



## INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE POLICY

**Chapter 2:** Administration of Child Welfare

**Section 04:** DCS Employee Administrative Review Process

**Effective Date:** July 27, 2022

**Version:** 1

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### POLICY OVERVIEW

In the event an Indiana Department of Child Services (DCS) employee is found to have a substantiation of Child Abuse and/or Neglect (CA/N) following the completion of an assessment, due process is warranted through the completion of a timely Administrative Review process.

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### PROCEDURE

**All DCS Field Operation Division employees are both childcare workers and DCS employees, so they should receive both a Childcare Worker Administrative Review (CCWAR) and a DCS Employee Administrative Review. The CCWAR occurs before the employee review.** Other DCS employees properly designated as childcare workers should also receive both types of administrative reviews. A CCWAR must be performed before the substantiation is approved in the child welfare case management system, if the substantiation at issue is not the result of a recent assessment, only a DCS employee administrative review will be performed. See policy 2.03 Child Care Worker Assessment Review Process for more information.

DCS will not allow an employee, who is a substantiated perpetrator of CA/N, to have direct contact with children and families (including resource parents) that DCS serves until the Administrative Review process has been completed. DCS will terminate the employment of DCS employees who are substantiated against as perpetrators of CA/N upon completion of the Administrative Review if the substantiation is affirmed, regardless of whether the allegations involve actions taken in the scope of DCS employment. See Code of Conduct for the Indiana Department of Child Services and State Personnel Department (SPD) Standard Policies on Discipline Policy Statement and Responsibilities and Procedures for more information.

Any DCS employee who learns that they have been entered onto the Child Protection Index (CPI) or central registry as a perpetrator of child abuse or neglect in Indiana or in another state or territory will notify the following within **one (1) business day** of learning of the substantiation:

1. The employee's Local Office Director (LOD) for field employees who work in a local office; or
2. The employee's Work Unit Manager for other employees who work in a local office or if the employee works in:
  - a. Central Office,
  - b. The Hotline, or

c. Child Support Bureau (CSB).

**Note:** Failure to notify the appropriate person in a timely manner may result in disciplinary action, up to and including dismissal.

If the DCS Central Office Background Check Unit (COBCU) learns that an employee has been entered onto the Child Protection Index (CPI) or central registry as a perpetrator of child abuse or neglect in Indiana or in another state or territory, COBCU will notify the following within one (1) business day of learning of the substantiation:

1. The Human Resources (HR) Deputy Director;
2. The Chief of Staff; and
3. The Deputy Director of the substantiated employee's work unit.

Within **one (1) business day** of learning of the substantiation, the Human Resources Deputy Director will hold an internal meeting to discuss the situation and plan next steps. The meeting will include, at a minimum:

1. The Chief of Staff,
2. The HR Director,
3. The Deputy General Counsel over employee relations issues, and
4. Every person in the chain of command above the employee who is found to be on the CPI.

**Note:** If the substantiation has been entered on a central CA/N registry in another state or territory, DCS is unable to change the other state's or territory's substantiation. In these circumstances, the employee will be terminated without an administrative review.

For any Indiana substantiation on a DCS employee, DCS requires the completion of an Administrative Review for the DCS employee found to have substantiated Child Protective Service (CPS) History.

**Note:** When the following court orders exist, no administrative review is available and the employee will be terminated, as these court orders are binding upon the department:

1. Child in Need of Services (CHINS) and Juvenile Delinquent (JD) adjudications based on the same facts and circumstances as those that led to the substantiation; and
2. Criminal convictions based on the same facts and circumstances as those that led to the substantiation.

The Administrative Review must be conducted by a DCS team consisting of:

1. The Deputy Director of Field Operations or Designee,
2. The Deputy Director of Juvenile Justice Initiatives and Support or Designee, and
3. The Chief of Staff or Designee.

**Note:** A Designee of the DCS General Counsel may be present at the administrative review for consultation, but not as a deciding member of the team.

The DCS Regional Manager (RM) or Division Deputy Director of the DCS employee who is found to have substantiated CPI history or a new substantiation of CA/N will upon notification:

1. Submit a request to restrict access to the case management system records pertaining to the DCS employee with a substantiation as a perpetrator of C A/N. Any records pertaining to the DCS employee will be restricted except to appropriate personnel. See

policy 4.39 Restricting Assessments in Management Gateway for Indiana's Kids (MaGIK) for additional information;

2. Contact the DCS Human Resources Deputy Director concerning suspension without pay of the DCS employee found to have substantiated CPI history;

**Note:** Employees who are on desk duty due to a pending assessment will be suspended without pay at the time when a substantiation against them is approved, which is *after* any appropriate Childcare Worker Administrative Review (CCWAR), in the child welfare case management system.

3. Coordinate with the appropriate staff to suspend the substantiated employee pending the outcome of an administrative review. During this time, the employee will be removed from all DCS duties, responsibility, and access to case management systems, files (paper and electronic), and office space;
4. Coordinate with appropriate staff to temporarily revoke all system access for the suspended employee;
5. Ensure the employee is aware of the administrative review process, when to expect a decision and what the potential outcomes may be;
6. Notify the DCS LOD and Family Case Manager (FCM) Supervisor (for Field Operations) or Work Unit Manager (for Central Office, Hotline, or CSB) of the Administrative Review Team's decision; and
7. Ensure the DCS employee is notified within **one (1) business day** of the Administrative Review Team's decision.

The DCS Deputy Director of Field Operations or designee will:

1. Promptly send Notice of Automatic DCS Employee Administrative Review to DCS Employee;
2. Coordinate the Administrative Review process by convening the Administrative Review Team members;
3. Ensure the Administrative Review is complete within **fifteen (15) business days** following the notification of the employee's substantiated CPI history; and
4. Notify the employee's DCS RM or Division Deputy Director of the Administrative Review Team's findings and whether any additional actions should be taken.

The Administrative Review Team will:

1. Review the complete DCS assessment file and any documentation submitted by the DCS employee to be considered in the review;

**Note:** When the following court orders exist, no administrative review is available and the employee will be terminated, as these court orders are binding upon the department:

- a. CHINS adjudications based on the same facts and circumstances as those that led to the substantiation;
  - b. Juvenile Delinquency (JD) adjudications based on the same facts and circumstances as those that led to the substantiation; and
  - c. Criminal convictions based on the same facts and circumstances as those that led to the substantiation.
2. Decide which of the following actions will be taken:
    - a. Uphold CPI entry or substantiation determination, or
    - b. Remove employee from the CPI or overturn the substantiation determination and reclassify as unsubstantiated, or

- c. Return the assessment case to the FCM assessor for further assessment of the report, and

**Note:** If the decision is to remand the case for further assessment, then the entire administrative review process, including any applicable CCWAR, will need to begin again if the decision resulting from that further assessment is again to substantiate.

3. Notify the HR Deputy Director of the outcome of the administrative review within **one (1) business day** to coordinate next steps:
  - a. If the decision is to uphold the substantiation, the employee will be terminated within **one (1) business day**; or
  - b. If the decision is to overturn the substantiation determination and reclassify as unsubstantiated, the employee should be returned to normal duties within **one (1) business day**.
4. Notify the DCS employee of the Administrative Review Team's decision in writing and edit the DCS 311 report to show "unsubstantiated" within **five (5) business days** and:
  - a. Provide the Notice of Right to Administrative Appeal of a Child Abuse or Neglect Determination form **if the substantiation or CPI entry is upheld**. Also, provide the Request for an Administrative Appeal Hearing for Child Abuse or Neglect Substantiation form; **or**
  - b. Provide the Notice of Administrative Review Outcome for a Department of Child Services (DCS) Employee form **if the allegations are unsubstantiated or returned for further assessment** and notify the assessing office of the decision.

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## RELEVANT INFORMATION

### Definitions

#### Child Care Worker

DCS defines "Child Care Worker" per 465 IAC 3-1-5 as a person who:

1. Is employed or actively seeking employment (other than self-employment as an owner/operator) at any of the following types of facilities:
  - a. Childcare center,
  - b. Childcare home (licensed or unlicensed),
  - c. Childcare ministry (licensed or unlicensed),
  - d. Residential group home,
  - e. Child Caring Institution (CCI),
  - f. School,
  - g. Licensed Child Placing Agency (LCPA),
  - h. Juvenile detention center; **or**
2. Is a child caregiver who:
  - a. Provides or is responsible for providing care and supervision of a child to whom they are both not living with or related to, or a legal guardian, or custodian,
  - b. Provides the care described in (a) at a residence that is not where the child lives and outside of the presence of the child's parent, guardian, or a custodian with whom the child resides,
  - c. Is not required to be licensed as a childcare home or foster family home, and

- d. Receives more than \$2,000 a year for providing care and supervision for a child or children. **or**
3. Has or will have direct contact with children on a regular and continuing basis through employment (or through employment being actively sought) with any agency, facility, or home that provides the following to a child or children to whom the person is not related:
  - a. A service that provides for the care, health, safety, and supervision of a child's social, emotional, and educational growth; or
  - b. Services to, or for the benefit of, children who are victims of child abuse or neglect (this includes agencies, facilities, and homes that have contracts with DCS to provide services).

#### Perpetrator

Per 465 IAC 3-1-11, "Perpetrator" means a person who, by an act or an omission, has been identified in a report concluding a child abuse and neglect assessment to have committed child abuse or neglect.

#### Substantiated

Per IC 31-9-2-123, "Substantiated", when used in reference to a child abuse or neglect report made under IC 31-33, means a determination regarding the status of the report whenever facts obtained during an assessment of the report provide a preponderance of evidence that child abuse and neglect has occurred.

#### **Forms and Tools**

- [Notice of Administrative Review Outcome for a Department of Child Services Employee \(SF 54317\)](#)
- [Request for an Administrative Appeal Hearing for Child Abuse or Neglect Substantiation \(SF 54776\)](#)

#### **Related Policies**

- [2.03 Child Care Worker Assessment Review Process](#)
- [2.05 Administrative Appeal Hearings](#)
- [4.39 Restricting Assessments in Management Gateway for Indiana's Kids \(MaGIK\)](#)
- [Code of Conduct for the Indiana Department of Child Services](#)
- [State Personnel Department \(SPD\) Standard Policy on Discipline](#)
- [State Personnel Department \(SPD\) Standard Policy on Discipline- Responsibilities and Procedures](#)

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## **LEGAL REFERENCES**

- [IC 31-9-2-123: "Substantiated"](#)
- [IC 31-33-26-11: Binding court determinations; stay of administrative hearings; perpetrator entitlement to administrative hearings](#)
- [IC 31-33-26-12: Criminal charges against a perpetrator; entitlement to administrative hearings](#)
- [465 IAC 3-1-5: "Child care worker" defined](#)
- [465 IAC 3-1-11: "Perpetrator" defined](#)

- [465 IAC 3-2-3: Administrative review procedure for department employees for a substantiated report of child abuse or neglect](#)
- [465 IAC 3-2-4: Exceptions to administrative review of an abuse or neglect determination based on court findings](#)

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ARCHIVED- 6/30/23- Legislative Changes

## PRACTICE GUIDANCE- DCS POLICY 2.04

*Practice Guidance is designed to assist DCS staff with thoughtful and practical direction on how to effectively integrate tools and social work practice into daily case management in an effort to achieve positive family and child outcomes. Practice Guidance is separate from Policy.*

N/A

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