

	<b>INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE MANUAL</b>	
	<b>Chapter 2:</b> Administration of Child Welfare	<b>Effective Date:</b> October 15, 2006
	<b>Section 6:</b> Administrative Appeal Hearings	<b>Version:</b> 1

<b>POLICY [NEW]</b>	<b>OLD POLICY: N/A</b>
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- The Indiana Department of Child Services (DCS) recognizes the right of the alleged perpetrator to request an **administrative appeal hearing** if he/she is not satisfied with the outcome of the DCS administrative review.
- If the substantiated case is against a minor, the request for an administrative appeal hearing must be made by the child's parent, guardian, custodian, attorney, Guardian ad Litem or Court Appointed Special Advocate (CASA).
- DCS will require that all request be made using the [Request for Administrative Appeal Hearing](#) and that the request be received by the DCS Central Office within eighteen (18) calendar days from date listed on the [Notice of Administrative Review Decision](#).
- If the substantiated case is against a DCS employee or a child care worker, as defined in DCS policy [2.X Child Care Worker Investigation Review Process](#), the Administrative Appeal Hearing will be held within twenty (20) calendar days after the receipt of the hearing request, unless the perpetrator/appellant requests an extension of time for hearing preparation or other good cause.
- DCS will hold all other hearings within ninety (90) days of the date the request is received by Central Office. DCS will notify the appellant in writing of the hearing date at least 10 business days in advance.
- DCS acknowledges that the appellant has the right to bring witnesses and/or legal counsel to the hearing.
- DCS **will not conduct** an administrative review **if a CHINS petition has been filed** based on the substantiated determination, until the court has ruled on the petition. In the event the CHINS petition results in adjudication of child abuse or neglect by the person who requested the review, the request for administrative review will be dismissed. If the CHINS case is dismissed or closed without adjudication, or the adjudication does not include a finding concerning the person who requested the review, the administrative review will then proceed in accordance with this policy.
- DCS **will not conduct** an administrative review **if criminal charges have been filed** until the court has ruled on the charges. In the event that the perpetrator is convicted of any charges based on the substantiated CA/N, the administrative review will be dismissed. If the criminal case is dismissed, or otherwise concluded without a conviction, the administrative review will then proceed in accordance with this policy.
- The DCS administrative appeal hearing will be conducted and decisions issued in accordance with the procedures outlined in [470 IAC 1-4](#), except for 470 IAC 1-4-6.
- The presiding Administrative Law Judge (ALJ) will issue a written decision within
  - within fifteen (15) calendar days after completion of the hearing for child care workers or DCS employees; or,
  - within thirty (30) days after completion of the hearing for all other hearings.
- The ALJ's decision will be the **final** decision of DCS regarding the classification of the CPS investigation and report, subject to the right to judicial review as provided in [470 IAC 1-4-7](#).

*This policy does not apply to administrative appeals of license denials or revocations that are currently heard and decided by the Indiana Family and Social Service Administration's Office of Hearings and Appeals.*

## Code References

- [42 USC 5106a \(b\) \(2\) \(A\) \(XV\) \(II\): Grants to States for child abuse and neglect prevention and treatment programs](#)

## PROCEDURE

The alleged perpetrator will

- Request an Administrative Appeal Hearing by submitting a [Request for Administrative Appeal Hearing](#) to the local DCS office, which conducted the investigation.

The local DCS office that receives the request will

- Document receipt of the request
- Complete an [Appeal Request Coversheet](#)
- Fax the following information to the DCS Hearings Coordinator within one (1) business day of receipt:
  - The Appeal Request Coversheet; and
  - The Appeal Request; and
  - An supporting documentation submitted by the alleged perpetrator; and
  - A copy of the 311, if not already included; and
  - A copy of the Notice of Administrative Review Decision, if not already included.

When a request for a hearing is received, the DCS Hearings Coordinator will,

- Record the case in the DCS hearing tracking system
- Assigned the case to a DCS ALJ
- Schedule the hearing
- Notify the appellant, the ALJ and the local DCS office director of the date, time and specific location of the hearing.

The ALJ will,

- Ensure that the hearings is conducted in accordance with the procedures specified in 470 IAC 1-4-1 through 5.
- Issue a written decision:
  - within fifteen (15) calendar days after completion of the hearing for child care workers and DCS employee's; **or**,
  - within thirty (30) calendar days after completion of the hearing for all other hearings.

After the hearing, the DCS Hearings Coordinator will

- Will make sure that all of the following persons are notified of the decision:
  - The appellant (alleged perpetrator);
  - The appellant's (alleged perpetrator's) legal counsel, if applicable;
  - The local DCS office Director of the county who investigated the case

## PRACTICE GUIDANCE

- N/A

## FORMS AND TOOLS

- [Request for Administrative Appeal Hearing](#)
- [Appeal Request Coversheet](#)

## RELATED INFORMATION

### **Location of Hearings**

All Hearings for Child Care Workers and DCS employees will be held in Indianapolis, unless the perpetrator/appellant both (a) requests that the hearing be held in another location and (b) consents to extension of the hearing time limits.

All other Hearings will be held in a pre-determined central location near the county of residence of the appellant. The location are as follows:

<b>Appellant resides in:</b>	<b>Hearing will be held in:</b>
Region 1, Region 2 (LaPorte, Porter, Jasper, Newton)	Gary
Region 2 (Pulaski, Starke), 3,4, 6 (except Howard County)	South Bend
Regions 5, 6 (Howard County), 7, 8, 9, 10, 11, 12, 14 (Johnson County, Shelby County)	Indianapolis
Regions 13, 14 (Bartholomew County, Jackson County, Jennings County), 15, 18 (Clark County, Floyd County, Scott County)	Columbus
Regions 16, 17, 18 (Harrison County, Washington County)	Jasper

### **Presenting the DCS Case at the Hearing**

At the administrative appeal hearing, the case may be presented by a Family Case Manager, Supervisor, or DCS staff attorney. The local DCS office director may decide who is best able to represent the agency.

### **Final Decision of DCS**

The ALJ's decision will be the final decision of DCS regarding the classification of the CPS investigation and report, subject to judicial review as provided in 470 IAC 1-4-7.

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