

	<b>INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE POLICY</b>	
	<b>Chapter 2:</b> Administration of Child Welfare	<b>Effective Date:</b> May 1, 2020
	<b>Section 02:</b> Administrative Review Process	<b>Version:</b> 7

<b>STATEMENTS OF PURPOSE</b>
------------------------------

The Administrative Review is a process by which a perpetrator, who has had Child Abuse and/or Neglect (CA/N) allegations substantiated on or after October 15, 2006, has the opportunity to have a review of the assessment completed by an Indiana Department of Child Services (DCS) employee not previously connected to the case. The perpetrator may present information for the Administrative Review with his or her request to unsubstantiate the allegations.

This policy **does not** apply to the following situations:

1. CA/N substantiated cases involving a Child Care Worker (CCW) and/or licensed resource parent. See policy [2.03 Child Care Worker Assessment Review Process](#) for additional information; or
2. CA/N substantiated cases involving a DCS employee. See policy [4.45 Assessment and Review of DCS Staff Alleged Perpetrators](#) for additional information.

A request for Administrative Review must be submitted by the perpetrator and received by the DCS local office within **15 calendar days** following the date the [Notification of Assessment Outcome and Right to Request an Administrative Review \(SF 53068\)](#) was hand delivered to the perpetrator. The DCS local office will add an additional three (3) days to the deadline if the notice letter was sent via mail. See Practice Guidance for additional information.

If the request for an Administrative Review deadline is on a day that the DCS local office is closed, the deadline is extended to the next business day.

If the substantiation is against a minor, the request for Administrative Review must be submitted by the child's:

1. Parent, Guardian, or Custodian;
2. Attorney;
3. Guardian ad Litem (GAL) or Court Appointed Special Advocate (CASA), if applicable.

If a court's findings support the substantiation, DCS **will not conduct** an Administrative Review, the person will remain on the Child Protection Index (CPI) and any request for Administrative Review will be denied. If a Child in Need of Services (CHINS) case or a criminal case is pending regarding the same facts and circumstances as the substantiation, but the court has not yet issued a finding that would support or overturn the substantiation, DCS **will not stay** an Administrative Review in an attempt to wait for the court's findings. See Related Information for additional guidance.

DCS requires that the Administrative Review be conducted by one (1) of the following:

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 approved the initial Assessment of Child Abuse or Neglect (SF 113) (311), was otherwise involved in the assessment or preparation of the report, was directly involved in the decision to substantiate, or has a conflict of interest, he or she and anyone in his or her chain of command may not be involved in the Administrative Review process. The Administrative Review will 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 a person who approved the initial 311, was directly involved in the decision to substantiate, or has a conflict of interest.

If the Deputy Director of Field Operations was directly involved in the decision to substantiate, the Administrative Review will be conducted by a designee of the Deputy Director of Field Operations. See Practice Guidance for additional information regarding the criteria for selecting a designee.

The individual identified by DCS to conduct the Administrative Review may at his or her discretion and subject to the time limits stated herein, refer the request to the community Child Protection Team (CPT) to review and make a recommendation. However, the final decision is determined by DCS. The CPT is prohibited from making the decision regarding the outcome of the Administrative Review.

DCS will complete the Administrative Review, notify the perpetrator of the outcome in writing within **15 calendar days** from the DCS local office receipt of the perpetrator's request. If the Administrative Review is denied, DCS will send the [Notification of Denial of Administrative Review \(SF 53072\)](#) to the perpetrator to provide notification that he or she has the opportunity to request that DCS reconsider the denial. The request from the perpetrator must be presented in writing to DCS within **15 calendar days** after the date that the notice was sent, allowing three (3) additional days if the notice letter is sent via mail, and state the reason that he or she believes he or she is entitled to an Administrative Review. If the request is submitted timely, DCS will reconsider the denial and determine whether or not the denial was appropriate.

DCS will then notify the perpetrator that the DCS decision to deny Administrative Review is upheld or that a review will be conducted without the need for the perpetrator to take further action. If the denial is upheld, the perpetrator will have the opportunity to request an Administrative Appeal Hearing regarding the decision to deny the Administrative Review in accordance with policy [2.05 Administrative Appeal Hearings](#).

If it is determined that further assessment and reconsideration of the 311 is necessary, the individual who made the determination will notify the DCS local office of the decision.

#### Code References

1. [IC 31-33-26: Child Protection Index](#)
2. [465 IAC 3: Administrative Reviews and Hearings](#)
3. [42 USC 510a: Grants to States for child abuse and neglect prevention and treatment programs](#)

## PROCEDURE

The individual conducting the review will:

1. Refer the request for an Administrative Review to the community CPT for input and a recommendation, if desired;
2. Review the completed assessment file, including all information submitted by the perpetrator with the request for review and/or recommendation of the community CPT, in consultation with the DCS Staff Attorney;
3. Decide to do one (1) of the following;
  - a. Deny the request for Administrative Review on the following basis,
    - i. Request for review was not received timely;
    - ii. CHINS adjudication finding based on the facts of the substantiated determination; or
    - iii. Criminal conviction on charges related to the same facts and circumstances on which the report of CA/N was substantiated.

**Note:** An Administrative Reviewer cannot “Stay” an Administrative Review due to pending CHINS or Criminal proceedings.

- b. Conduct the Administrative Review and indicate one (1) of the following decisions,
        - i. Affirm the substantiation determination;
        - ii. Set aside the determination and reclassify it as unsubstantiated; or

**Note:** The allegations against any individual identified as a perpetrator must be unsubstantiated if a court, in a CHINS case finds that the CA/N did not occur or that the individual was not the perpetrator of the alleged CA/N.

- iii. Re-open the assessment.

4. If the request for Administrative Review is denied:
  - a. Notify the LOD,
  - b. Notify the perpetrator of the Administrative Review denial decision in writing, within **15 calendar days**, and send the [Notification of Denial of Administrative Review \(SF 53072\)](#),
  - c. Reconsider a denial if requested timely by the perpetrator,
  - d. Make a decision in writing, within **15 calendar days** regarding the reconsideration, and
  - e. Notify the perpetrator:
    - i. A review will be conducted; or
    - ii. The denial is upheld and send:
      - a) A redacted copy of the 311,
      - b) The [Notice of Right to Administrative Appeal of a Child Abuse or Neglect Determination \(SF 55148\)](#), and
      - c) The [Request for an Administrative Appeal Hearing for Child Abuse or Neglect Substantiation \(SF 54776\)](#).

**Note:** If the substantiation is upheld or denied at Administrative Review and the perpetrator chooses to request an Administrative Appeal of the Administrative Review decision, refer to policy [2.05 Administrative Appeal Hearings](#) for more information.

5. Complete the following if an Administrative Review is conducted and returned for further assessment of the report:
  - a. Notify the DCS LOD and/or FCM Supervisor of the Administrative Review decision, and
  - b. Notify the perpetrator of the decision by sending the [Notification of Administrative Review Decision Report Returned for Further Assessment \(SF 53094\)](#) within **15 calendar days** of the local office receipt of the perpetrator's request.
  
6. Complete the following if an Administrative Review is conducted and the decision is made to unsubstantiate:
  - a. Notify the DCS LOD and/or FCM Supervisor of the Administrative Review decision,
  - b. Notify the alleged perpetrator of the decision by sending the [Notification of Administrative Review Decision to Unsubstantiate Allegations of Child Abuse or Neglect \(SF 53071\)](#) within **15 calendar days** of the local office receipt of the perpetrator's request, and
  - c. Send the updated 311 to the perpetrator reflecting the allegations have been unsubstantiated within **15 calendar days** of the local office receipt of the perpetrator's request.
  
7. Complete the following if an Administrative Review is conducted and the decision is made to uphold the substantiation:
  - a. Notify the DCS LOD and/or FCM Supervisor of the Administrative Review decision,
  - b. Notify the perpetrator within **15 calendar days** of the decision by sending:
    - i. Redacted copy of the 311;
    - ii. [Notice of Right to Administrative Appeal of a Child Abuse or Neglect Determination \(SF 55148\)](#); and
    - iii. [Request for an Administrative Appeal Hearing for Child Abuse or Neglect Substantiation \(SF 54776\)](#).

The DCS LOD or designee will maintain a record of the following in the case management system:

1. The date of the Administrative Review;
2. The individual who conducted the Administrative Review;
3. The Administrative Review decision; and
4. A copy of the review decision letter. See Practice Guidance for additional information.

The FCM Supervisor will:

1. Upon request from the DCS LOD or other individual authorized to conduct an Administrative Review, set aside the determination, reclassify it as unsubstantiated and complete the following:
  - a. Print a revised [Forty-Five \(45\) Day Report of Assessment \(SF 54854\)](#), if applicable. See policy [4.21 Forty-Five Day Report of Assessment](#) for more information,
  - b. Document the Administrative Review decision in the case management system using the 'Post Assessment Information' option,
  - c. Print a revised 311 to send to the Prosecutor's Office, if applicable, and
  - d. Notify the parent, guardian, or custodian of the alleged victim of the revision.

2. Complete the following upon request from the DCS LOD or other individual authorized to conduct an Administrative Review:
  - a. Instruct the FCM to gather additional information or conduct additional interviews as requested by the DCS LOD or other individual authorized to conduct the Administrative Review,
  - b. Review the FCM's new recommendation. See policy [2.01 Notice of Assessment Outcome](#) for more information,
  - c. Ensure all new information is added to the 311 noting the additional assessment information and detail why the additional assessment did or did not change the assessment outcome, and
  - d. Ensure the new 311 and [Notice of Availability of Completed Reports and Information: Assessment of Allegations of Child Abuse and/or Neglect \(SF 48201\)](#) are sent to appropriate parties. See policy [2.01 Notice of Assessment Outcome](#) for additional clarification.

The FCM will, within **30 calendar days**:

1. Gather additional information or conduct additional interviews necessary to complete the 311 if the report is returned for further assessment;
2. Ensure information is added to the 311 noting the additional assessment information and detail why the additional assessment did/did not change the assessment outcome; and
3. Send the 311 to the FCM Supervisor for approval.

## PRACTICE GUIDANCE

### **Criteria for Selecting a Designee**

If the Deputy Director of Field Operations is directly involved in a decision to substantiate, he or she will select a designee to conduct the review. 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.

### **Instructions for developing a Notice using the Chapter 2 Notification Tool**

The [2.C Tool: Notifications for Administrative Reviews and Appeals](#) should be used by DCS employees authorized to notify a perpetrator or an employer in a case involving a DCS employee or CCW regarding an assessment conclusion by DCS. The DCS employee should insert language from the appropriate section and place it on DCS local office letterhead. The notice should be signed by the DCS employee and sent by mail or hand delivered with proper attachments and within the allotted timeframe.

### **2.C Tool: Notifications for Administrative Reviews and Appeals**

The [2.C Tool: Notifications for Administrative Reviews and Appeals](#) will be used to send the following notices:

1. [Notification of Assessment Outcome and Right to Request an Administrative Review \(SF 53068\)](#);
2. [Notification of Administrative Review Decision to Unsubstantiate Allegations of Child Abuse or Neglect \(SF 53071\)](#);
3. [Notification of Administrative Review Decision Report Returned for Further Assessment \(SF 53094\)](#);
4. Notice of Administrative Decision after Further Assessment (Appendix D);
5. [Notification of Denial of Administrative Review \(SF 53072\)](#);

6. [Notice of Intent to Substantiate Allegations of CA/N by a Child Care Worker or Licensed Resource Parent \(SF 53028\)](#);
7. [Notice of Administrative Review Decision to Further Assess Allegations Against a Child Care Worker \(CCW\) or Licensed Resource Parent \(SF 53029\)](#);
8. [Notice of DCS Decision to Unsubstantiate Allegations of Child Abuse/Neglect \(CA/N\) \(SF 53030\)](#);
9. [Notice to Employer of a Report of Child Abuse/Neglect \(CA/N\) \(SF 53031\)](#);
10. [Notification of a Child Care Worker \(CCW\) Assessment Review Decision for an Assessment Closed Prior to 10-15-06 \(SF 53032\)](#);
11. [Notice of an Administrative Review Decision for an Assessment Closed Prior to 10-15-06 \(SF 53033\)](#);
12. [Notice of Assessment Outcome for a Department of Child Services Employee \(SF 54318\)](#); and
14. [Notice of Administrative Review Outcome for a Department of Child Services Employee \(SF 54317\)](#).

### **Placing Notices and Letters in the file**

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.

### **Hand Delivery**

Hand delivery requires successful face-to-face contact with the perpetrator and a documented contact in the case management system.

### **Time Computation for the Perpetrator to Request an Administrative Review**

The following guidelines should be utilized in computing timeframes for the perpetrator to request Administrative Review:

1. Note the date that the DCS local office mails or hand delivers the [Notification of Assessment Outcome and Right to Request an Administrative Review \(SF 53068\)](#). Do not count the day that the notice is mailed or hand delivered;
2. Count the day following the date the DCS local office mails or hand delivers the [Notification of Assessment Outcome and Right to Request an Administrative Review \(SF 53068\)](#) as day one (1);
3. End at the close of business on the 15th day in the computation, unless it is a day the office is closed for business. If the office is closed for business on the 15th day, the time frame is extended until the close of business on the next day the office is open for business; and
4. Add three (3) days to the deadline if the notice is mailed by DCS.

<b>FORMS AND TOOLS</b>
------------------------

1. [2.C Tool: Notifications for Administrative Reviews and Appeals](#)
2. Assessment of Alleged Child Abuse or Neglect (SF 113) (311) – Available in the case management system
3. [Forty-Five \(45\) Day Report of Assessment \(SF 54854\)](#)



4. [Notice of Administrative Appeal of a Child Abuse or Neglect Determination \(SF 55148\)](#) – available in the case management system
5. [Notification of Administrative Review Decision Report Returned for Further Assessment \(SF 53094\)](#)
6. [Notification of Administrative Review Decision to Unsubstantiate Allegations of Child Abuse or Neglect \(SF 53071\)](#)
7. [Notification of Assessment Outcome and Right to Request an Administrative Review \(SF 53068\)](#)
8. [Notification of Denial of Administrative Review \(SF 53072\)](#)
9. [Request for an Administrative Appeal Hearing for Child Abuse or Neglect Substantiation \(SF 54776\)](#) – available in the case management system

<b>RELATED INFORMATION</b>
----------------------------

**Objectives of an Administrative Review:**

1. Provide an internal review of the assessment by DCS at the request of the perpetrator to determine whether or not the assessment provides a preponderance of evidence to support the conclusion to substantiate the allegations;
2. Provide an opportunity for the perpetrator to submit documentation (not testimony) regarding the substantiated allegations to challenge the substantiation; and
3. Comply with due process requirements that mandate DCS offer a person identified as a perpetrator the opportunity to challenge allegations classified as substantiated. An Administrative Review is one step in the DCS administrative process.

**Court Finding Supporting Substantiation:**

Findings that support a substantiation may be found in CHINS or criminal/juvenile delinquency case orders:

1. A court in a CHINS case may determine that the report of CA/N is properly substantiated, CA/N occurred, or a person was a perpetrator of CA/N. The determinations made by the court are binding; or
2. A criminal (or juvenile delinquency) case may result in a conviction of the person identified as a perpetrator in the report (or an adjudication in a juvenile delinquency case). If the facts supporting a necessary element for the conviction also provide the basis for the substantiation, the conviction supports the substantiation and is binding.

If a CHINS Court finds in an order that the alleged child abuse or neglect identified in the report did not occur, or the person named as a perpetrator in a report of suspected child abuse or neglect was not a perpetrator of the alleged child abuse or neglect, DCS **will not conduct** an Administrative Review. The finding of the court is binding, and the report will be unsubstantiated consistent with the court's finding. The DCS local office will notify the alleged perpetrator of the assessment conclusion, whether or not an Administrative Review occurs based on the court's finding.

The individual identified by DCS to conduct the Administrative Review may deny the Administrative Review, uphold the classification of the allegation(s) as substantiated, reverse the allegations classified as substantiated, or return the report for further assessment so that additional information may be obtained. An Informal Adjustment (IA) does not justify a denial of an Administrative Review. The individual identified by DCS to conduct the Administrative Review may not stay the Administrative Review process.

**Note:** For those Administrative Reviews that were stayed before the effective date of this policy, the Administrative Review process must be concluded in accordance with the stay letter provided to the perpetrator. If no deadline was provided by DCS, see [2.C Tool: Notifications- Notice of Deadline to Reactivate Administrative Review or Appeal Request \(Appendix M\)](#) for guidance. There are no circumstances under which an Administrative Reviewer can stay an Administrative Review.