

	<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 3:</b> Child Care Workers Assessment Review Process	<b>Version:</b> 4

<b>POLICY</b>
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**[NEW]** A Child Care Worker or Licensed Resource Parent is given the opportunity for Administrative Review prior to approval of an assessment that identifies the person as a perpetrator of child abuse and/or neglect. This policy applies to child care workers and licensed resource parents.

**[REVISED]** The Indiana Department of Child Services (DCS) defines “child care worker” as a person who has or will have direct contact with children, as an employee, but not an owner and/or operator of:

1. Any agency that provides services to or for the benefit of children who are victims of child abuse and/or neglect (CA/N);
2. Any of the following types of facilities:
  - a. Child care center,
  - b. Child care home (whether or not required to be licensed),
  - c. Child care ministry (whether or not licensed),
  - d. Residential group home,
  - e. Child caring institution,
  - f. School<sup>1</sup>,
  - g. Juvenile detention center, or
  - h. Licensed child placing agency (LCPA).
3. Any other facility that provides residential care for children; or
4. Any other agency that is a contracted service provider for DCS.

The process described herein applies regardless of whether the allegation includes actions taken within the scope of employment or as a licensed resource parent.

It is the responsibility of the alleged perpetrator to notify the assessing Family Case Manager (FCM) that he or she is a child care worker in the event that the allegations are related to the individual’s personal life.

DCS will allow the alleged child care worker or licensed resource parent alleged perpetrator to participate in a Child Care Worker Assessment Review (CCWAR), as an opportunity to present any information he or she feels could assist DCS in making an accurate decision. The CCWAR

is an informational meeting only and no official recording (i.e., audio recording) will be made of the meeting.

The child care worker or licensed resource parent 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.

**[REVISED]** 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 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, (or a different region if the Regional Manager in the region in the county was involved in the assessment or has a conflict of interest).

**[REVISED]** The CCWAR will occur within **fifteen (15) calendar days** from the date that the Supervisor notified the individual identified by DCS to conduct the CCWAR of the need for the review, regardless of the attendance of the child care worker or licensed resource parent alleged perpetrator. DCS will proceed with the CCWAR, including the approval process, if the alleged perpetrator does not attend the CCWAR.

**[NEW]** DCS will require that the CCWAR occur prior to the Supervisor's approval of the assessment finding.

**[REVISED]** DCS will allow the child care worker or licensed resource parent alleged perpetrator the opportunity to continue the CCWAR under limited circumstances. Those limited circumstances include:

1. Before the scheduled date for the CCWAR, if the DCS Local Office Director, or other person authorized to hold the CCWAR receives a written request for a continuance from the child care worker or licensed resource parent alleged perpetrator;
2. If the Supervisor has determined that the requested continuance will not endanger the health or safety of a child, the DCS Local Office Director, or other person authorized to hold the CCWAR can grant the request in writing, with a phone call documented in ICWIS contacts, to the child care worker or licensed resource parent alleged perpetrator (due to the short time frame):
  - a. The continuance must be contingent on the agreement of an alleged child care worker or licensed resource parent alleged perpetrator to allow DCS to notify the employer or licensing agency of the pending assessment, if warranted,
  - b. The phone call must be followed by written notice to the child care worker or licensed resource parent alleged perpetrator of the rescheduled date, time, and location of the continued CCWAR, and
  - c. Copies must be sent to the alleged child care worker or licensed resource parent alleged perpetrator's attorney.
3. The rescheduled CCWAR must be held within **fifteen (15) calendar days** from the originally scheduled CCWAR; and
4. The CCWAR may not be continued more than once.

DCS recognizes the right of the child care worker or licensed resource parent alleged perpetrator to request an Administrative Appeal Hearing, if he or she disagrees with the assessment finding. See separate policy, [2.5 Administrative Appeal Hearings](#). DCS will notify the child care worker or licensed resource parent alleged perpetrator in writing of the assessment finding and his/her appeal rights regardless of whether he or she participates in the CCWAR.

DCS will notify the child care worker's employer or prospective employer and/or the appropriate licensing unit or agency within two (2) business days of the date the substantiation was approved by sending the [Notice of Substantiation of Child Abuse and/or Neglect by Child Care Worker/Resource Parent \(CAPTA081003SCW\)](#).

DCS reserves the right to contact the appropriate licensing unit and/or agency regarding an emergency closure at any time during the assessment process, if the immediate safety and/or well-being of the alleged victim or another child at the facility or home is in question.

**[NEW]** For individuals who have substantiated allegations of child abuse and/or neglect approved prior to October 15, 2006, the person identified as a perpetrator will be given an agency review of the decision to substantiate prior to a denial or revocation of a Foster Home license based on a substantiated assessment. In addition, a child care worker, upon request, will receive agency review of the determination to substantiate allegation(s) against them, with the opportunity for a face to face meeting. The meeting will occur whether or not the alleged perpetrator attends. The agency review must be completed by a Regional Manager, Local Office Director, Deputy Director or Division Manager who was not previously connected to the case.

**[NEW]** Following the agency review, the person who conducted the agency review will decide whether to uphold or unsubstantiate each allegation classified as substantiated. If the decision is to unsubstantiate any allegation, the DCS employee conducting the review will instruct the DCS local office to unsubstantiate the allegations and include the review conclusion in the narrative of the assessment summary. The decision to substantiate will be upheld in the following situations:

1. If the review reveals that the decision to substantiate is supported by a court finding(s) that resulted in a criminal conviction or a Child in Need of Services (CHINS) adjudication based on the same facts and circumstances as the substantiation, then no reversal of the substantiation is appropriate.
2. If the review reveals that the alleged perpetrator was provided notice and opportunity for administrative hearing by an Administrative Law Judge (ALJ), then no reversal of the substantiation is appropriate.
3. If there has been a previous review conducted under this section, including the opportunity to request a DCS Local Office Director review.
4. The facts of the assessment should be sufficient to uphold a substantiation.

**[NEW]** The person who conducted the review will also notify the person identified as a perpetrator of the results of the review by mail. In the notice, the person will be notified that he or she may request a review of the decision by the DCS Director, or designee within fifteen (15) calendar days of the date of the notice. If DCS Director review is requested in a timely manner, the DCS Director or designee, will review the documentation utilized by the DCS local office in reaching the review conclusion. No new information will be considered. If the decision to

substantiate is upheld, the decision will be the final agency decision, subject to judicial review as found in IC 4-21.5-3.

#### Code References

N/A

### **PROCEDURE**

The Family Case Manager (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 child care worker or licensed resource parent as defined in this policy; and
3. Complete a draft copy of the [Assessment of Alleged Child Abuse or Neglect \(SF113/CW0311\)](#). Ensure that the words "DRAFT" are stamped on every page or watermarked on the [Assessment of Alleged Child Abuse or Neglect \(SF113/CW0311\)](#).

**[REVISED]** The Supervisor will:

1. If the FCM's recommendation is to substantiate and the Supervisor agrees, notify the DCS Local Office Director, Regional Manager, DCS Local Office Deputy Director, or Division Manager, 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 [Assessment of Alleged Child Abuse or Neglect \(SF113/CW0311\)](#) until the CCWAR is conducted and the CCWAR decision is received.

**[REVISED]** The DCS Local Office Director or other person authorized to hold the CCWAR will:

1. Notify the child care worker or 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 Supervisor, by sending the [Notice of Intent to Substantiate Allegations of Child Abuse and/or Neglect on a Child Care Worker/Resource Parent \(CAPTA081003ICW\)](#). Include a draft redacted copy of the [Assessment of Child Abuse or Neglect \(SF113/CW0311\)](#) with the notice. Refer to separate policy, [2.2 Requests for Administrative Review](#) for redaction procedure;
2. Hold a CCWAR within five (5) business days from the date of the [Notice of Intent to Substantiate Allegations of Child Abuse and/or Neglect on a Child Care Worker/Resource Parent \(CAPTA081003ICW\)](#);
3. Review the case file with input from the DCS Local Office Attorney, including child care worker 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 allegations,
  - b. Unsubstantiate one or more of the allegation(s), or
  - c. Return the assessment to Child Protection Services (CPS) for further assessment and reconsideration of the report.
5. Notify the Supervisor of the review decision.
6. Within five (5) business days of holding the CCWAR, notify the alleged child care worker or licensed resource parent perpetrator, using the [Notice of Child Care Worker/Resource Parent Assessment Review \(CCWAR\) Decision and Right to Administrative Appeal \(State Form 54316\)](#). Include a copy of the [Request an Administrative Appeal Hearing](#)

[for Child Abuse and/or Neglect Substantiation \(CAPTA081003AAH\)](#) with the notice, as well as an approved redacted copy of the [Assessment of Child Abuse or Neglect \(SF113/CW0311\)](#), if the substantiation is approved;

7. Assure that all remaining assessment tasks are completed in a timely manner as set out in [Chapter 4: Assessment](#).

**[REVISED]** The Supervisor will, upon receipt of the decision from the DCS Local Office Director or other person authorized to hold the CCWAR:

1. Approve the [Assessment of Child Abuse or Neglect \(SF113/CW0311\)](#) consistent with the decision by the person who conducted the review; or
2. Instruct to the FCM to gather additional information or conduct additional interviews as requested by the DCS Local Office Director or other person authorized to conduct the CCWAR and review the FCMs recommendation following further assessment; and
3. Assure that the child care worker's employer and/or the appropriate licensing unit or agency are notified within two (2) business days of substantiation using [Notice of Substantiation of Child Abuse and/or Neglect by Child Care Worker/Resource Parent \(CAPTA081003SCW\)](#), if applicable.

If the child care worker or licensed resource parent alleged perpetrator chooses to appeal the decision, proceed to next step. See separate policy, [2.5 Administrative Appeal Hearings](#).

#### **PRACTICE GUIDANCE**

N/A

#### **FORMS AND TOOLS**

1. [Notice of Intent to Substantiate Allegations of Child Abuse and/or Neglect on a Child Care Worker/Resource Parent \(CAPTA081003ICW\)](#)
2. [Assessment of Alleged Child Abuse or Neglect \(SF113/CW0311\)](#) – Available in ICWIS
3. [Notice of Child Care Worker/Resource Parent Assessment Review \(CCWAR\) Decision and Right to Administrative Appeal \(State Form 54316\)](#)
4. [Request an Administrative Appeal Hearing for Child Abuse and/or Neglect Substantiation\(CAPTA081003AAH\)](#)
5. [Notice of Substantiation of Child Abuse and/or Neglect by Child Care Worker/Resource Parent \(CAPTA081003SCW\)](#)

#### **RELATED INFORMATION**

N/A