



## INDIANA DEPARTMENT OF CHILD SERVICES

### CHILD WELFARE POLICY

**Chapter 2:** Administration of Child Welfare      **Effective Date:** August 1, 2021

**Section 13:** Expungement of Records      **Version:** 9

#### POLICY OVERVIEW

In order to comply with rules and regulations around expungement, the Indiana Department of Child Services (DCS) maintains its records in accordance with IC 31-33-26-15, IC 31-33-27, IC 31-39-8, and the DCS Records Retention Schedule.

#### PROCEDURE

##### Court or Administrative Hearing Officer Ordered Expungement

DCS shall expunge a substantiated report contained within the Child Protection Index (CPI) not later than 10 business days after any of the following occurs:

1. A court having jurisdiction over a Child in Need of Services (CHINS) proceeding determines that Child Abuse and/or Neglect (CA/N) has not occurred;
2. An administrative hearing officer under this chapter has issued a recommendation regarding a CA/N report and the ultimate authority of the department has issued a written final agency action determining that the report is unsubstantiated;
3. A court having juvenile jurisdiction enters an order for expungement of the report under IC 31-33-27-5.

DCS shall amend a substantiated report contained in the CPI by deleting the name of an alleged perpetrator if the court having jurisdiction over a CHINS proceeding; or the ultimate authority of DCS, after issuance of a recommendation by an administrative hearing officer; finds that the person was not a perpetrator of the child abuse or neglect that occurred.

##### Intake

Audio recordings of CA/N calls to the Indiana Department of Child Services (DCS) Child Abuse Hotline (Hotline) will be retained for 24 years from the date of the call.

##### Unsubstantiated Assessments

When an assessment is unsubstantiated, the Family Case Manager (FCM) will scan all documentation in the case file into the case management system. The FCM Supervisor will ensure the hard copy of the case is maintained in the DCS local office for six (6) months, then transferred to the records center. Case management system files of unsubstantiated cases will be maintained until 24 years after the birth of the youngest child named in the DCS assessment report as an alleged victim of CA/N, at which time automated expungement of an unsubstantiated DCS assessment report in the case management system will occur. The electronic case management system record will be removed from the case management system and put into a secure database for deletion. Cases are included in this category if:

1. DCS approved the assessment as unsubstantiated; or
2. The court in a CHINS case entered a final judgment based on a finding that CA/N did not occur.

**Note:** DCS may, upon the request of an interested person, expunge documentation relating to an unsubstantiated assessment of CA/N at any time if DCS determines the probative value of the documentation does not justify its retention in the records of DCS. Expungement of unsubstantiated CA/N documentation must be approved by the Deputy Director of Field Operations.

### Substantiated Assessments

Substantiated cases include both hard copy files and electronic files located in the case management system. When an assessment is substantiated, the FCM will scan all documentation in the case file into the case management system. The FCM Supervisor will ensure the hard copy of the case is maintained in the DCS local office for 10 years, then transferred to the records center.

**Note:** An individual identified as a perpetrator of CA/N may file a petition to expunge the related report and documentation. The petition must be filed with the court exercising juvenile jurisdiction in the county in which the individual resides. The procedure for filing the petition is addressed in IC 31-33-27.

When the DCS local office receives a court order to expunge substantiated CA/N records, the FCM will:

1. Determine the location of all records specified in the court order;
2. Provide the records for a review by the FCM Supervisor and the DCS Staff Attorney;
3. Following the review by the FCM Supervisor and DCS Staff Attorney destroy any written record, hard copy, or electronic copy as specified in the court order for expungement; and
4. Contact the case management system Manager to request the specified electronic records in the case management system be expunged.

The FCM Supervisor will:

1. Review the court order;
2. Consult with the FCM regarding the identification and location of all documentation to be expunged; and
3. Review and provide this documentation to the DCS Staff Attorney prior to destruction/expungement of records.

The DCS Staff Attorney will:

1. Review the documentation to be expunged; and
2. Provide input to the FCM Supervisor prior to destruction/expungement of records.

The case management system Manager will expunge electronic records in the case management system in accordance with IC 31-33-26-15, IC 31-33-27, IC 31-39-8, and the DCS Records Retention Schedule.

### **LEGAL REFERENCES**

- [IC 31-33-8-12: Classifying reports as substantiated or unsubstantiated](#)
- [IC 31-33-27: Chapter 27. Expungement of Child Abuse or Neglect Reports](#)
- [IC 31-33-26-15: Expungement and amendment of record procedures](#)
- [IC 31-39-8: Chapter 8. Expungement of Records Concerning Delinquent Child or Child in Need of Services](#)

- [470 IAC 1-4-1: Administrative Appeals](#)

## **RELEVANT INFORMATION**

### **Definitions**

#### Administrative Hearing Officer

Administrative Hearing Officer refers to an individual who presides over an administrative hearing. An Administrative Hearing Officer is also commonly referred to as an Administrative Law Judge (ALJ).

#### Documentation

For purposes of expungement, documentation includes all files and records created or maintained by DCS. The term includes the original and copies of documents, correspondence, messages, photographs, videotapes, audio recordings, audiovisual recordings, and any other material contained in electronic, paper, or digital format, or in other media.

### **Forms and Tools**

- [DCS Records Retention Schedule](#)

### **Related Policies**

N/A