

DEPARTMENT OF SOCIAL SERVICES

CHILDREN'S DIVISION

P. O. BOX 88

JEFFERSON CITY, MISSOURI

October 28, 2021

M E M O R A N D U M

TO: CHILDREN'S DIVISION AND CONTRACTED STAFF
FROM: JOANIE ROGERS, INTERIM DIRECTOR
SUBJECT: CHANGES TO ADMINISTRATIVE REVIEW

DISCUSSION:

The purpose of this memorandum is to inform staff of changes to the administrative review process as a result of 13 CSR 35-31.025 Child Abuse and Neglect Review Process regulatory changes that take effect October 30, 2021.

FACES will implement changes related to the revised regulation on Monday, November 1, 2021.

Local Administrative Reviews

Local administrative reviews will no longer be required. As a result, the administrative review process will be managed by the Administrative Review Team in central office. Circuit managers or their designee may choose to review the CA/N report prior to the Child Abuse and Neglect Review Board (CANRB) hearing to determine whether the report should be upheld or reversed; however, this is optional. If new information becomes available that could potentially alter a preponderance of evidence (POE) finding, the Circuit Manager or their designee should review the CA/N report to determine whether sufficient evidence exists to continue to uphold the finding(s). If a decision is made at any point to reverse a POE finding(s) prior to the CANRB hearing, the Circuit Manager or their designee will contact the Central Office Administrative Review Team via dss.cd.adminreview@dss.mo.gov within one (1) business day of that determination so the hearing can be cancelled.

The Investigation Disposition Letter (CS-21) has been updated and directs alleged perpetrators to request administrative reviews via the administrative review mailbox listed above. Nonetheless, alleged perpetrators may still request administrative reviews through the local office. All requests received in the local office must be forwarded to the administrative review mailbox within three (3) business days of receipt of the request.

The CANRB Hearing Referral (CD-307) must be completed and the file must be uploaded to the CANRB request drive as described below.

The Administrative Review Team will contact the Circuit Manager when an administrative review request is received in Central Office. Upon this notification, the Circuit Manager or their designee must:

- Complete the CANRB Hearing Referral (CD-307) and send to the administrative review mailbox provided above.
- Upload the file to the CANRB request drive within three (3) business days. The file must be uploaded before the CANRB hearing can be scheduled. Include any supporting documentation, color photographs, the CPS-1, the CS-21, and any correspondence with all parties since the conclusion of the CA/N report. Please download any relevant documents from OnBase and attach as files, as opposed to printing documents, scanning them, and uploading to the CANRB request drive.

Circuit managers may assign a designee to assist in gathering records or other requests related to the administrative review process. Please notify the central office Administrative Review Team via the administrative review mailbox of any designee appointments or changes.

The CANRB hearing will not be scheduled without a completed CD-307. It is necessary to provide complete and accurate contact information as requested on the CD-307 to ensure the appropriate parties are notified and invited to the CANRB hearing.

Pending Criminal Charges

If criminal charges that arise from the investigation remain pending when the alleged perpetrator receives the CS-21, the alleged perpetrator will have two options, and may either:

1. Request an administrative review within sixty (60) days of receiving the CS-21. Should they choose this option, the Administrative Review Team will schedule the CANRB hearing and the alleged perpetrator will not be listed in the central registry until the POE finding(s) is upheld by the Board; or
2. Request an administrative review within sixty (60) days of the court's final disposition or dismissal of the criminal charges. If the alleged perpetrator opts to wait for the resolution of the criminal case, the alleged perpetrator **will be** placed on the central registry sixty (60) days after receipt of the CS-21 and will remain in the central registry unless and until the POE finding(s) is reversed by the Board or a court.

As a result of these changes, Central Office has started reviewing all outstanding administrative reviews delayed because of pending criminal charges. This team will be reaching out to Circuit Managers for assistance in gathering records or other information.

Electronic Notice

Alleged perpetrators are able to elect to receive CS-21s electronically, as well as future correspondence related to their administrative review request. The Description of the Investigation Process (CS-24) has been revised to inform alleged perpetrators of their right to receive legal notifications electronically. Staff should ask the alleged perpetrator their preference, electronic or mail, at the time the CS-24 is provided to the alleged perpetrator. If the alleged perpetrator requests to receive the CS-21 electronically, staff may send an encrypted email with a signed copy of the CS-21. There will be no need to send a copy through registered mail for those alleged perpetrators who have elected to receive electronic notices. However, in the email to the alleged perpetrator staff should ask for the alleged perpetrator to reply that they received the notification. A check box has been added to the Conclusion Summary screen in FACES to capture the alleged perpetrator's consent to receiving electronic notice and the AP's email address. For investigations, users will receive an error message if this question is left blank or if answered 'yes' and there is no email on the Contact List for the alleged perpetrator.

Deceased Perpetrators

If the Children's Division learns the alleged perpetrator has died prior to the expiration of the alleged perpetrator's time to request a review or before a scheduled CANRB hearing occurs, the deceased perpetrator will not be added to the central registry; however, the Children's Division will retain the report in the same manner as unknown perpetrators and Family Assessments.

As a result, a new investigative conclusion option of 'Child Abuse/Neglect Present, Perpetrator Deceased' has been created. The primary purpose of this conclusion is to stop the administrative review process when the alleged perpetrator passes away. However in an effort to improve the accuracy of child CA/N fatality reporting as required by the Family First Prevention Services Act (FFPSA), the Child Abuse and Neglect Hotline Unit (CANHU) will now be screening in CA/N fatality reports when the alleged perpetrator is also deceased at the time of the reporter's call. This new conclusion type is to be utilized when:

- An alleged perpetrator dies prior to the conclusion of an investigation and other elements to establish abuse or neglect are met; or
- To amend a POE conclusion when an alleged perpetrator dies prior to the conclusion of the administrative review process.

Central Registry Disputes

Staff should refer any disputes regarding any individual's placement on the central registry to the administrative review mailbox provided above. These disputes can occur for a variety of reasons, but typically occur (1) when an individual reports they were unaware of POE findings against them until the individual received results from a check of the Family Care Safety Registry, or (2) when the Children's Division denies placement of a child with an individual who reports they were unaware of POE findings against the individual.

For all central registry disputes involving a hotline that occurred prior to FACES, the Circuit Manager or their designee should include a copy of the CA/N report with the referral to the administrative review mailbox.

The Administrative Review Team will review all disputes and consult with DLS to determine whether to leave the alleged perpetrator on the central registry.

Preparing for the CANRB Hearing

The Children’s Division and the alleged perpetrator will each have twenty (20) minutes to present evidence to the board during the CANRB hearing. A portion of these twenty (20) minutes may be reserved for allowing witnesses to present evidence to the board. Staff should invite relevant witnesses to participate in the CANRB hearing when beneficial to support the Children’s Division’s POE finding(s).

Staff should refrain from reading the report directly during Children’s Division’s portion of the CANRB hearing. Board members have had a chance to review the report and all available evidence prior to the hearing. Instead, staff should summarize the evidence for each of the legal elements that resulted in a determination of abuse or neglect by the POE standard. To assist with presenting at CANRB, the CANRB Hearing Presentation template has been developed and should be utilized by the staff member presenting at the CANRB hearing.

Circuit managers will be responsible for determining the most appropriate staff member to present at the CANRB. Supervisors should attend the CANRB hearing with their staff. In the event the investigator who completed the report is no longer with the agency, the supervisor responsible for the report should be the presenter. In the event the investigator and the supervisor are no longer with the agency, the circuit manager should be the presenter. Ultimately the presenter should be a staff member who had some responsibility or oversight for the investigation, as opposed to a frontline team member who did not have any involvement with the report.

Training

The Legal Aspects Team has created a new course to assist staff in understanding the foundations of the CANRB process, the operation of the Board, and how to prepare for a hearing. The training, LA of the Child Abuse and Neglect Review Board CD000711, includes video clips of a mock CANRB hearing and helpful discussion from experienced staff. This training also discussed the regulatory changes highlighted in this memorandum.

NECESSARY ACTION	
<ol style="list-style-type: none">1. Review this memorandum with all Children’s Division staff.2. Review revised Child Welfare Manual chapters as indicated below.3. All questions should be cleared through normal supervisory channels and directed to:	
PDS CONTACT Camille Walker Camille.Walker@dss.mo.gov 573-526-3174	MANAGER CONTACT Kara Wilcox Kara.B.Wilcox-Bauer@dss.mo.gov <u>573-526-9707</u>

<p>CHILD WELFARE MANUAL REVISIONS</p> <p>Section 2, Chapter 5.2.4.3, Paperwork Provided</p> <p>Section 2, Chapter 5.3.8.6, Child Abuse/Neglect Present, Perpetrator Deceased</p> <p>Section 2, Chapter 5.3.11.1, Central Registry Disputes</p> <p>Section 2, Chapter 5.3.11, Notifications for Investigation Dispositions</p> <p>Section 2, Chapter 5.3.12, Alleged Perpetrator Appeal Process</p> <p>Section 2, Chapter 5.3.13, Deceased Perpetrators</p>
<p>FORMS AND INSTRUCTIONS</p> <p>Investigation Disposition Letter (CS-21)</p> <p>Description of the Investigation Process (CS-24)</p> <p>CANRB Referral (CD-307)</p>
<p>REFERENCE DOCUMENTS AND RESOURCES</p> <p>CANRB Hearing Presentation Template</p>
<p>RELATED STATUTE(S) OR REGULATION(S)</p> <p>13 CSR 35-31.025</p>