

	INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE POLICY	
	Chapter 2: Administration of Child Welfare	Effective Date: May 1, 2020
	Section 3: Child Care Worker Assessment Review Process	Version: 7

STATEMENTS OF PURPOSE *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 2.4 Assessment and Review of DCS Staff Alleged Perpetrators for more information.*

The Indiana Department of Child Services (DCS) will ensure a [Child Care Worker \(CCW\)](#), as defined by [465 IAC 3-1-5](#), or Licensed Resource Parent is given the opportunity for Administrative Review **prior to approval** of an assessment decision to substantiate Child Abuse and/or Neglect (CA/N) that identifies the person as an alleged perpetrator of CA/N. 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 he or she 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 [CCW](#) Assessment Review (CCWAR). The CCWAR is an informational meeting where the [CCW](#) or Licensed Resource Parent, has the opportunity to present any information he or she feels could 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 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 Local 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, he or she and anyone in his or her 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. See Practice Guidance for additional information regarding the [criteria for selecting a designee](#).

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 \(SF 53028\)](#). 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. Before the scheduled date for the CCWAR, the person authorized to conduct the CCWAR must receive a written request for a continuance from the [CCW](#) or Licensed Resource Parent who is an alleged perpetrator;
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 he or she disagrees with the assessment finding. See policy [2.5 Administrative Appeal Hearings](#) for additional information. DCS will notify the [CCW](#) or Licensed Resource Parent who is an alleged perpetrator in writing of the assessment finding and his/her appeal rights regardless of whether he or she participates in the CCWAR.

DCS may 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, if the CCWAR reviewer concludes that the health or safety of a child will be potentially endangered if the [CCW](#) has continuing unsupervised contact with children. DCS will send the [Notice to Employer of a Report of Child Abuse/Neglect \(CA/N\) \(SF 53031\)](#).

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.

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 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 10-15-06 \(SF 53032\)](#) or [Notice of an Administrative Review Decision for an Assessment Closed Prior to 10-15-06 \(SF 53033\)](#) as a guide. 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 \(SF 55148\)](#) will NOT be used, instead, the [2.C Tool: Notifications for Administrative Reviews and Appeals](#) will be used.

Code References

1. [IC 31-9-2-16.3: Child Care](#)
2. [IC 31-9-2-16.4: Child Caregiver](#)
3. [IC 31-9-2-31 \(b\)\(2\): Custodian](#)
4. [IC 31-9-2-133: Victim of child abuse or neglect](#)
5. [IC 31-33-26: Child Protection Index](#)
6. [IC 4-21.5-3: Adjudicative Proceedings](#)
7. [IC 4-21.5-5: Judicial Review](#)
8. [465 IAC 3-2-2\(m\): Administrative Reviews and Hearings](#)
9. [465 IAC 3-1-5: "Child Care Worker" defined](#)

PROCEDURE

The FCM will:

1. Complete the assessment in accordance with the DCS assessment policies found in [Chapter 4: Assessment](#);
2. Notify his or her 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 \(SF 113\) \(311\)](#). Ensure that the word "DRAFT" is stamped on every page or watermarked on the [311](#).

The FCM Supervisor will:

1. If the FCM and FCM Supervisor recommend substantiation, notify the DM, LOD, or RM as appropriate of the need for a CCWAR within one (1) business day of receiving the recommendation from the FCM;
2. Wait to approve the [311](#) until the CCWAR is conducted and the CCWAR decision is received; and
3. Ensure that all remaining assessment tasks are completed in a timely manner as set out in [Chapter 4: Assessment](#) policies.

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 \(SF 53028\)](#). 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 \(SF 53028\)](#) is 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 or more of the allegations,
 - b. Unsubstantiate one or more of the allegations, and/or
 - c. Return the assessment to DCS for further assessment and reconsideration of the report. Send the [Notice of Administrative Review Decision to Further Assess Allegations Against a Child Care Worker \(CCW\) Or Licensed Resource Parent \(SF 53029\)](#).
5. Notify the FCM Supervisor of the review decision; and
6. Within five (5) business days of conducting the CCWAR, notify the alleged [CCW](#) or Licensed Resource Parent perpetrator of the review decision utilizing the following documentation:
 - a. If unsubstantiated, send [Notice of DCS Decision to Unsubstantiate Allegations of Child Abuse/Neglect \(CA/N\) \(SF 53030\)](#) and an approved redacted copy of the [311](#); or
 - b. If substantiated, send the [Notice of Right to Administrative Appeal of Child Abuse and/or Neglect Determination \(SF 55148\)](#) and include a copy of the [Request an Administrative Appeal Hearing for Child Abuse or Neglect Substantiation \(SF 54776\)](#), as well as, an approved redacted copy of the [311](#).

The FCM Supervisor will,:

1. 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 \(SF 53028\)](#) or the [Notice of DCS Decision to Unsubstantiate Allegations of Child Abuse/Neglect \(CA/N\) \(SF 53030\)](#) as appropriate.
2. Ensure the [CCW](#)'s employer and/or the appropriate licensing unit or agency are notified within two (2) business days of the substantiation using [Notice to Employer of a Report of Child Abuse/Neglect \(CA/N\) \(SF 53031\)](#), if applicable.

If the [CCW](#) or Licensed Resource Parent who is a perpetrator chooses to appeal a decision to substantiate, see policy [2.5 Administrative Appeal Hearings](#) for additional information.

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 the person completing the CCWAR to notify a perpetrator or an employer in a case involving a DCS employee or [CCW](#) regarding an assessment conclusion by DCS. The person completing the CCWAR should insert language from the appropriate section and place it on DCS local office letterhead. The Notice should be signed by the person completing the CCWAR and sent by mail or hand delivered with proper attachments within the allotted timeframe.

The 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. [Notice of Assessment Outcome and Right to Request Administrative Review \(Appendix A\);](#)
2. [Notice of Administrative Review Decision to Unsubstantiate Allegations of Child Abuse and/or Neglect \(Appendix B\);](#)
3. [Notice of Administrative Review Decision Report Returned for Further Assessment \(Appendix C\);](#)
4. [Notice of Administrative Decision after Further Assessment \(Appendix D\);](#)
5. [Notice of Denial of Administrative Review \(Appendix E\);](#)
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
13. [Notice of Deadline to Reactivate Administrative Review or Appeal Request \(Appendix M\).](#)
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.

FORMS AND TOOLS

1. [Assessment of Alleged Child Abuse or Neglect \(SF 113\) \(311\)](#) – Available in the case management system
2. [Request an Administrative Appeal Hearing for Child Abuse or Neglect Substantiation \(SF 54776\)](#) – Available in the case management system

3. [2.C Tool: Notifications for Administrative Reviews and Appeals](#)
4. [Notice of Right to Administrative Appeal of a Child Abuse/Neglect Determination \(SF 55148\)](#)

RELATED INFORMATION

Child Care Worker (CCW)

DCS defines “Child Care Worker” per [465 IAC 3-1-5](#) as a person who is a child caregiver, or has or will have direct contact with children on a regular and continuing basis as an employee (including a person who is actively seeking employment), but not an owner and/or operator of:

1. Any agency, facility, or home providing services to or for the benefit of children who are victims of CA/N;
2. Any of the following types of facilities:
 - a. Child care center,
 - b. Child care home (licensed or unlicensed),
 - c. Child care ministry (licensed or unlicensed),
 - d. Residential group home,
 - e. Child Caring Institution (CCI),
 - f. School,
 - g. Juvenile detention center, or
 - h. Licensed Child Placing Agency (LCPA).
3. Any other facility that provides residential care for children;
4. Any other agency that is a contracted service provider for DCS; or
5. A home that provides
 - a. Child care, or
 - b. Services to, or for the benefit of, children who are victims of CA/N, for a child or children to whom the person is not related.