) "Qualified Mental Retardation Professional" or "QMRP" means a QMRP as defined in OAC 340:100-1-2.

(8) "Service review" means an assessment by an OCA advocate of a client's health, living circumstances, and the delivery of supportive services. The service review documents the extent of services provided to an individual client and identifies problem areas in service delivery. Each service review is a snapshot of the life of an individual at the time the review is completed.

(9) "Unit coordinator" means a team leader as defined in OAC 340:100-1-2.

(e) Confidentiality. Information in OCA records relating to advocacy services provided to the clients listed in subsection (b) of this Section is confidential and protected from unauthorized use. Only authorized individuals are given access to client records or provided information from those records.  

(1) The confidentiality provisions of OAC 340:100-3-2 apply to OCA client files.

(2) The confidentiality provisions of OAC 340:5-1-5 apply to information in OCA records regarding allegations of abuse, neglect, and exploitation of a vulnerable adult as those terms are defined in Section 10-103 of Title 43A of the Oklahoma Statutes.

(3) A breach of confidentiality may result in a criminal prosecution. Violations by OKDHS employees can also result in personnel action.

(f) Training requirements for advocates. New and tenured OCA advocates receive appropriate training consistent with their background and experience. This includes training on the rights of DDSD clients under Oklahoma and federal law.

(g) Client representation.

(1) OCA maintains offices on campus at SORC and NORCE, and assigns advocates to represent residents of SORC, NORCE, and Greer.

(2) OCA assigns advocates, in accordance with Part 9, OAC 340:2-3-71 through 340:2-3-75, to represent specific DDSD clients living in community residential settings, including Hissom class members living in Oklahoma and former residents of SORC, NORCE, and Greer for whom the facility director is the GAL.
(3) An OCA advocate is knowledgeable about the clients represented by him or her and seeks to understand each client's specific challenges and communication styles, needs, interests, and goals. An advocate ascertains the preferences and choices of a client. An advocate becomes familiar with a client by:

(A) reviewing relevant client records and files;

(B) visits and other contacts with the client at home, at work, and in other contexts; and

(C) communication with the client's relatives, loved ones, guardians, program coordinator and other provider staff, case manager, and others in the client's circle of support.

(h) OCA advocacy services.

(1) Advocacy. Advocacy is the function of assisting an individual in voicing his or her interests. Clients are encouraged to engage in self-determination, and are assisted to the extent they need and desire. When a client has a limitation in voicing his or her own interests, needs, and preferences, an advocate seeks to speak on behalf of the client. Advocacy services provided by OCA advocates include:

(A) supporting the implementation of the least restrictive alternative in residential, vocational, therapeutic, and medical settings;

(B) supporting the most appropriate living environment for each client consistent with the client's needs and objectives;

(C) encouraging the development of natural supports, including friends, coworkers and neighbors in the community in which an individual lives; and

(D) advocating for those responsible for providing services for a client to fulfill their responsibilities by bringing performance issues to the attention of those who are responsible for correcting the situation.

(2) Monitoring. OCA monitors the well-being and provision of services to a client by means of: visits and other forms of contact with the client, staff, family members, and others who know the client; review of records, documentation, contracts, and financial agreements between clients and providers of services, incident reports, and professional assessments; and attendance at IP and other team meetings. OCA advocates cooperate with and render assistance to outside monitoring and
advocacy entities as provided for by federal and state laws, in accordance with the laws and rules relating to client confidentiality and release of information protocols. The monitoring role of an OCA advocate is to ensure that:

(A) individual needs, preferences, and choices are identified and met appropriately and consistently;

(B) health, safety, and welfare standards and safeguards are maintained; and

(C) problems and issues are addressed at the earliest juncture by appropriate persons and entities in a prompt manner.

(3) **Informal problem resolution.** An advocate seeks to resolve issues and client concerns by means of informal problem resolution at the lowest level of administrative responsibility or decision-making. Informal problem resolution seeks to resolve issues and reach a consensus with the client on a plan of action to resolve the problem informally. An advocate uses the problem resolution activity consistent with the nature and imminence of the problem. An advocate assists a client in development of problem resolution skills and self-advocacy.

(4) **Grievances.** As needed, an OCA advocate files grievances on behalf of clients in accordance with Part 5, OAC 340:2-3-45 through 340:2-3-55. OCA also advises clients and assists them with filing grievances on their own behalf when they so desire.

(5) **Protection and safety.** OCA staff take appropriate action under the circumstances to protect the health, safety, and well-being of clients, including reporting allegations of abuse, neglect, maltreatment, and exploitation in accordance with Part 3, OAC 340:2-3-32 through 340:2-3-38.

(A) OCA advocates assist OCA and Adult Protective Services investigators and law enforcement officers in obtaining information necessary for completion of investigations in which a client is an alleged victim.

(B) Advocates engage in appropriate follow-up activity in response to receiving a referral from OCA intake unit in accordance with OAC 340:2-3-35(a)(7).

(C) When an advocate has a concern related to a client's health, safety, well-being, or program implementation, the advocate advises the client's case manager or designated QMRP, as applicable, and others (for example, DDSD staff, provider or facility staff, treatment staff, and health care professionals) as the circumstances warrant.
(D) Immediately upon becoming aware of any concerns regarding imminent risk of harm, an advocate advises the applicable residential or vocational provider as well as the client's case manager.

(E) An OCA advocate ensures that allegations of abuse, neglect, maltreatment, and exploitation of which the advocate becomes aware are reported to OCA intake in accordance with OAC 340:2-3-33.

(6) **Promoting informed choice.** An OCA advocate promotes informed decision-making, consistent with a client's unique strengths, resources, priorities, concerns, abilities, capabilities, and interests, through provision of necessary information and assisting a client in understanding options and potential consequences of a decision. If a client is unable to make an informed choice, the advocate seeks to provide the client's legal guardian, GAL, volunteer advocate, and other representative(s) with access to information to make an informed decision on behalf of the client. The advocate general does not provide legal advice to clients, but may provide information about the law.

(7) **Protection of rights.** An OCA advocate promotes the full exercise of legal rights guaranteed clients under federal and state laws. An advocate takes appropriate steps to protect a client's rights, including ensuring those rights are considered in team decisions and in the manner with which team decisions are carried out. An advocate seeks to ensure the application of due process in administrative, quasi-judicial, and judicial proceedings involving a client which might result in a rights restriction or a reduction in services. When a rights restriction is absolutely necessary, OCA supports the least restriction necessary for the shortest period of time possible and a plan to remove the restriction as soon as possible.

(8) **Access to services.** An OCA advocate promotes client access to the full range of supports in accordance with the requirements of state and federal programs. Although an advocate takes a position with regard to services needed by a client, an advocate does not have authority to approve services.

(9) **Guardianship issues.** The Oklahoma Guardianship and Conservatorship Act promotes the participation of persons as fully as possible in the decisions which affect them, development of maximum self-reliance and independence, and appointment of guardians and others only to the extent necessitated by the mental and adaptive limitations or other condition of individuals. [30 O.S. § 1-103] Because a full guardianship of the person and estate of a client is the most restrictive intrusion on an individual's decision-making, OCA advocates for the least restrictive alternative to a full guardianship that is feasible under the circumstances, including but not limited to: limited guardianship; representative payee for financial
benefits; volunteer advocate; supportive friends and family; health care proxy; durable power of attorney; and advance directives.

(10) **Promoting inclusion.** An advocate promotes the realization of active citizenship and inclusion in the community. This includes but is not limited to encouraging clients to: learn the rights and responsibilities of good citizenship, vote, take classes, participate in volunteer service organizations, attend religious services of the client's choice, attend recreational, cultural and social events, and join citizen advocacy organizations that promote inclusion in the community. An advocate encourages the development of friends who can serve as natural supports for a client. An advocate assists a client in locating relatives who are not currently active in the client's life and encourages relationship building between the client and family members.

(11) **End-of-life issues.** End-of-life issues for an individual with a developmental disability do not differ from those of the community at large. Regardless of the medical circumstance which bring these issues to the forefront, an OCA advocate seeks to have physicians, guardians, and loved ones of a client adhere to Oklahoma laws relating to do-not-resuscitate orders, withdrawal or denial of nutrition or hydration, and withdrawal or termination of medical treatment. In the absence of clear and convincing evidence of a client's wishes, an advocate presumes the client would choose life sustaining measures.

(i) **Contacting an OCA advocate.** OCA advocates carry pagers or cell phones during office hours. If an advocate is not available during office hours, his or her supervisor serves as a back-up to the advocate and can be contacted. Information about the name of the advocate assigned to a client, the advocate's phone and pager numbers, and the name of the advocate's supervisor can be obtained from OCA offices in Oklahoma City 1-405-525-4850 or 1-800-522-8014.

(j) **OCA access to client records and information.** OCA staff are provided access to all records, files, documents, and information needed to fulfill OCA responsibilities regarding a client. DDSD case managers and employees and staff of provider agencies send to the assigned OCA advocate a copy of documents and notices sent to the client.

**INSTRUCTIONS TO STAFF 340:2-3-71**

**Revised 7-1-09**

1. **Office of Client Advocacy (OCA) files.** OCA maintains a client file for each Hissom class member and other Developmental Disabilities Services Division
(DDSD) service recipient served by OCA who is not a resident of Southern Oklahoma Resource Center (SORC), Northern Oklahoma Resource Center of Enid (NORCE), or the Greer Center Facility (Greer) except for persons provided short-term advocacy services pursuant to OAC 340:2-3-75. Each client file contains documents for the previous two-year period. Documents older than that are purged, with the exception of client histories. Documents which OCA originated and which do not exist in an electronic form are archived. Other purged documents are shredded by OCA.

2. Training of advocates.

(1) Before a new OCA advocate is assigned to represent clients, the advocate attends DDSD Foundations Training or its substantial equivalent, unless the advocate previously completed that training, and receives on-the-job training.

(2) Before an OCA advocate assumes responsibility for a client, the advocate reviews the OCA client file, discusses the case with the previous advocate when possible, and becomes familiar with essential information about the client including specialized supports, rights restrictions and intrusive procedures, and pending informal problem resolution activities and grievances. The advocate also completes individual specific training when the advocate's supervisor or the OCA advocacy programs administrator determines that it is warranted.


4. Scope of representation. In assigning advocates to represent clients, OCA avoids actual or perceived conflicts of interest which could prevent an advocate from being objective about the interests and preferences of a client. For example, an OCA advocate is not assigned to represent an individual who is related by blood or marriage to the advocate, or to represent an individual who is receiving services from a person related to the advocate. Advocates comply with OAC 340:2-1-8 the Rules of the Ethics Commission, and Oklahoma Law. [74 O.S. Chapter 62] An advocate represents the client's interests independent of the advocate's own biases, preferences, and belief
systems. In advocating for the client's interests and preferences, an advocate does not support any action by the client or others which constitutes criminal activity or places the client at imminent risk of serious harm. An advocate supports providing clients with information necessary for informed and voluntary decision-making with knowledge of the potential consequences of a decision. The advocate explores with the client and the client's team alternatives which minimizes risk of harm to health, safety, or well-being of the client.

5. Transition process when a class member is assigned to a different advocate. In order to ensure OCA advocates are given timely and adequate notice of team meetings, emergency meetings, and similar type meetings, appropriate persons are informed whenever there is a change in the advocate assigned to support a class member or other DDSD client. The procedures when a different OCA advocate is selected for a client are listed in (1) through (7) of this Instruction.

(1) The former OCA advocate sends an e-mail to the case manager for the client and the case manager's supervisor to inform them of the change. The e-mail includes: the name of the new OCA advocate, his or her e-mail address and duty station, the effective date of the change, and a request that notices of meetings and information henceforth be sent to the new advocate. This e-mail is copied to the receiving advocate and his or her supervisor as well as the former advocate's supervisor. To ensure the information in the e-mail has been communicated, the former advocate also mails or sends by FAX a printed copy of the e-mail to the case manager or contacts the case manager by phone.

(2) The supervisor of the former OCA advocate immediately sends an e-mail to OCA transition coordinator to inform him or her of any changes in assignments. The transition coordinator immediately makes the change on the FY 2001 Hissom list.

(3) The former OCA advocate sends an e-mail to the receiving advocate notifying him or her of the dates of any meetings, other events, and deadlines which are pending, with special attention given to scheduled individual plan (IP) meetings. The e-mail also provides information about informal problem resolution activities on behalf of the client which are still pending, any pending grievances, and other pertinent information about the client and the client's team. This e-mail is copied to the receiving advocate's supervisor.
(4) The new OCA advocate contacts the case manager to discuss the status of the case and determine any pressing issues that may need attention.

(5) Within two weeks of the change in assignment, the former OCA advocate and the receiving advocate confer by telephone or in person, at which time the former advocate briefs the receiving advocate about the client and any pending matters of note.

(6) Within two weeks of the change in assignment, the former OCA advocate's supervisor transmits to the receiving advocate's supervisor the client's file, which is organized logically and neatly, and contains all information in the former OCA advocate's possession about the client. A completed "Case File Transition Checklist" is attached. The receiving supervisor notes the date and time of receipt of the client's file, by confirming receipt in an e-mail and noting it in the client file.

(7) When possible, the former OCA advocate has a transition meeting with the client to explain the change and to introduce the client to the receiving advocate. If such a meeting is not possible, the client, guardian(s), and residential and vocational providers are informed of the change by phone, e-mail, or letter.

6. Role of the advocate in resolving problems. The OCA advocate utilizes the client's case manager as a primary resource for resolving a client's support deficiencies. The role of the advocate is to report service deficiencies to those responsible for providing the service. However, an advocate takes immediate action appropriate under the circumstances in situations where the client is at imminent risk of harm, for example, preventing staff from using a defective piece of adaptive equipment. Following an action of this nature, the advocate immediately notifies the DDSD case manager, the case manager's supervisor, or the DDSD on-call administrator to report the circumstances that prompted the advocate's action and to request prompt follow-up to address the situation and to prevent reoccurrence. An OCA advocate does not function as a case manager or a provider of direct contact services for a client.

7. Informal problem resolution. Informal problem resolution activities include but are not limited to:

(1) contact with the case manager, seeking to resolve problems at the
lowest possible level of administrative responsibility;

(2) requesting a team meeting;

(3) identifying and articulating client concerns during team meetings;

(4) acting to facilitate resolution of a problem;

(5) representing the preferences of the client in team meetings if known and capacity is not an issue;

(6) facilitating informed-consent decision-making by the client or guardian(s);

(7) identifying acceptable alternatives;

(8) filing an advocate's inquiry in accordance with OAC 340:2-3-51 or 340:2-3-52, whichever is applicable;

(9) advocating for proper implementation of state and federal laws and for changes in Oklahoma Department of Human Services (OKDHS) rules;

(10) facilitating information and referral on the client's behalf either with OKDHS personnel or other persons or entities who can provide problem resolution or support services; and

(11) assisting with making arrangements for mediation.

8. Grievances. When an OCA advocate files a grievance against OKDHS on behalf of a Hissom class member, the grievance format used includes at a minimum: the name of the client, the grievant if other than the client, the client’s guardian if there is one, the provider, the case manager, the OCA advocate, and the guardian ad litem (GAL) representative if there is one; the issue being grieved, the facts relevant to the grievance; the grievant's contentions; relevant statutes, policies, and other authorities; the proposed solution; and the advocacy position of OCA. For each subsequent level the grievance is submitted for resolution, the grievance format used also provides the procedural history of the grievance, including a summary of the responses to the grievance at each level it was considered and relevant documentation.

9. Informing clients, guardians, caretakers, and others of OCA investigations.
Sections 10-105.1 and 10-110(B)(5) of Title 43A, Oklahoma Statutes require OKDHS to provide notice to guardians, caretakers, custodians, and family members of vulnerable adults when a referral is received about a vulnerable adult, and to provide a summary of the investigation findings. To the extent this applies to referrals to OCA regarding Hisom class members residing in the community, DDSD policy [OAC 340:100-3-34] requires the provider agency to notify the guardian or family member when a referral is made to OCA about a class member. In order to ensure guardians and family members are aware of relevant information regarding their wards and relatives, OCA advocates adhere to the procedures listed in (1) through (6) of this Instruction for each Hisom class member represented by OCA.

(1) The OCA advocate assigned to a client informs the client and the client’s guardian or GAL of the results of OCA investigations which involve the client. If an individual does not have a GAL or guardian, a parent or other family member actively involved in the individual's life may be informed. If the guardian or family member is the alleged perpetrator in the investigation, the OCA advocate's responsibility to inform him or her of the results does not change.

(2) The OCA advocate provides this information to the guardian or active family member by telephone, in person, or by sending a letter, using the method of communication suitable for the particular situation.

(3) This information is provided as soon as practicable, but no later than seven working days after an OCA investigation finding has become final. An investigation involving a Hisom class member is considered "final" if the allegation:

(A) is not against a community services worker (CSW), the date the investigation report is approved by the advocate general;

(B) involves a CSW and is ruled out, the date OCA sends the notice to the CSW pursuant to OAC 340:100-3-39(h)(1) informing the CSW that the allegation was ruled out;

(C) involves a CSW and is confirmed, the date OCA sends a letter to the CSW pursuant to OAC 340:100-3-39(h)(B) informing the CSW of the result of the CSW reconsideration request, or the date which is the deadline for the CSW to request reconsideration when none was timely received by OCA. If reconsideration has been denied, a CSW has the
right to request a hearing before an administrative law judge to review OCA findings before his or her name is placed on the CSW Registry, in accordance with OAC 340:100-3-39(h)(5). Hence, when informing a client, guardian, or family member of the results of the investigation, the advocate clearly states that OCA finding is provisional subject to further administrative review. OCA advocates are familiar with the CSW Registry and related policies in order to answer questions clients, guardians, and family members have about it.

(4) The advocate only provides a summary of the findings of an OCA investigation. In accordance with OCA statutory obligations to maintain confidentiality, copies of OCA investigation reports are disseminated in accordance with OAC 2-3-32(b).

(5) In providing a summary of the findings, confidentiality of information regarding minors and DDSD clients is maintained. In addition, the identity of persons reporting incidents which are referred to OCA is confidential by statute and is not disclosed.

(6) Briefings of guardians and family members about OCA investigative findings are documented in a contact sheet in OCA computerized database.

10. Guardian's authority to make end-of-life decisions. A guardian does not have authority to consent to a do-not-resuscitate (DNR) order merely because he or she is a guardian of a ward. Oklahoma's Guardianship and Conservatorship Act requires a guardian to obtain a court order which authorizes the guardian to make DNR decisions on behalf of a ward. [30 O.S. § 3-119(1)] In the absence of an order, a guardian can only communicate to a physician facts about the known values and preferences of the ward, on the basis of which the physician can determine whether there is clear and convincing evidence of the client’s desires with regard to a DNR order. If a client has never had the ability to communicate, verbally or non-verbally, the client's wishes with regard to end of life issues, clear and convincing evidence does not exist.
340:2-3-72. Advocacy services for residents of Northern Oklahoma Resource Center of Enid (NORCE), the Southern Oklahoma Resource Center (SORC), and the Greer Center Facility (Greer)

Revised 7-1-09

(a) Application. This Section describes advocacy services the Office of Client Advocacy (OCA) provides to residents of Southern Oklahoma Resource Center (SORC), Northern Oklahoma Resource Center of Enid (NORCE), and Greer Center Facility (Greer) ("the facilities"). Section 1415.1(A)(2) of Title 10 to the Oklahoma Statutes requires the Oklahoma Department of Human Services (OKDHS) to establish an ombudsman program for each institution and residential facility for the mentally retarded operated by OKDHS. OKDHS has conferred on OCA this responsibility. Advocacy services are provided to residents of the facilities consistent with OAC 340:2-3-71.

(b) Grievance coordination. OCA advocates serve as grievance coordinators for resident grievances in accordance with OAC 340:2-3-51.

(c) Abuse and neglect reporting.

(1) OCA advocates provide training to new employees of SORC, NORCE, and Greer regarding their obligation to report suspected incidents of abuse, neglect, verbal abuse, and caretaker misconduct in accordance with OAC 340:2-3-33.

(2) OCA advocates receive referrals of suspected abuse, neglect, and maltreatment, and immediately transmit that information to OCA intake in accordance with OAC 340:2-3-33.

(d) Advocacy and monitoring. OCA advocates provide advocacy and monitoring to ensure compliance with policies, rules, and regulations applicable to the health, safety, and well-being of residents. In addition to the activities described in OAC 340:2-3-71, advocacy and monitoring activities at the facilities include:

(1) a face-to-face visit with each resident at least bi-annually, and more frequently as needed, to assess and address the resident's advocacy needs;

(2) periodic site visits to facility buildings frequented by residents, including residential units, vocational programs, canteen, and therapy departments, at least quarterly and more frequently as warranted to monitor compliance with health and safety requirements and protection of client rights, including but not limited to privacy rights;
(3) a visit with a resident at the request of the resident, the resident's guardian, or other person concerned about the well-being of the resident unless contraindicated;

(4) review relevant documentation within seven calendar days of receipt, including but not limited to: individual plan (IP) and interim IPs; accident and incident reports; OCA investigation findings; and behavior data collection forms, guardianship assessments, and other professional reports and assessments;

(5) serving as a member of a resident's personal support team;

(6) attending team meetings when it can reasonably be anticipated that a significant issue will be addressed, including any rights issue and in particular a rights restriction or an intrusive behavior intervention strategy; 2

(7) participating in capacity assessment meetings and annual reviews;

(8) attending facility Behavior Review Committee (BRC) and Human Rights Committee (HRC) meetings as required or indicated;

(9) attending mortality review meetings pursuant to OAC 340:100-3-35;

(10) promoting team discussion of alternatives to living in the facility, and consulting with teams regarding community supports and community residential alternatives; 3

(11) participation in discharge planning meetings;

(12) when a resident who has been discharged from the facility is not eligible for assignment of an OCA advocate in the community, providing transition advocacy assistance for 90 calendar days from the date the resident moves out of the facility. The 90 days can be extended by the advocate general or designee as warranted; and

(13) reporting, for administrative action and correction, policy violations to the facility director or quality assurance designee.

INSTRUCTIONS TO STAFF 340:2-3-72

Revised 5-26-05

1. Office of Client Advocacy (OCA) advocates document monitoring activities on contact sheets in the OCA computerized database, selecting "monitoring" in
the activity field.

2. **Attendance by OCA advocates at meetings involving the implementation of a level 3 or 4 behavior intervention strategy is encouraged.**

3. **The nature and scope of advocacy on behalf of residents for transitioning from the facility to a community residential placement is determined on a case by case basis in light of the unique circumstances of the individual.**
340:2-3-73. Advocacy services for former residents of the Northern Oklahoma Resource Center of Enid (NORCE), the Southern Oklahoma Resource Center (SORC), and the Greer Center Facility (Greer)

Revised 7-1-09

(a) **Application.** This Section describes advocacy services the Office of Client Advocacy (OCA) provides to former residents of Southern Oklahoma Resource Center (SORC), Northern Oklahoma Resource Center of Enid (NORCE), and Greer Center Facility (Greer) (“the facilities”) for whom the facility director is the guardian ad litem (GAL). Oklahoma Department of Human Services (OKDHS) has conferred on OCA responsibilities for each of these individuals until the court relieves the facility director of GAL responsibilities. Ombudsman and advocacy services are provided to former residents of the facilities consistent with OAC 340:2-3-71.

(b) **Representation.** A person eligible for OCA services pursuant to this Section is assigned to an OCA Advocate to represent the client's interests when OCA has adequate staff resources to provide such services. A community advocate is assigned 30 calendar days prior to the date identified to transition the client. Clients are provided choices with regard to the advocate assigned to represent them to the extent feasible, taking into consideration the geographic location of the client's residence and the caseloads of OCA advocates. Requests for a change in the advocate representing an individual are made to the advocate general or designee.

(c) **Team membership.** As a representative of a Developmental Disabilities Services Division (DDSD) client living in a community residential placement, an OCA advocate is a member of the client's personal support team. As a team member, the advocate receives from the client's DDSD case manager timely notice of all team meetings, including emergency team meetings. Within the team context, the advocate assists the client and represents the client's interests without relinquishing priority to client safety and rights.

(d) **Guardianship issues.** The OCA advocate ensures a client has a current capacity assessment and attends capacity assessment meetings. If a client has sufficient capacity to require no guardian or only a limited guardian, the advocate promotes the filing of a petition with the guardianship court to terminate the GAL appointment or limit it, as the case may be. If the current capacity assessment for the client recommends a guardian or volunteer advocate, the OCA advocate participates with the team in identifying persons who might serve as guardian or advocate for the client. An advocate encourages the development of friends in the community who might become a guardian or advocate for the client. When a guardian is needed and a suitable guardian has been identified, the advocate promotes the filing of a petition with the
guardianship court to terminate the GAL appointment and to appoint a guardian.

(e) Advocacy and monitoring. OCA advocates provide advocacy and monitoring to ensure compliance with policies, rules, and regulations applicable to the health, safety, and well-being of clients. In addition to the services described in OAC 340:2-3-71(h), advocacy and monitoring activities on behalf of each client include:

1. verifying Form 06CB034E, Residential Pre-Service Checklist, has been completed and everything on the checklist is in place prior to the resident moving out of the facility;

2. a home visit with the client within 30 calendar days of the client's discharge from the facility;

3. verifying Form 06CB034E has been completed prior to any subsequent changes in residence, and making a home visit with the client within 30 calendar days after the client moves into a new residence;

4. a face-to-face visit with the client at least quarterly and more frequently as indicated, which includes:
   
   (A) site visits to a client's residence at least twice a year, every five to seven months, at a time when the client is present in the home; ■ 1 and

   (B) visits with the client outside the home setting at least twice a year, every five to seven months; ■ 2

5. visits with the client at the request of the client, the client's legal guardian, or other person concerned about the well-being of the client;

6. completion of a service review twice a year, every five to seven months; ■ 2

7. in connection with each service review, verifying that direct contact staff have completed required training;

8. participating as a member of a resident's personal support team;

9. attending annual individual plan (IP) meetings, interim meetings, and follow-up planning meetings;

10. attending emergency team meetings;
(11) attending other team meetings when significant issues are being addressed, including when a rights restriction or an intrusive behavior intervention strategy is contemplated or to be recommended;

(12) attending capacity assessment meetings of the client's team;

(13) attending other team meetings at the request of the client, guardian, or involved family or friend;

(14) requesting DDSD Quality Assurance to conduct an administrative inquiry of suspected provider contract violations in accordance with OAC 340:100-3-27;

(15) assisting the client and the client's guardian or representative with the review of proposed financial agreements and contracts between the client and the provider;

(16) review of documents, including but not limited to: assessments, IP and interim IP documents; incident reports; Adult Protective Services (APS) and OCA investigation findings; and behavior data collection forms;

(17) attending mortality review meetings held pursuant to OAC 340:100-3-35;

(18) attending legal proceedings involving the client, including guardianship proceedings, as warranted by the circumstances;

(19) monitoring semi-annually the hot water in homes, using a thermometer to ensure the water does not exceed 114 degrees; and

(20) at least bi-annually, every five to seven months, verify that appropriate records are kept with regard to an individual's personal finances.

INSTRUCTIONS TO STAFF 340:2-3-73

Revised 7-1-07

1. Client contacts. Quarterly visits are made with each individual represented with a minimum of two home visits each year. In exceptional circumstances, the OCA advocate can forego a quarterly visit with a particular individual with prior approval of the advocate's supervisor provided:

   (1) the advocate documents in a contact sheet the approval and the reason it was given; and
(2) at least semi-annual visits are made with the individual.

2. Service reviews. An advocate completes a service review every five to seven months for each client. Sources of information for completing the service review include a home visit, the home record, observations, incident reports, verbal accounts by clients and persons involved in their lives, and other documentation since the last service review. After filling out a service review on the database, the advocate fills out a contact sheet on the database with regard to the home visit and service review. The electronic number assigned to a service review is entered on the contact sheet in the appropriate box in the upper right-hand corner of the contact sheet screen. A completed service review is entered on the database within five work days of the home visit.
340:2-3-74. Advocacy services for Hissom class members

Revised 7-1-09

(a) Application. This Section describes Office of Client Advocacy (OCA) advocacy services for Hissom class members who reside in Oklahoma. Advocacy services are provided to Hissom class members consistent with OAC 340:2-3-71. Orders of the United States District Court for the Northern District of Oklahoma in Homeward Bound, Inc., et al. vs. Hissom Memorial Center, et al., Case No. 85-C-437-TCK-SAJ, require the Oklahoma Department of Human Services (OKDHS) and OCA to provide independent advocacy services to individuals certified by the court as members of the plaintiff class, known as Hissom class members. This includes but is not limited to:

1. Independently advocating for class members rights and interests regarding: their daily lives, proposed movements, medical and behavioral emergencies including hospitalizations, appropriate consents, financial interests, and meetings held on their behalf;

2. Challenging adverse service authorization actions through the OKDHS administrative appeal and/or grievance procedures; and

3. Referral to protection and advocacy agencies in Oklahoma to obtain legal counsel and legal advocacy services.

(b) Assignment of advocate. OCA assigns an advocate to each Hissom class member living in Oklahoma. Clients are provided choices with regard to the advocate assigned to represent them to the extent feasible, taking into consideration the geographic location of the client's residence and the caseloads of OCA advocates. Requests for a change in the advocate representing an individual are made to the advocate general or designee. 1 & 2

(c) Team membership. As a representative of a Hissom class member living in a community residential placement, an OCA advocate is a member of the client's personal support team. As a team member, the advocate receives from the client's Developmental Disabilities Services Division (DDSD) case manager timely notice of all team meetings, including emergency team meetings. Within the team context, the advocate assists the client and represents the client's interests without relinquishing priority to client safety and rights.

(d) Guardianship issues. The OCA advocate ensures the client has a current capacity assessment and attends capacity assessment meetings. If a client with a full guardianship has sufficient capacity to require no guardian or only a limited guardian,
the advocate promotes the filing of a petition with the guardianship court to limit or terminate the guardianship. If the current capacity assessment of a client who does not have a guardian recommends a guardian or volunteer advocate, the OCA advocate participates with the team in identifying persons who might serve as guardian or advocate for the client. This includes encouraging the development of friends in the community who might become a guardian or volunteer advocate for the client. The OCA advocate monitors the implementation of the recommendations in the capacity assessment and advocates for their timely achievement. When a guardian is needed and a suitable guardian has been identified, the advocate promotes the filing of a petition with the guardianship court to appoint a guardian.

(e) **Advocacy and monitoring services for class members in residential community settings.** OCA advocates provide advocacy and monitoring to class members living in community residential settings, including group homes, to ensure compliance with policies, rules, and regulations applicable to the health, safety, and well-being of clients. In addition to the activities described in OAC 340:2-3-71(h), advocacy and monitoring activities on behalf of each client include:

1. verifying a Form 06CB034E, Residential Pre-service Checklist, is completed prior to any change in residence, and making a home visit with the client within 30 calendar days after the client moves into a new residence;

2. a face-to-face visit with the client at least quarterly and more frequently as indicated, including:

   (A) site visits to a client's residence at least bi-annually, every five to seven months, at a time when the client is at home; and

   (B) visits with the client outside the home setting at least twice a year, every five to seven months; ■ 3

3. visits with the client at the request of the client, the client's legal guardian, or other person concerned about the well-being of the client;

4. completion of a service review twice a year, every five to seven months; ■ 4

5. in connection with each service review, verifying that direct contact staff have completed required training;

6. participating as a member of a client's personal support team;

7. attending annual individual plan (IP) meetings, interim meetings, and follow-up
planning meetings;

(8) attending emergency team meetings;

(9) attending other team meetings when significant issues are addressed, including when a rights restriction or an intrusive behavior intervention strategy is contemplated or recommended;

(10) attending guardianship assessment meetings of the client's team;

(11) attending other team meetings at the request of the client, guardian, or involved family or friend;

(12) requesting DDSD Quality Assurance to conduct an administrative inquiry of suspected provider contract violations in accordance with OAC 340:100-3-27;

(13) assisting the client and the client's guardian or representative with the review of proposed financial agreements and contracts between the client and the provider;

(14) prior to and during a hospitalization, advocating for the provision of adequate staff to be present in the hospital with the client as circumstances warrant;

(15) review of documents, including, but not limited to: assessments, IP and interim IP documents; incident reports; behavior data collection forms; and Adult Protective Services (APS) and OCA investigation findings;

(16) attending mortality reviews conducted in accordance with OAC 340:100-3-35;

(17) communicating to the client, the client's guardian, and the client's family as appropriate the final finding of an OCA investigation in which the client was named as an alleged victim;

(18) attending legal proceedings involving the client, including guardianship proceedings, as warranted by the circumstances;

(19) monitoring semi-annually the hot water in homes, using a thermometer to ensure the water does not exceed 114 degrees;

(20) at least bi-annually, every five to seven months, verify that appropriate records are being kept with regard to an individual's personal finances; and

(21) annually provide each client or guardian a copy of Form 15GR007E, Notice of
Grievance Rights: Hissom Class Members.

(f) **Advocacy services for Hissom class members in a private intermediate care facility for the mentally retarded (ICF/MR).** Advocacy and monitoring services for class members who reside in a private ICF/MR in Oklahoma are contained in this subsection.

(1) The assigned OCA advocate personally visits a client living in a private ICF/MR at least quarterly, and more frequently as warranted.

(2) The OCA advocate maintains a helping relationship with the client, assessing the realization of desired and targeted outcomes, and initiating change through referral or grievance as needed. During contacts with the client, the advocate inquires about individual satisfaction with current supports and provides information regarding options available to clients for community supports.

(3) The OCA advocate, at least bi-annually, contacts the guardian of the client if one has been appointed. The OCA advocate also contacts the guardian in response to an expression by the client of dissatisfaction with the current residential arrangements. These contacts reaffirm the availability of service options to clients for support in community settings. Contacts with the guardian occur in person, by phone, or by mail as the circumstances warrant.

(4) The OCA advocate contacts the private ICF/MR case manager, generally a Qualified Mental Retardation Professional, responsible for yearly care planning for the client. The advocate informs the facility case manager of the advocate's intent to attend yearly planning meetings. The advocate asks to be notified in advance of yearly planning meetings and emergency meetings. The advocate checks periodically to ensure meetings have not been held without notice to the advocate.

(5) The OCA advocate participates in annual planning meetings at the private ICF/MR. The advocate provides advocacy assistance regarding expressed desires of the individual. The advocate brings to the attention of the team concerns expressed by the client, guardian, or other family members. The advocate participates in interim meetings addressing any significant change in residence, work, health, or important relationships.

(6) The OCA advocate develops a working knowledge of the facility's grievance procedure as well as other problem resolution processes and resources for change, for example, the Long-Term Care Ombudsman Program and licensing agencies. The advocate uses these services, either directly or through referral, as needed for the benefit of the individual.
(7) The OCA advocate assesses the welfare of the client and determines if advocacy assistance is needed which OCA can provide. The advocate provides assistance, either directly or through referral, with resolving concerns identified by the client or by others on behalf of the client. This includes contacting the OKDHS Aging Services Division, long-term care ombudsman. The advocate also informs the Long-Term Care Ombudsman Office of concerns involving other individuals living in an ICF/MR which come to the attention of the OCA advocate.

(8) Service reviews are not completed.

(9) The OCA advocate requests a capacity assessment on behalf of the client when there has been a substantial change in circumstances regarding the individual's need for a guardian.

(10) The OCA advocate provides information and encouragement to consider community residential settings.

(g) **Advocacy services for Hissom class members who are in custody.** Advocacy and monitoring services for class members who are in custody of the Department of Corrections or a county sheriff, except those who are detained pre-trial in a facility, are contained in this subsection. The assigned OCA advocate contacts the client at least semi-annually. ■ 5 The advocate assesses the welfare of the client and determines if advocacy assistance is needed that the advocate can provide. The advocate provides assistance, either directly or through referral, with resolving concerns identified by the client or by others on behalf of the client. ■ 6 Advocacy assistance is provided with regard to enforcing the rights of clients under the Americans with Disabilities Act and other state and federal laws to the extent they are applicable to persons who are in custody. ■ 7 When the client has less than a year remaining to serve in custody, the OCA advocate provides advocacy assistance with the DDSD case manager to commence transition planning. The advocate participates in and monitors transition planning, representing the client's interests. ■ 8

(h) **Services for Hissom class members who decline DDSD services.** Pursuant to OAC 340:100-3-11, class members and their legal representatives have the right to refuse services from OKDHS. ■ 9 The OCA advocate for a class member who has declined DDSD services, contacts the individual bi-annually and remains available to assist with advocacy regarding non-specialized assistance when desired by the individual. At least one of the contacts is face-to-face when feasible.

**INSTRUCTIONS TO STAFF 340:2-3-74**

Revised 7-1-09
1. Advocate caseloads. Each advocate is assigned no more than 50 clients, including Hissom class members and other Developmental Disabilities Services Division (DDSD) clients living in community residential settings.

2. Changes in the assigned Office of Client Advocacy (OCA) advocate. OCA considers requests to change the assigned advocate. All requests by a client or the client's representative for a change in assigned advocate are considered and responded to appropriately. Requests for an advocate of a particular gender or other characteristic are considered in a manner which complies with all federal and state laws prohibiting discrimination on the basis of sex, race, age, national origin, religion, disability, or other protected classes.

3. Client contacts. Quarterly visits are made with each client with a minimum of two home visits each year. In exceptional circumstances, the OCA advocate can forego a quarterly visit with a particular client with prior approval of the advocate's supervisor provided:

   (1) the advocate documents in a contact sheet the approval and the reason it was given; and

   (2) at least semi-annual visits are made with the client.

4. Service reviews. An advocate completes a service review every five to seven months for each client. Sources of information for completing the service review include a home visit, the home record, observations, incident reports, verbal accounts by clients and persons involved in their lives, and other documentation since the last service review. After filling out a service review on the database, the advocate fills out a contact sheet on the database with regard to the home visit and service review. The electronic number assigned to a service review is entered on the contact sheet in the appropriate box in the upper right-hand corner of the contact sheet screen. A completed service review is entered on the database within five working days of the home visit.

5. The OCA advocate becomes familiar with and observes the rules and regulations in effect at the facility where the client is in custody, especially regulations regarding what items it is permissible to give to or receive from inmates in that facility. The advocate does not facilitate on behalf of a client anything facility rules prohibit inmates to do. In some facilities, stamps, pens, and paper clips are contraband items, and inmates are not allowed to communicate in writing with each other.
6. This can include contacting the prison case manager assigned to the client to ensure the facility is aware of the client's abilities and limitations which may be relevant to the individual's classification, safety, and participation in vocational and other programs in prison.

7. The OCA advocate provides information to the client's attorney and other officials, including parole officers, that is relevant to the client's conviction, sentence, appeal, prison classification, and assignments, living, work, education, within the prison facility. This includes general information regarding the client's particular developmental disabilities, for example, the potential for impaired understanding of consequences, vulnerability to exploitation, and learning challenges. The advocate obtains written consent of the client and/or guardian before releasing confidential information about the client.

8. In accordance with OAC 340:100-3-11, when services are refused, the client and the client's legal representative(s) are advised of any risks accompanying the decision to refuse services, and are informed of the fair hearing process. The policy also requires teams to engage in and document consideration and attempts to initiate alternatives to resolving the concerns expressed by the client, legal representative, or both. Appropriate legal resolutions are sought when it is determined that the exercise of the right to refuse services by an adult client, who has not been determined incapacitated to act on his or her own behalf, presents a risk to the individual as defined by Oklahoma statutes.

9. Persons who are in custody are deemed to not be waiver recipients while in custody. Hence, assessments such as the capacity assessment are not required. However, it is appropriate for the advocate to request assessments be completed as part of the transition process when the client is close to discharge from custody.
340:2-3-75. Advocacy services for clients with a special advocacy need

Revised 7-1-09

(a) Application. This Section describes advocacy services the Office of Client Advocacy (OCA) provides to Developmental Disabilities Services Division (DDSD) clients who are not otherwise eligible for OCA advocacy services but who have a special short-term need for advocacy assistance.

(b) Requests for services. Any DDSD client or the client's guardian, case manager, or next of kin can request short-term advocacy services for the client by contacting the advocate general or designee. Written requests which explain the nature of the advocacy need are encouraged, but verbal requests are accepted. Factors considered in granting requests include:

   (1) whether the advocacy need is a matter within OCA jurisdiction;

   (2) the existence of other resources to meet the client's need; and

   (3) the urgency of the need.

(c) Advocacy provided. When a request for short-term advocacy has been granted, the assigned advocate provides the support and advocacy appropriate given the nature of the problem and any imminent harm.

   (1) The advocate, in consultation with his or her supervisor, prepares a time-limited plan for achieving the goals of the advocacy need.

   (2) Short-term advocacy assistance is provided for up to three months. When necessary, the OCA advocacy programs administrator may extend the special advocacy assignment.

INSTRUCTIONS TO STAFF 340:2-3-75

Revised 7-1-09

1. The client authorized to receive short-term advocacy services is added to the advocate caseload at the time of assignment.