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**TITLE 465 DEPARTMENT OF CHILD SERVICES**

**Notice of First Public Comment Period**

LSA Document #24-92

**PURPOSE OF NOTICE**

The Department of Child Services (DCS) is soliciting public comment on amending rules at [465 IAC 3-2-3](#) concerning clarification of rights and administrative remedies to employees and the general public. DCS seeks comment on the affected citations listed and any other provisions of [465 IAC](#) that may be affected by this rulemaking.

**CITATIONS AFFECTED:** [465 IAC 3-2-3](#)

**AUTHORITY:** [IC 31-33-26-13](#)

**OVERVIEW**

**Basic Purpose and Background**

[465 IAC 3](#) concerns the administrative reviews and appeals of the agency actions and determinations of DCS. [465 IAC 3-2-3](#) specifically addresses the administrative review procedure for DCS employees regarding substantiation determinations in reports of child abuse and neglect. DCS seeks to amend the rule to clarify and ensure that its employees are receiving an opportunity to have meaningful review of the substantiation, and ensure the continued integrity of its general workforce.

The following are the three (3) categories of potentially affected parties accused of a substantiated report of abuse or neglect:

- (1) Child care or licensed foster parents.
- (2) Department employees.
- (3) Members of the public.

The defining factor in each of these categories is that they have been accused of a substantiated report of abuse or neglect. The effect is anticipated to fall largely within the current and future DCS employee workforce.

For purposes of [IC 4-22-2-28.1](#), small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Cameron Yates, Sr. Attorney, Administrative Law  
Indiana Department of Child Services  
Indiana Government Center South  
302 West Washington Street, E306-MS47  
Indianapolis, IN 46204  
(812) 675-6230  
cameron.yates@dcs.in.gov

For purposes of [IC 4-22-2-28.1](#), the Small Business Ombudsman designated by [IC 5-28-17-6](#) is:

Matthew Jaworowski  
Small Business Ombudsman  
Indiana Economic Development Corporation  
One North Capitol, Suite 700  
Indianapolis, IN 46204  
(317) 650-0126  
majaworowski@iedc.in.gov

Resources available to regulated entities through the small business ombudsman include the ombudsman's duties stated in [IC 5-28-17-6](#), specifically [IC 5-28-17-6\(9\)](#), investigating and attempting to resolve any matter regarding compliance by a small business with a law, rule, or policy administered by a state agency, either as a party to a proceeding or as a mediator.

**REQUEST FOR PUBLIC COMMENTS**

At this time, DCS is soliciting public comments on the proposed rule. Comments may be submitted in one of the following ways:

- (1) By mail or common carrier to the following address:  
LSA Document #24-92  
Cameron Yates, Sr. Attorney, Administrative Law  
Indiana Department of Child Services  
Indiana Government Center South

302 West Washington Street, E306-MS47  
Indianapolis, IN 46204

- (2) By electronic mail to [cameron.yates@dcs.in.gov](mailto:cameron.yates@dcs.in.gov). To confirm timely delivery of submitted comments, please request a document receipt when sending the electronic mail. **PLEASE NOTE: Electronic mail comments will not be considered part of the official written comment period unless they are sent to the address indicated in this notice.**
- (3) Attend scheduled public hearing.

### COMMENT PERIOD DEADLINE

All comments must be postmarked or time stamped not later than April 19, 2024.

The rule, Regulatory Analysis, appendices referenced in the Regulatory Analysis, and materials incorporated by reference (if applicable) are on file at the Department of Child Services, Indiana Government Center South, 302 West Washington Street, Room E306, Indianapolis, Indiana and are available for public inspection. Copies of the rule, Regulatory Analysis, and appendices referenced in the Regulatory Analysis are available at the office of the Department of Child Services.

If DCS does not receive substantive comments during the public comment period or public hearing, the rule may be adopted with text that is the same as or does not substantially differ from the text of the proposed rule published in this notice.

### ADDITIONAL DOCUMENTS

Regulatory Analysis: [20240320-IR-465240092RAA](#)

Notice of Public Hearing: [20240320-IR-465240092PHA](#)

### PROPOSED RULE

SECTION 1. [465 IAC 3-2-3](#) IS AMENDED TO READ AS FOLLOWS:

#### [465 IAC 3-2-3](#) Administrative review procedure for department employees for a substantiated report of child abuse or neglect

Authority: [IC 31-33-26-13](#)

Affected: [IC 31-33-26-8](#)

Sec. 3. (a) A department employee ~~who~~ is identified as a perpetrator in a report of child abuse or neglect shall be notified in writing of the scheduled date of an automatic administrative review. The notice will be sent or delivered with the notice to the employee of a substantiated report of alleged child abuse or neglect identifying the employee as a perpetrator, as provided in ~~[IC 31-33-26-8](#)~~. [IC 31-33-26-8\(c\)](#).

(b) Before the date scheduled for ~~the~~ **an** administrative review, ~~the~~ **an** employee may submit written information or documents to be considered at the administrative review.

(c) ~~The~~ **An** administrative review must be held and completed:

- (1) within fifteen (15) business days after the ~~later~~ **of the date on which the substantiated:**
  - (A) ~~the substantiated~~ report is approved; or
  - (B) **individual is identified as a department employee;** and
- (2) after service of the notice under subsection (a).

(d) ~~The~~ **An** administrative review shall be conducted by an administrative review team consisting of individuals: ~~that were:~~

- (1) not involved with the assessment of the allegations or ~~with~~ the preparation of the assessment report; and
- (2) selected ~~in accordance with~~ **under** department policy.

(e) ~~The~~ **An** administrative review team shall determine one (1) of the following possible outcomes:

- (1) Affirmance of the approved substantiated report.
- (2) A directive to change the report determination from substantiated to unsubstantiated for ~~any~~ **an** allegation

of child abuse or neglect concerning ~~the a~~ department employee as an alleged perpetrator.

(3) A directive to reopen the assessment ~~in order to obtain~~ **get** additional information and prepare a new report.

(f) The department shall send or deliver to ~~the an~~ employee a written notice of ~~the an~~ administrative review decision within five (5) business days following ~~the a~~ review.

(g) If ~~the an~~ administrative review determination ~~affirmed the~~ **affirms a** report, the notice shall provide to the employee information regarding the right to request an expedited administrative hearing.

(h) For purposes of [IC 31-33-26-8](#)(c), the date of service of the notice of administrative review decision under subsection (f) ~~shall be deemed to be~~ **is considered** the date of service of the notice of a substantiated report.

*(Department of Child Services; [465 IAC 3-2-3](#); filed Nov 14, 2012, 12:46 p.m.: [20121212-IR-465120404FRA](#); readopted filed Sep 4, 2018, 2:31 p.m.: [20181003-IR-465180321RFA](#))*

*Posted: 03/20/2024 by Legislative Services Agency*

An [html](#) version of this document.