

	INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE MANUAL	
	Chapter 2: Administration of Child Welfare	Effective Date: May 1, 2009
	Section 1: Requests for Administrative Review	Version: 3

POLICY

The Indiana Department of Child Services (DCS) recognizes the right of each alleged perpetrator to request an Administrative Review of the related Child Abuse and/or Neglect (CA/N) substantiation. The process outlined herein will apply to all substantiated CA/N determinations made on or after October 15, 2006.

DCS will have **ten (10) calendar days** from approval of the [Assessment of Child Abuse and Neglect \(SF113/CW0311\)](#) to provide [Notice of Child Abuse and/or Neglect Assessment Outcome and Right to Administrative Review \(CAPTA080802AOR\)](#) and a copy of the redacted Assessment of Child Abuse and Neglect (SF113/CW0311) to the alleged perpetrator.

If the substantiation is against a minor, the [Notice of Child Abuse and/or Neglect Assessment Outcome and Right to Administrative Review \(CAPTA080802AOR\)](#) must be sent via mail to the following:

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

DCS will require that the request for an Administrative Review be made in writing using the [How to Request for an Administrative Review for Child Abuse or Neglect Substantiation \(CAPTA080802ADR\)](#).

DCS will require that the request for Administrative Review is **received** by the DCS local office within **thirty-three (33) calendar days** of the date that the [Notice of Child Abuse and/or Neglect Assessment Outcome and Right to Administrative Review \(CAPTA080802AOR\)](#) was mailed.

Note: If the request for an Administrative Review is received on a day that the DCS local office is closed, the **thirty-three (33) days** is extended to the next business day.

DCS **will not conduct** an Administrative Review if:

1. A Child in Need of Services(CHINS) petition has been filed based on the facts and circumstances of the substantiated determination, until the court has ruled on the petition:
 - a. Any request received for an Administrative Review will be stayed during the stay, the substantiation will remain on the Child Protection Index (CPI); and
 - b. DCS will send the perpetrator the [Stay of Administrative Review or Appeal of DCS Substantiation of Child Abuse and/or Neglect \(CAPTA080801SRA\)](#).

Note: In the event the CHINS petition results in adjudication of CA/N by the person who requested the review, the request for Administrative Review will be dismissed.

2. Criminal charges or Juvenile Delinquency/Juvenile Status (JD/JS) have been filed on the same facts and circumstances on which the report of CA/N was substantiated, until the court has ruled on the charges:
 - a. Any request received for an Administrative Review will be stayed due to a pending criminal or JD/JS matter;
 - b. During the stay, The substantiation will remain on the CPI; and
 - c. DCS will send the perpetrator the [Stay of Administrative Review or Appeal of DCS Substantiation of Child Abuse and/or Neglect \(CAPTA080801SRA\)](#).

Note: In the event that the perpetrator is convicted of any charges based on the substantiated CA/N, the request for an Administrative Review will be dismissed.

3. An Informal Adjustment (IA) has been filed and the court has not ruled on the IA. During the stay:
 - a. Any request received for an Administrative Review will be stayed due to a pending IA; and
 - b. During the stay, the substantiation will remain on the CPI; and
 - c. DCS will send the perpetrator the [Stay of Administrative Review or Appeal of DCS Substantiation of Child Abuse and/or Neglect \(CAPTA080801SRA\)](#) if the perpetrator requests an Administrative Review prior to completion of the IA .

Note: Following the completion of the IA, the DCS local office will reactivate the review process without a request from the alleged perpetrator, if the request was made timely upon original [Notice of Child Abuse and/or Neglect Assessment Outcome and Right to Administrative Review \(CAPTA080802AOR\)](#).

DCS will reactivate each alleged perpetrator's Administrative Review process when:

1. The alleged perpetrator notifies the DCS local office within **30 days** of the court's action, of their desire to continue with the Administrative Review; and
2. The alleged perpetrator provides an official court document reflecting that issues relating to the same facts and circumstances have been resolved or will not be determined by the court.

The DCS local office will determine whether to set the Administrative Review or dismiss it based on the official court document provided by the alleged perpetrator. The DCS local office will notify the alleged perpetrator whether or not an Administrative Review will occur based on the official court document.

The DCS Local Office Director or designee will maintain a record of all requests for Administrative Reviews and Appeals.

This policy does not apply to either of the following situations:

1. Administrative Appeals of license denials or revocations that are currently heard and decided by the FSSA Office of Hearings and Appeals; or
2. A court proceeding requesting expungement of reports entered into the CPI that are governed by the procedures specified in the law, [IC 31-39-8](#) and [IC 31-33-7-6.5](#).

If the substantiation is against a minor, the request for an Administrative Review must be made by one of the child's:

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

This policy does not apply to CA/N substantiated assessments involving child care workers. See separate policy, [2.4 Child Care Worker Assessment Review Process](#).

This policy does not apply to CA/N substantiated assessments involving DCS employees. See separate policy, [2.5 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 31-33-26-8 Notification after index entry; notice to perpetrators; request for administrative hearing](#)
3. [IC 31-33-26-9 Administrative hearings; evidentiary standards consideration of hearsay; amendment or expungement of reports; confidentiality](#)
4. [IC 31-33-26-10 Administration of index](#)
5. [IC 31-33-26-11 Binding court determinations; stay of administrative hearings; perpetrator entitlement to administrative hearings](#)
6. [IC 31-33-26-12 Criminal charges against a perpetrator; entitlement to administrative hearings](#)
7. [IC 31-33-26-13 Adoption of rules](#)
8. [IC 31-33-26-14 Amendment or expungement from index of inaccurate report](#)
9. [IC 31-33-26-15 Expungement and amendment of record procedures](#)
10. [IC 31-39-8-4 Expungement of child abuse or neglect information](#)

PROCEDURE

The Family Case Manager (FCM) responsible for completing the assessment will:

1. Assure timely completion of the Assessment. Refer to separate policy, [4.25 Completing the Assessment Report](#); and
2. Send the [Assessment of Child Abuse and Neglect \(SF113/CW0311\)](#) to the Supervisor for approval.

The Supervisor will:

1. Review the [Assessment of Alleged Child Abuse and Neglect \(SF113/CW 0311\)](#) for accuracy and completeness;
2. Consult with the FCM for recommendations for redactions to the [Assessment of Child Abuse and Neglect \(SF113/CW0311\)](#), if applicable;
3. If substantiated, type a contact note in ICWIS to track redaction;
4. "Approve" the [Assessment of Alleged Child Abuse and Neglect \(SF113/CW 0311\)](#) if he/she deems it accurate and complete; and

5. Forward the report electronically to the designated DCS staff instructing consultation with DCS Local Office Attorney for redaction, if substantiated, within the **next business day** of approval.

Note: This is only necessary if confidential information above and beyond the report source are needed to be redacted. ([IC 31-33-18 - Disclosure of Reports: Confidentiality Requirements](#))

The DCS local office designee will:

1. Consult with DCS Local Office Attorney as to proper redaction, if applicable;
2. Properly redact the [Assessment of Child Abuse and Neglect \(SF113/CW0311\)](#); and
3. Return the report to the Supervisor within **five (5) calendar days** of approving the [Assessment of Child Abuse and Neglect \(SF113/CW0311\)](#).

The Supervisor or DCS local office designee will mail the perpetrator the following:

1. The [Notice of Child Abuse and/or Neglect Assessment Outcome and Right to Administrative Review \(CAPTA080802AOR\)](#);
2. Redacted [Assessment of Child Abuse and Neglect \(SF113/CW0311\)](#) to each person identified as a perpetrator of substantiated abuse and/or neglect within **five (5) calendar days**; and
3. [Stay of Administrative Review or Appeal of DCS Substantiation of Child Abuse and/or Neglect \(CAPTA080801SRA\)](#), if appropriate.

The DCS Local Office Director or designee will maintain a record of all requests for Administrative Reviews and Appeal.

The perpetrator may request an Administrative Review using the [How to Request for an Administrative Review for Child Abuse or Neglect Substantiation \(CAPTA080802ADR\)](#).

The perpetrator may, in accordance with prior [Stay of Administrative Review or Appeal of DCS Substantiation of Child Abuse and/or Neglect \(CAPTA080801SRA\)](#) by DCS:

1. Notify the DCS local office, of their intent to reactivate their right to an Administrative Review, if their request was stayed and facts and circumstances have since been resolved; and
2. Provide an official court document to the DCS local office, confirming resolution of facts and circumstances within **30 days** of the court's action.

If the request is not received within **thirty-three (33) calendar days** from the date that appears on the [Notice of Child Abuse and/or Neglect Assessment Outcome and Right to Administrative Review \(CAPTA080802AOR\)](#), the DCS Local Office Director will notify the perpetrator in writing that the request has been denied because it was not received before the stated deadline.

If no [Stay of Administrative Review or Appeal of DCS Substantiation of Child Abuse and/or Neglect \(CAPTA080801SRA\)](#) is sent, DCS must reactivate when the court action is resolved by either holding an Administrative Review or dismissal based on court results.

If a timely request is received, proceed to next steps in separate policy, [Chapter 2.2 Administrative Review Process](#).

PRACTICE GUIDANCE

The following guidelines should be utilized when redacting documents:

1. Text should not be permanently removed from the document;
2. Redaction should be done on copies, not on original documents;
3. Only distribute photocopies of the redacted version of the document; and
4. Consult with the DCS Local Office Attorney to determine what information needs to be redacted.

Methods of redaction:

1. The easiest way to redact information is to photocopy the original document and use a thick black marker to block out the information to be redacted. This process can also be used with correction fluid (white out). It is imperative that after the information has been hidden with either the marker or white out, a photocopy is made to ensure that the information did not bleed through or can be distinguished when held up to the light; or
2. Cover up tape can also be used to redact information from a document. The cover-up tape can be placed over the areas to be redacted and then photocopied. The copy can then be distributed.

FORMS AND TOOLS

1. [Notice of Child Abuse and/or Neglect Assessment Outcome and Right to Administrative Review \(CAPTA080802AOR\) Request for Administrative Review](#)
2. [Assessment of Alleged Child Abuse and Neglect \(SF113/CW 0311\)](#) – Available in ICWIS
3. [How to Request for an Administrative Review for Child Abuse or Neglect Substantiation \(CAPTA080802ADR\)](#)
4. [Stay of Administrative Review or Appeal of DCS Substantiation of Child Abuse and/or Neglect \(CAPTA080801SRA\)](#)

RELATED INFORMATION

Redaction

Redaction is a process where a document is reviewed thoroughly to hide parts of text prior to release, in order to protect information. **[NEW]** All redactions should be done with the DCS Local Office Attorney.

All [Assessment of Alleged Child Abuse and Neglect \(SF113/CW0311\)](#) are not to have report sources listed as they are protected by [IC 31-33-18](#). Indiana law also supports that additional information be redacted such as addresses, telephone numbers, or information that may harm or endanger another person. **[NEW]** Any information that pertains to a confidential address of a non-offending parent and families experiencing domestic violence (e.g., shelter, relocation, new housing) should be redacted. Any disclosures made by the non-offending parent or child(ren) that could affect safety should also be redacted.