

	INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE MANUAL	
	Chapter 2: Administration of Child Welfare	Effective Date: April 1, 2013
	Section 2: Administrative Review Process	Version: 5

POLICY [REVISED]

[REVISED] The Administrative Review is a process by which the perpetrator, who has had 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 can 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. 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](#); or
2. CA/N substantiated cases involving DCS employees. See separate policy, [2.4 Assessment and Review of DCS Staff Alleged Perpetrator](#).

[REVISED] A request for Administrative Review must be submitted by the perpetrator and received by the DCS local office within **15 calendar days** from the date that the [Notice of Assessment Outcome and Right to Request Administrative Review \(Chapter 2 Notification Tool\)](#) was mailed or hand delivered to the perpetrator. See Practice Guidance or Forms and Tools for [Chapter 2 Notification Tool](#) link.

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.

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

1. Parent;
2. Guardian;
3. Child's attorney;
4. Guardian ad Litem; or
5. Court Appointed Special Advocate (CASA), if applicable.

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

1. The DCS Local Office Director (LOD) 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 (DM) in the county responsible for the assessment; or
4. The Regional Manager (RM) in the region responsible for the assessment.

[REVISED] If the DCS LOD, DCS Local Office Deputy Director, DM or RM 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 a DCS LOD, DCS Local Office Deputy Director, DM or RM 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.

DCS will require that the Administrative Review decision is made by the appropriate DCS LOD, RM, Local Office Deputy Director or DM. Community CPTs are prohibited from making the decision.

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 perpetrator to submit documentation (not testimony) regarding the allegation(s) substantiated to challenge the substantiation; and
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.

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 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; or
2. A criminal (or juvenile delinquency) case may result in a conviction of the person identified as a 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.

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.

[REVISED] 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 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 perpetrator.

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 perpetrator in writing of the outcome within **15 calendar days** from the DCS local office receipt of the perpetrator's request.

[REVISED] If Administrative Review is denied, DCS will provide notification to the perpetrator that he/she has the opportunity to request that DCS reconsider the denial. The request must be presented in writing to DCS within **15 calendar days** of the date of the denial and state the reason that he/she is entitled to Administrative Review. If the request is submitted timely, DCS will reconsider the denial and determine whether or not the denial was appropriate.

[REVISED] DCS will then notify the person 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 person will have the opportunity to request an Administrative Appeal of the decision in accordance with policy [2.5 Administrative Appeal Hearings](#).

[REVISED] If it is determined that further assessment and reconsideration of the [Assessment of Child Abuse and Neglect \(SF113/CW0311\)](#) is necessary, the person who made the determination will notify the DCS local office of the decision.

[REVISED] The DCS local office will maintain a record of the Administrative Review decision by putting a copy in the assessment case file.

[REVISED] Code References

1. [42 USC 5106a: Grants to States for child abuse and neglect prevention and treatment programs](#)
2. [IC 31-33-26: Child Protection Index](#)
3. [465 IAC 3: Administrative Reviews and Hearings](#)

PROCEDURE [REVISED]

The DCS LOD, RM, DCS Local Office Deputy Director or DM, in the county responsible for the assessment but not involved in the original assessment decision 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 Local Office Attorney;
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,
 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,
 2. Set aside the determination and reclassify it as unsubstantiated, or
 3. Reopen the assessment.

4. **[REVISED]** If the request for Administrative Review is denied:
 - a. Notify the perpetrator of their right to request reconsideration of the denial,
 - b. Reconsider a denial if reconsideration is requested timely,
 - c. Reach a decision on reconsideration, and
 - d. Notify the perpetrator:
 1. That a review will be conducted, or
 2. That the denial is upheld and send:
 - a. A redacted copy of the [Assessment of Child Abuse and Neglect \(SF113/CW0311\)](#),
 - b. [The Notice of Right to Administrative Appeal of a Child Abuse or Neglect Determination \(SF55148\)](#), and
 - c. [The Request for an Administrative Appeal Hearing for Child Abuse or Neglect Substantiation \(SF54776\)](#).

[REVISED] 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, see separate policy, [2.5 Administrative Appeal Hearings](#).

5. **[REVISED]** If Administrative Review is conducted and returned for further assessment of the report:
 - a. Notify the DCS LOD or Supervisor of the Administrative Review decision, and

[REVISED] Note: Following a reassessment, if substantiated, refer to separate policy, [2.1 Requests for Administrative Review](#) outlining procedures.

- b. Notify the perpetrator of the decision by sending the [Notice of Administrative Review Decision Report Returned for Further Assessment \(Chapter 2 Notification Tool\)](#).
6. **[REVISED]** If Administrative Review is conducted and the decision is made to unsubstantiate:
 - a. Notify the DCS LOD or FCM Supervisor of the Administrative Review decision, and
 - b. Notify the alleged perpetrator of the decision by sending the [Notice of Administrative Review Decision to Unsubstantiate Allegations of Child Abuse or Neglect \(Chapter 2 Notification Tool\)](#).

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.

7. **[REVISED]** If Administrative Review is conducted and the decision is made to uphold the substantiation:
 - a. Notify the DCS LOD or Supervisor of the Administrative Review decision,
 - b. Notify the perpetrator of the decision by sending:
 1. Redacted copy of the [Assessment of Child Abuse and Neglect \(SF113/CW0311\)](#);
 2. [Notice of Right to Administrative Appeal of a Child Abuse or Neglect Determination \(SF55148\)](#); and
 3. [Request for an Administrative Appeal Hearing for Child Abuse or Neglect Substantiation \(SF54776\)](#).

[REVISED] The DCS LOD or designee will maintain in the assessment case file a record of:

1. The date of the Administrative Review;
2. The person who conducted the Administrative Review;
3. The Administrative Review decision; and
4. The copy of the review decision letter. See Practice Guidance.

[REVISED] The FCM Supervisor will:

1. Upon request from the DCS LOD 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. **[REVISED]** Document the Administrative Review decision in Management Gateway for Indiana's Kids (MaGIK) using the 'Edit Due to Appeal' option,
 - c. Print a revised [Assessment of Abuse or Neglect \(SF113/CW0311\)](#) 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. Upon request from the DCS LOD or other person authorized to conduct an Administrative Review:
 - a. Instruct the Family Case Manager (FCM) to gather additional information or conduct additional interviews as requested by the DCS LOD or other person authorized to conduct the Administrative Review, and
 - b. Review the FCM's new recommendation. See separate policy, [2.1 Requests for Administrative Review](#).

[REVISED] The FCM will, within 30 calendar days:

1. Gather additional information or conduct additional interviews necessary to complete the [Assessment of Child Abuse or Neglect \(SF113/CW0311\)](#), if the report is returned for further assessment; and
2. Send the [Assessment of Child Abuse or Neglect \(SF113/CW0311\)](#) to the FCM Supervisor for approval.

PRACTICE GUIDANCE [REVISED]

[NEW] The [Chapter 2 Notification Tool](#) will be used to send the following Notice:

1. [Notice of Assessment Outcome and Right to Request Administrative Review \(Section A\)](#);
2. [Notice of Administrative Review Decision to Unsubstantiate Allegations of Child Abuse or Neglect \(Section B\)](#);
3. [Notice of Administrative Review Decision Report Returned for Further Assessment \(Section C\)](#);
4. [Notice of Administrative Decision after Further Assessment \(Section D\)](#);
5. [Notice of Denial of Administrative Review \(Section E\)](#);
6. [Notice of Intent to Substantiate Allegations of Child Abuse or Neglect by a Child Care Worker or Licensed Resource Parent \(Section F\)](#);
7. [Notice of Administrative Review Decision to Further Assess Allegations against a Child Care Worker or Licensed Resource Parent \(Section G\)](#);
8. [Notice of DCS Decision to Unsubstantiate Allegation of Child Abuse or Neglect \(Section H\)](#);
9. [Notice to Employer of a Report of Child Abuse or Neglect Assessment Decision \(Section I\)](#)

- l);
10. [Notice of Child Care Worker \(CCW\) Assessment Review Decision for an Assessment Closed Prior to October 15, 2006 \(Section J\)](#);
 11. [Notice of an Administrative Review Decision for an Assessment Closed Prior to October 15, 2006 \(Section K\)](#);
 12. [Notice of Assessment Outcome for a DCS Employee \(Section L\)](#); and
 13. [Notice of Deadline to Reactive Administrative Review or Appeal Request \(Section M\)](#)

[NEW] Instructions for developing a Notice using the [Chapter 2 Notification Tool](#)

The Chapter 2 Notification Tool should be used by DCS employees authorized to notify a perpetrator or an employer 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 within the allotted timeframe.

[NEW] Placing Notices and Letters in the file

A copy of the Notice should be sent back to the DCS local office where the assessment was completed and placed in the DCS assessment file. Any letters or Notices received from the alleged perpetrator regarding the assessment should also be placed in the assessment file.

[REVISED] Hand Delivery

Hand delivery requires successful face-to-face contact with the perpetrator and a documented contact in Management Gateway for Indiana's Kids (MaGIK).

[REVISED] 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 [Notice of Assessment Outcome and Right to Request Administrative Review \(Chapter 2 Notification Tool\)](#). 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 timeframe 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 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 [REVISED]

1. [Notice of Administrative Appeal of a Child Abuse or Neglect Determination \(SF55148\)](#)
2. [Request for an Administrative Appeal Hearing for Child Abuse or Neglect Substantiation \(SF54776\)](#)
3. [Assessment of Alleged Child Abuse or Neglect \(SF113/CW0311\)](#) – Available in MaGIK
4. [Notice of Assessment Outcome and Right to Request Administrative Review](#) -Available in [Chapter 2 Notification Tool](#)

RELATED INFORMATION

N/A

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