

	<b>INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE MANUAL</b>	
	<b>Chapter 2:</b> Administration of Child Welfare	<b>Effective Date:</b> October 1, 2010
	<b>Section 2:</b> Administrative Review Process	<b>Version:</b> 4

**POLICY**

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

**[NEW]** A request for Administrative Review must be submitted by the alleged perpetrator and **received** by the DCS local office within **fifteen (15) calendar days** from the date that the [Notice of Child Abuse and/or Neglect Assessment Outcome and Right to Administrative Review \(State Form 54317\)](#) was mailed or hand delivered to the alleged perpetrator.

**Note:** 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.

**[NEW]** If the substantiation is against a minor, the request for Administrative Review must be submitted by at least one (1) of the child's:

1. Parent;
2. Guardian;
3. Custodian;
4. Child's attorney ;
5. Guardian ad Litem; or
6. CASA, if applicable.

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

1. The DCS Local Office Director in the county responsible for the assessment;
2. The DCS Local Office Deputy Director in the county responsible for the assessment;
3. The DCS Local Office Division Manager in the county responsible for the assessment; or
4. The Regional Manager in the region responsible for the assessment.

**[REVISED]** If the DCS Local Office Director, Deputy Director, Division Manager or Regional Manager was the person who approved the initial [Assessment of Child Abuse or Neglect \(SF113/CW0311\)](#) determination, or was otherwise involved in the assessment, preparation of the report, or has a conflict of interest, he or she will not conduct the Administrative Review. The Administrative Review will be conducted by someone who does not have a conflict.

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.

**[REVISED]** DCS will require that the Administrative Review decision is made by the appropriate DCS Local Office Director, Regional Manager, Local Office Deputy Director or Division Manager. Community CPTs are prohibited from making the decision.

**[REVISED]** The objectives of an Administrative Review are to:

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 allegation(s);
2. Provide an opportunity for the alleged perpetrator to submit documentation (not testimony) regarding the allegation(s) substantiated to challenge the substantiation;
3. Comply with due process requirements that mandate DCS to 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.

**[NEW]** If a Court's finding(s) 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. Findings of this type can be found in a Child in Need of Services (CHINS) or criminal/juvenile delinquency case orders.

1. A court in a Child in Need of Services (CHINS) case may determine that the report of child abuse and/or neglect is properly substantiated, child abuse and/or neglect occurred or a person was a perpetrator of child abuse and/or neglect. The determinations made by the court are binding.

2. A criminal (or juvenile delinquency) case may result in a conviction of the person identified as an alleged perpetrator in the report (or a true finding in a juvenile delinquency case). If the facts or substantially similar facts that provided a necessary element for the conviction also provided the basis for the substantiation, the conviction supports the substantiation and is binding.

**[NEW]** If a CHINS Court orders a finding 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.

**[NEW]** 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 reopen the assessment so that additional information can be obtained. 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 reactivated in accordance with the stay letter provided to the alleged perpetrator.

**[REVISED]** DCS will complete the Administrative Review and will notify the DCS local office of the decision so that appropriate action can be taken consistent with the decision. The individual identified by DCS to conduct the Administrative Review will also notify the alleged perpetrator in writing of the outcome within **fifteen (15) calendar days** from the DCS local office receipt of the alleged perpetrator's request.

**[REVISED]** If the DCS Local Office Director, Regional Manager, Local Office Deputy Director, or Division Manager, determines that further assessment and reconsideration of the [Assessment](#)

of Child Abuse and Neglect (SF113/CW0311) is necessary, the above named person that made the determination, will notify the DCS Local Office Director or designee of the decision and will:

1. Notify the alleged perpetrator by sending the [Notice of Administrative Review Decision and Right to Administrative Appeal \(State Form 54319\)](#) informing the alleged perpetrator that the assessment has been referred back to Child Protection Services (CPS) for further assessment and preparation of a revised [Assessment of Child Abuse and Neglect \(SF113/CW0311\)](#) report. DCS will not send the [Assessment of Child Abuse and Neglect \(SF113/CW0311\)](#) to the alleged perpetrator until the reassessment is complete;
2. Notify the Supervisor that the [Assessment of Child Abuse and Neglect \(SF113/CW0311\)](#) is to be reopened for further evaluation; and
3. Following the reassessment, if substantiated, refer to separate policy, [2.1 Requests for Administrative Review](#) outlining procedures.

The DCS Local Office Director or designee will maintain a record of:

1. The date of the Administrative Review;
2. The person who conducted the Administrative Review; and
3. The Administrative Review decision.

**[REVISED]** This policy does not apply to child abuse and/or neglect (CA/N) substantiated cases involving child care workers and licensed resource parents. See separate policy, [2.3 Child Care Worker Assessment Review Process](#).

This policy does not apply to CA/N substantiated cases involving DCS employees. See separate policy, [2.4 Assessment and Review of DCS Staff Alleged Perpetrator](#).

#### Code References

1. [42 USC 5106a \(b\) \(2\) \(A\) \(XV\) \(II\): Grants to States for child abuse and neglect prevention and treatment programs](#)
2. [IC 31-33-26-13 Adoption of rules](#)

#### **PROCEDURE**

**[REVISED]** The DCS Local Office Director, Regional Manager, DCS Local Office Deputy Director or Division Manager, in the county responsible for the assessment but not involved in the original assessment decision will:

1. Refer the request for a Administrative Review to the community CPT for input and a recommendation, if desired;
2. Review the complete CPS assessment file, including all information submitted by the alleged perpetrator with the request for review and/or recommendation of the community CPT, consult with the DCS Local Office Attorney; and
3. Decide to do one of the following:
  - a. Deny the request for Administrative Review on the following basis:
    - 1) Request for review was not received timely, or
    - 2) A Child in Need of Services (CHINS) adjudication finding based on the facts of the substantiated determination, or
    - 3) Criminal conviction on charges related to same facts and circumstances on which the report of CA/N was substantiated.
  - b. Conduct the Administrative Review and
    - 1) Affirm the substantiated determination, or
    - 2) Set aside the determination and reclassify it as unsubstantiated, or
    - 3) Reopen the assessment.

**Note:** The allegations against any person identified as a perpetrator must be unsubstantiated if a court, in a Child in Need of Services (CHINS) case, finds that the child abuse and/or neglect did not occur or that the person was not the perpetrator of the alleged abuse or neglect.

4. Notify the DCS Local Office Director or Supervisor of the Administrative Review decision, with instructions for further action, if appropriate.
5. Notify the alleged perpetrator of the decision using the [Notice of Administrative Review Decision and Right to Administrative Appeal \(State Form 54319\)](#). If substantiation is upheld, also send [Request an Administrative Appeal Hearing for Child Abuse and/or Neglect Substantiation \(CAPTA081003AAH\)](#) along with a redacted copy of the [Assessment of Child Abuse or Neglect \(SF113/CW0311\)](#). Refer to separate policy, [2.1 Requests for Administrative Review](#) for procedure for redaction.

**[REVISED]** The Supervisor will:

1. Upon request from the DCS Local Office Director or other person authorized to conduct an Administrative Review, set aside the determination, reclassify it as unsubstantiated and complete the following:
  - a. Print a revised 30 day report, if applicable,
  - b. Print a revised [Assessment of Abuse or Neglect \(SF113/CW0311\)](#) to send to the Prosecutor's Office, if applicable, and
  - c. Notify the parent, guardian or custodian of the alleged victim of the revision.
2. Upon request from the DCS Local Office Director or other person authorized to conduct an Administrative Review, unapprove the [Assessment of Child Abuse or Neglect \(SF113/CW0311\)](#);
  - a. If the review decision is to reopen the assessment, instruct the Family Case Manager (FCM) to gather additional information or conduct additional interviews as requested by the DCS Local Office Director or other person authorized to conduct the Administrative Review, and
  - b. Review the FCMs new recommendation and refer to separate policy, [2.1 Requests for Administrative Review](#).

**[REVISED]** The FCM will:

1. If the assessment is reopened, have thirty (30) days to gather additional information or conduct additional interviews necessary to complete the [Assessment of Child Abuse or Neglect \(SF113/CW0311\)](#); and
2. Send the [Assessment of Child Abuse or Neglect \(SF113/CW0311\)](#) to the Supervisor for approval.

**[NEW]** If the substantiation is upheld at Administrative Review and the alleged perpetrator chooses to request an Administrative Appeal of the Administrative Review decision, see separate policy, [2.5 Administrative Appeal Hearings](#).

<b>PRACTICE GUIDANCE [NEW]</b>
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### **Hand Delivery**

Hand delivery requires successful face-to-face contact with the alleged perpetrator and a documented contact in ICWIS.

### **Time computation for the alleged perpetrator to request an Administrative Review,**

The following guidelines should be utilized in computing timeframes for the alleged perpetrator to request administrative review:

1. Note the date the DCS local office mails or hand delivers the [Notice of Child Abuse and/or Neglect Assessment Outcome and Right to Administrative Review \(State Form 54317\)](#) do not count the day that the Notice is mailed or hand delivered;
2. Begin with the day following that day as day one (1); and
3. End at the close of business on the 15th day in your 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.

**Note:** For example, if the Notice is mailed on the 1st of a month, the local office must receive the request for review from the alleged perpetrator before the close of business on the 16th. If the 16th is a day the office is closed, such as a weekend or a State holiday, the request for Administrative Review must be received before the close of business on the next day that the office is open.

#### FORMS AND TOOLS

1. [Notice of Administrative Review Decision and Right to Administrative Appeal \(State Form 54319\)](#)
2. [Request an Administrative Appeal Hearing for Child Abuse and/or Neglect Substantiation \(CAPTA 081003AAH\)](#)
3. [Assessment of Alleged Child Abuse or Neglect \(SF113/CW0311\)](#) – Available in ICWIS
4. [Notice of Child Abuse and/or Neglect Assessment Outcome and Right to Administrative Review \(State Form 54317\)](#)

#### RELATED INFORMATION

N/A