



New Jersey Department of Children and Families Policy Manual

Manual:	CP&P	Child Protection and Permanency	Effective Date:
Volume:	IV	Out of Home Placement	
Chapter:	C	Adoption	6-14-2010
Subchapter:	1	General	
Issuance:	535	Appealing Adverse Court Rulings on Termination of Parental Rights	

Purpose 6-14-2010

When the Superior Court, Chancery Division, Family Part, or the Appellate Division do not rule in favor of the Division, the following policy and procedures govern appeals of such decisions in all Termination of Parental Rights cases brought by CP&P.

Appealing Adverse Trial Court Rulings 6-14-2010

When the Division receives an adverse decision in the lower court (Superior Court, Chancery Division, Family Part):

- The Local Office Manager or his or her designee, obtains a copy of the Judge's written decision.
- The Local Office Manager or his or her designee, and involved staff (Workers, Supervisor, etc.) meet with the GSP DAG handling the litigation to discuss the appropriateness of pursuing an appeal to the Appellate Division of the Superior Court. (The GSP DAG is not authorized to make any final decisions as to whether to file an appeal. The Division of Law, through either the Assistant Attorney General in Charge of Appeals in the Trenton or Newark Office, is responsible for making the final decision whether an appeal should be filed.)
- After conducting a thorough review of the case, the Local Office Manager immediately sends a written recommendation, along with the entire litigation case file, to the Area Director. The recommendation includes any conflicting opinions regarding pursuit of an appeal. Forward the decision of the Area Director, including the preliminary recommendation of the GSP DAG, to the CP&P Director or his or her designee, who, in consultation with the Director of the Office of Legal Affairs, makes a recommendation to the Assistant Attorney General in Charge of Appeals.

- The Division will have days from entry of the unfavorable order in which to appeal the matter to the Appellate Division of the Superior Court. Hold the initial conference/meeting, as well as all subsequent Division actions, in an expeditious manner in consideration of these strict time constraints.

Appealing Adverse Decisions of the Appellate Division 6-14-2010

If the Division loses a decision in the Appellate Division and the CP&P Director wants to seek Supreme Court review, the procedure in CP&P-IV-C-1-500.2 is followed, with one exception:

- The CP&P Director or his or her designee, provides the DCF Commissioner with a case summary, prepared by the Local Office Manager, which contains a copy of the Appellate Division's decision, and the recommendations of the Division and the preliminary recommendation of the GSP DAG representing the Division.
- After providing proper notice to the Commissioner, the CP&P Director makes the final recommendation to the Division of Law whether or not to seek further review of the matter by the Supreme Court of New Jersey.
- A final decision as to any appeal to the Supreme Court of New Jersey is made by the Director of the Division of Law, or, in appropriate cases, the Attorney General.
- Where the Appellate Division decision is unanimous, the Division has only twenty (20) days in which to seek Supreme Court review. Where the decision is split, a 45-day review period applies. Where the decision reviewed by the Appellate Division is interlocutory and not final, a fifteen (15) day filing deadline applies.

Emergent Applications/Appeals 6-14-2010

In all emergent matters, where there is insufficient time to follow the procedures of CP&P-IV-C-1-500.2 and CP&P-IV-C-1-500.3, the participants to the appeals process (i.e., Worker, Supervisor, Paralegal, Local Office Manager or his or her designee, and GSP DAG) utilize conference calls and/or fax and electronic mail to expedite the review and decision-making process.

In rare situations when the Division loses a termination of parental rights case at the trial level, resulting in the immediate or short term return of the children to their parent's care, and there is evidence that the child may be harmed if returned home, the GSP Deputy Attorney General handling the case, after conferring with the Local Office Manager and/or designee, may determine that an immediate appeal is needed to stay the court decision:

- In this instance, the Local Office Manager immediately contacts the Area Director and the CP&P Director's Office, to seek verbal approval to file to stay the court decision and keep the child in his or her current placement until a determination is made on the appeal. Seek approval from the Director, Office of Legal Affairs, if the CP&P Director/designee is not available.
- The GSP DAG recommends approval to the Assistant Attorney General in Charge of Appeals in Trenton or Newark.
- In situations where CP&P staff at the court hearing do not have time to call or cannot contact the necessary local management, he or she has the authority to recommend to the Division of Law, through the GSP DAG, that an appeal and stay of the court decision should be immediately pursued, to assure the safety of the child. The CP&P staff member, through the Local Office Manager, is then responsible to advise the CP&P Director as to whether or not the matter was appealed and, if appealed, the results of the court decision.