



INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE POLICY

Chapter 2: Administration of Child Welfare

Section 03: Child Care Worker Assessment Review Process

Effective Date: August 1, 2023

Version: 9

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POLICY OVERVIEW

This policy does not apply to Child Abuse and/or Neglect (CA/N) substantiated cases involving a Department of Child Services (DCS) employee. See policy 2.04 DCS Employee Administrative Review Process for more information.

The Child Care Worker Assessment Review (CCWAR) Process provides a Child Care Worker (CCW) or Licensed Resource Parent the opportunity to have a review of the assessment prior to the approval of an assessment decision to substantiate allegations of Child Abuse and/or Neglect (CA/N).

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PROCEDURE

The Indiana Department of Child Services (DCS) will ensure a CCW or Licensed Resource Parent, who is identified as an alleged perpetrator of CA/N, is given the opportunity for an Administrative Review. This policy applies to CCWs and Licensed Resource Parents with assessments approved after October 15, 2006, unless otherwise specifically stated. The process described herein applies regardless of whether or not the allegation includes actions taken within the scope of employment as a CCW or as a Licensed Resource Parent.

Note: It is the responsibility of the alleged perpetrator to notify the assessing Family Case Manager (FCM) that the alleged perpetrator is a CCW or Licensed Resource Parent in the event that the allegations are related to the individual's personal life.

DCS will allow the CCW or Licensed Resource Parent who is an alleged perpetrator to participate in a CCWAR. The CCWAR is an informational meeting where the CCW or Licensed Resource Parent, has the opportunity to present any information that may assist DCS in making an accurate decision. The CCW or Licensed Resource Parent who is an alleged perpetrator has the right to have an attorney or other representative present at the CCWAR. The attorney or representative may assist the alleged perpetrator in presenting information at the meeting. However, witness testimony is prohibited. No official recording (i.e., audio recording) will be made of the meeting.

DCS will require that the CCWAR be conducted by one (1) of the following persons who was not involved in the assessment or the preparation of the assessment report and does not have a conflict of interest:

1. The DCS Division Manager (DM) in the county responsible for the assessment;
2. The DCS Local Office Director (LOD) in the county responsible for the assessment;

3. The DCS Regional Manager (RM) in the region responsible for the assessment;
4. The Assistant Deputy Director of Field Operations; or
5. The Deputy Director of Field Operations.

If the DM, LOD, RM, or Assistant Deputy Director of Field Operations was directly involved in the substantiation decision, was otherwise involved in the assessment or preparation of the report, or has a conflict of interest, the DM, LOD, RM, or Assistant Deputy Director of Field Operations and anyone in the direct chain of command may not be involved in the CCWAR. The CCWAR will then be conducted by a DM, LOD, RM, or Assistant Deputy Director of Field Operations who does not have a conflict of interest and is not under the chain of command of the person who was directly involved in the substantiation decision.

If the Deputy Director of Field Operations was directly involved in the assessment or the decision to substantiate, the CCWAR will be conducted by a designee of the Deputy Director of Field Operations. The designee shall be an individual at the Broadband or Executive level. In addition, it is preferable that the designee have experience overseeing assessments in the field.

DCS will require that the CCWAR occur prior to approval of the assessment finding and within **15 business days** following the date that the alleged perpetrator is notified of the proposed substantiation determination, in the Notice of Intent to Substantiate Allegations of CA/N by a Child Care Worker or Licensed Resource Parent. DCS will proceed with the CCWAR and make a determination regardless of the attendance of the CCW or Licensed Resource Parent alleged perpetrator.

Note: If the CCWAR concerns a fatality, the CCWAR will not be conducted until the Central Office Fatality Unit has conducted a full review of the case and the agency determines that it intends to substantiate allegations of CA/N.

DCS will allow the CCW or Licensed Resource Parent who is an alleged perpetrator the opportunity to continue the CCWAR under limited circumstances. Those limited circumstances include:

1. A written request for a continuance is received by a person authorized to conduct the CCWAR from the CCW or Licensed Resource Parent who is an alleged perpetrator before the scheduled date for the review;
2. The FCM Supervisor makes a determination that the requested continuance will not endanger the health and/or safety of a child;
3. A reasonable amount of time remains before the scheduled CCWAR for the person authorized to conduct the CCWAR to grant the request and inform the CCW or Licensed Resource Parent who is an alleged perpetrator (in writing, with a phone call, or with a face-to-face contact documented in the case management system);
 - a. The continuance must be contingent on the agreement of a CCW or Licensed Resource Parent who is an alleged perpetrator to allow DCS to notify the employer or licensing agency of the pending assessment if warranted,
 - b. A phone call or face-to-face contact regarding the continuance must be followed by written notice to the CCW or Licensed Resource Parent who is an alleged perpetrator of the rescheduled date, time, and location of the continued CCWAR, and
 - c. Copies must be sent to the CCW or Licensed Resource Parent's attorney, if applicable.

4. The rescheduled CCWAR must be held within **15 calendar days** from the originally scheduled CCWAR; and
5. The CCWAR may not be continued more than once.

DCS recognizes the right of the CCW or Licensed Resource Parent who is an alleged perpetrator to request an Administrative Appeal Hearing if the CCW or Licensed Resource Parent disagrees with the assessment finding (see policy 2.05 Administrative Appeal Hearings). DCS will notify the CCW or Licensed Resource Parent who is an alleged perpetrator in writing of the assessment finding and that regardless of whether the CCW or Licensed Resource Parent participated in the CCWAR, the CCW or Licensed Resource Parent has the right to appeal.

DCS shall notify the CCW's employer or prospective employer, if known, of the CCWAR results in an approved substantiated report. DCS will notify the employer within **two (2) business days** of the approval of substantiation. DCS will send the Notice to Employer of a Report of Child Abuse/Neglect (CA/N).

When the safety or well-being of an alleged victim or any other child residing in a facility or licensed resource home is in question, DCS reserves the right to contact the appropriate licensing unit and/or agency at any time during the assessment process to request an emergency closure of the facility or licensed resource home.

The FCM will:

1. Complete the assessment in accordance with the DCS assessment policies found on the Chapter 4 - Assessment webpage;
2. Notify the FCM Supervisor that the assessment involves a CCW or licensed resource parent; and
3. Complete a draft copy of the Assessment of Alleged Child Abuse or Neglect (311). Ensure that the word "DRAFT" is stamped on every page or watermarked on the 311.

The FCM Supervisor will:

1. Notify the DM, LOD, or RM, as appropriate, of the need for a CCWAR within one (1) business day of receiving the recommendation if the FCM and FCM Supervisor recommend substantiation;
2. Wait to approve the 311 until the CCWAR is conducted and the CCWAR decision is received;
3. Ensure that all remaining assessment tasks are completed in a timely manner as set out in Chapter 4 - Assessment policies;
4. Complete the following upon receipt of the decision from the person authorized to conduct the CCWAR:
 - a. Approve the 311 consistent with the decision by the person who conducted the review; or
 - b. Instruct the FCM to gather additional information or conduct additional interviews as requested by the person authorized to conduct the CCWAR and review the FCM's recommendation following further assessment. Send the Notice of Intent to Substantiate Allegations of CA/N by a Child Care Worker or Licensed Resource Parent form or the Notice of DCS Decision to Unsubstantiate Allegations of Child Abuse/Neglect (CA/N) form as appropriate.
5. Ensure the CCW's employer and/or the appropriate licensing unit or agency are notified within two (2) business days of entering the CCW's name into the Child Protection Index (CPI), using the Notice to Employer of a Report of Child Abuse/Neglect (CA/N) form, if

DCS concludes that the health or safety of a child will be potentially endangered if the CCW has continuing unsupervised contact with a child.

The person authorized to hold the CCWAR will:

1. Notify the CCW or Licensed Resource Parent alleged perpetrator of the intent to substantiate and the time, date, and place for the CCWAR within **three (3) business days** of being notified by the FCM Supervisor, by sending the Notice of Intent to Substantiate Allegations of CA/N by a Child Care Worker or Licensed Resource Parent form. Include a draft redacted copy of the 311 with the notice;
2. Conduct a CCWAR within **15 business days** following the date that the Notice of Intent to Substantiate Allegations of CA/N by a Child Care Worker or Licensed Resource Parent form was sent;
3. Review the assessment file with input from the DCS Staff Attorney, including the CCW or Licensed Resource Parent's statement and any other documentation presented by the individual; and
4. Decide which of the following actions will be taken:
 - a. Substantiate one (1) or more of the allegations,
 - b. Unsubstantiate one (1) or more of the allegations, and/or
 - c. Return the assessment to DCS for further assessment and reconsideration of the report, and send the Notice of Administrative Review Decision to Further Assess Allegations Against a Child Care Worker (CCW) or Licensed Resource Parent form.
5. Notify the FCM Supervisor of the review decision; and
6. Notify the CCW or Licensed Resource Parent who is alleged to be a perpetrator of the review decision within **five (5) business days** of conducting the CCWAR by sending:
 - a. The Notice of DCS Decision to Unsubstantiate Allegations of Child Abuse/Neglect form and an approved redacted copy of the 311 if unsubstantiated; or
 - b. The Notice of Right to Administrative Appeal of Child Abuse and/or Neglect Determination form, a copy of the Request an Administrative Appeal Hearing for Child Abuse or Neglect Substantiation, and an approved redacted copy of the 311 if substantiated.

Note: A copy of all notices should be sent to the DCS local office where the assessment was completed. The DCS local office should upload the notices and any correspondence received from the alleged perpetrator to the case management system. Information verifying the date and method of delivery and to whom the notice was sent should also be documented in the case management system.

If the CCW or Licensed Resource Parent who is a perpetrator chooses to appeal a decision to substantiate, see policy 2.05 Administrative Appeal Hearings for additional information.

Administrative Reviews of Allegations Substantiated Prior to October 15, 2006

A Licensed Resource Parent who had CA/N allegations substantiated prior to October 15, 2006, will receive an automatic agency review of the decision to substantiate prior to the decision to deny or revoke the person's foster home license, if the denial or revocation is based on the substantiation.

For a CCW who has CA/N allegations substantiated prior to October 15, 2006, upon submission of a written request, the perpetrator will receive a courtesy review. The courtesy review must be completed by one (1) of the following who was not directly involved in the original assessment decision:

1. The DCS DM in the county responsible for the assessment;
2. The DCS LOD in the county responsible for the assessment;
3. The DCS RM in the region responsible for the assessment;
4. The Assistant Deputy Director of Field Operations; or
5. The Deputy Director of Field Operations.

If the Deputy Director of Field Operations was directly involved in the assessment or the decision to substantiate, the CCWAR will be conducted by the Deputy Director of Field Operations designee who is not in the Deputy Director of Field Operations chain of command, was not involved in the decision to substantiate, and has no conflict of interest.

The individual identified by DCS to conduct the courtesy review will decide whether to uphold or unsubstantiate each allegation classified as substantiated. The following situations will support a decision to uphold the substantiation:

1. The decision to substantiate is supported by a criminal conviction or court finding that resulted in a Child in Need of Services (CHINS) adjudication based on the same facts and circumstances as the substantiation;
2. The perpetrator was provided notice and opportunity for an administrative hearing by an Administrative Law Judge (ALJ);
3. A courtesy review has already been conducted and the substantiation was upheld; or
4. The facts of the assessment are sufficient to uphold the substantiation.

The individual identified by DCS who conducted the review will insert the date of the review, along with the basis for the review conclusion into the case management system. The reviewer will send written notification of the review conclusion to the perpetrator using either the Notification of a Child Care Worker (CCW) Assessment Review Decision for an Assessment Closed Prior to October 15, 2006 or Notice of an Administrative Review Decision for an Assessment Closed Prior to October 15, 2006. Upon a decision to unsubstantiate the allegations, the individual identified by DCS who conducted the review will unsubstantiate the allegations in case management system.

Following agency review of a substantiation that was approved prior to October 15, 2006, the perpetrator has no right to administrative appeal of the decision. The written notice sent to the perpetrator by the reviewer upholding the substantiation will be the final agency decision, subject to judicial review under IC 4-21.5-5. In this circumstance, the Notice of Right to Administrative Appeal of a Child Abuse/Neglect Determination will NOT be used, instead, the 2.C Tool: Notifications for Administrative Reviews and Appeals will be used.

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RELEVANT INFORMATION

Definitions

Child Care Worker (CCW)

DCS defines "Child Care Worker", per IC 31-9-2-16.6, as a person who:

1. Is employed or actively seeking employment (other than self-employment as an owner/operator) at any of the following types of facilities:
 - a. Childcare center,
 - b. Childcare home (licensed or required to be licensed),
 - c. Childcare ministry (registered or required to be registered),
 - d. Residential group home,
 - e. Child Caring Institution (CCI),

- f. School,
 - g. Juvenile detention center; **or**
2. Is a child caregiver who:
 - a. Provides or is responsible for providing care and supervision of a child to whom they are not a parent, stepparent, grandparent, aunt, uncle, sibling, or legal guardian or custodian with whom the person resides,
 - b. Provides the care described in (a) at a residence that is not where the child lives and outside of the presence of the child's parent, guardian, or a custodian with whom the child resides,
 - c. Is not required to be licensed as a childcare home or foster family home, and
 - d. Receives more than \$2,000 a year for providing care and supervision for a child or children; **or**
 3. Has or will have direct contact with children on a regular and continuing basis through employment (or through employment being actively sought) with any agency, facility, or home that provides the following to a child or children to whom the person is not related:
 - a. A service that provides for the care, health, safety, and supervision of a child's social, emotional, and educational growth; or
 - b. Services to, or for the benefit of, children who are victims of child abuse or neglect (this includes but is not limited to agencies, facilities, and homes that have contracts with DCS to provide services).

Forms and Tools

- [2.C Tool: Notifications for Administrative Reviews and Appeals](#)
- Assessment of Alleged Child Abuse or Neglect (SF 113) (311)- Available in the case management system
- [Notice to Employer of a Report of Child Abuse/Neglect \(CA/N\) \(SF 53031\)](#)
- [Notice of Administrative Review Decision to Further Assess Allegations Against a Child Care Worker \(CCW\) or Licensed Resource Parent \(SF 53029\)](#)
- [Notice of an Administrative Review Decision for an Assessment Closed Prior to October 15, 2006 \(SF 53033\)](#)
- [Notice of DCS Decision to Unsubstantiate Allegations of Child Abuse/Neglect \(SF 53030\)](#)
- [Notice of Intent to Substantiate Allegations of CA/N by a Child Care Worker or Licensed Resource Parent \(SF 53028\)](#)
- [Notice of Right to Administrative Appeal of a Child Abuse/Neglect Determination \(SF 55148\)](#)
- [Notification of a Child Care Worker \(CCW\) Assessment Review Decision for an Assessment Closed Prior to October 15, 2006 \(SF 53032\)](#)
- [Request for an Administrative Appeal Hearing for Child Abuse or Neglect Substantiation \(SF 54776\)](#)

Related Policies

- [2.04 DCS Employee Administrative Review Process](#)
- [2.05 Administrative Appeal Hearings](#)
- [Chapter 4 - Assessment](#)

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LEGAL REFERENCES

- [IC 4-21.5-3: Adjudicative Proceedings](#)
- [IC 4-21.5-5: Judicial Review](#)
- [IC 31-9-2-16.3: "Child care"](#)
- [IC 31-9-2-16.4: "Child caregiver"](#)
- [IC 31-9-2-16.6: "Child care worker"](#)
- [IC 31-9-2-31 \(b\)\(2\): "Custodian"](#)
- [IC 31-9-2-133: "Victim of child abuse or neglect"](#)
- [IC 31-33-18-7: Notice to employer of child care worker who is subject of substantiated report](#)
- [IC 31-33-26: Child Protection Index](#)

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PRACTICE GUIDANCE- DCS POLICY 2.03

Practice Guidance is designed to assist DCS staff with thoughtful and practical direction on how to effectively integrate tools and social work practice into daily case management in an effort to achieve positive family and child outcomes. Practice Guidance is separate from Policy.

N/A

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