

90-900.4. SPECIAL PROVISIONS

A. General

This section provides information regarding certain special provisions for GR Hearings.

B. Right to Independent Review

- The applicant/recipient has the right to request a conference with the supervisor to discuss or clarify disputes.
 - The disputes may involve discrimination, complaints, or the eligibility requirements of any proposed denial, granting, discontinuance, or change in grant amount.
 - The conference will not interfere with his/her right to request a GR Hearing nor will it be part of a GR Hearing.
 - The conference is intended to be informational and used to clarify any misunderstanding or dissatisfaction, which has not yet resulted in a request for a GR Hearing.
 - The conference may negate the need for a GR Hearing by resolution of the issues independent of a hearing.
 - The applicant/recipient may still request a hearing if he/she remains dissatisfied after the conference. A conference will not affect the time limitations for a GR hearing.
 - If the applicant/recipient is satisfied with the resolution of the conference, he/she will be instructed to cancel the hearing request by calling the GR Hearing Clerk. The supervisor will also notify Appeals of the resolution. The hearing may still be heard if the applicant/recipient has not canceled.
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C. Applicant/ Recipient Rights at the GR Hearing

In accordance with Griffeth v. Peer, applicants/recipients are entitled to certain rights at an administrative, evidentiary hearing. They have the right to:

- **Examine the case record, except for confidential information. This includes narrative entries, but excludes confidential information given by a third party, such as a medical record not to be released to the recipient or others. A case record must be made available, in the Appeals Section or the FRC, to the applicant/recipient and/or the authorized representative, upon request prior to a hearing.**
 - Review the evidence and regulations used to support the County's action. Evidence originally based on confidential information is admissible when it is duplicated from a non-confidential source.
 - Bring witnesses, at their expense, to testify on their behalf.
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Applicant/ Recipient Rights at the GR Hearing (continued)

- Confront and cross-examine adverse witnesses (Confrontation and cross-examination will normally be accomplished through a conference call).
 - Have the worker present at the hearing if this is requested 24 hours in advance of the hearing.
 - Testify on their own behalf.
 - Be assisted by an attorney (at their expense) or any other person of their choice.
 - A written decision based solely on the evidence presented at the hearing and applicable regulations.
 - A written decision which contains a statement of the reasons and evidence on which the decision was based.
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D. WRO vs. Bacon Requirements

This section must not be removed from the GR Program Guide unless specifically authorized by court action.

- A release of information requires a written authorization. In an emergency situation, a telephone authorization, approved by FRC administration, may be arranged with Legal Aid. A written authorization must follow within five (5) working days.
 - Although PAFD investigative reports are not normally subject to review by an applicant/recipient, the applicant/recipient must be given the opportunity to review a report related to the case action being appealed. The applicant/recipient may request this review prior to the hearing by contacting the Appeals Section. This review will be supervised by the Hearing Officer. The information may also be addressed by the GR Hearing Officer during the hearing. Note: Investigation notes are never subject to review by clients.
 - Matters of confidential communication between a lawyer and client, which the attorney specifies cannot be released to another party, cannot be disclosed.
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WRO vs. Bacon Requirements (continued)

- At the hearing, the applicant/recipient has the right to examine the case records, including case narratives. Information which has been deemed confidential, including third party information in the narrative, will not be released. With one day advance notice, case records must be made available, prior to a hearing, to an applicant/recipient and/or authorized representative. If the case record is not available in the Appeals Section, arrangements must be made with the FRC for the inspection of the case record. If the GR Scheduling Clerk has difficulty in obtaining the case record, he/she will immediately notify the Appeals Section Chief for follow-up action.
 - During the hearing, the following actions will be taken:
 - The GR hearing will be tape recorded.
 - The GR Hearing Officer will ask permission of the applicant/recipient when the County Administrative Hearing Coordinator or Appeals Section Chief wishes to observe the hearing.
 - The GR Hearing Officer will ask permission of the applicant/recipient when any other person, other than a witness, wishes to observe the hearing.
 - The GR Hearing Officer will admit evidence and the documentation into the record. This may include references to conference calls, the case record, the testimony of the applicant/recipient, the testimony of other witnesses, and anything used in reaching the final decision.
 - The County Administrative Hearing Coordinator or the Appeals Section Chief will routinely review all GR hearing decisions.
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E. Administrative Remedy

If a client is dissatisfied with the hearing decision, he/she may file an appeal in Superior Court not later than the 90th day following the date on which the decision becomes final (Code of Civil Procedure, Section 1094.6).

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Administrative Remedy (continued)

Note: If, within 10 days after the decision becomes final a request for the record of the proceeding is filed and the required deposit in an amount sufficient to cover the estimated cost preparation of the record is timely deposited, the time within which such petition may be filed in court is extended to no later than the 30th day following the date on which the record is delivered or mailed to the party, or his/her attorney of record. A written request for preparation of the record shall be filed with the GR/CMS clerk, 1255 Imperial Avenue, Suite 300, San Diego, CA 92101. Assistance may be obtained through the Legal Aid Society of San Diego at (877) 534-2524.
