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Regulation Package # 0508-03

CDSS MANUAL LETTER NO. CWS-09-02

TO: HOLDERS OF THE CHILD WELFARE SERVICES MANUAL, DIVISION 31

Regulation Package # 0508-03

Effective 8/31/09

Sections 31-003, 31-021, 31-410, and 31-501

This manual letter has been posted on the Office of Regulations Development website at <http://www.dss.cahwnet.gov/ord/PG603.htm>.

In 2004, the California Department of Social Services (CDSS) was party to a lawsuit, *Gomez v. Saenz*, which alleged that individuals' names were submitted to the Child Abuse Central Index (CACI), a child abuse registry maintained by the California Department of Justice, without a right to challenge the placement, which the plaintiff alleged was a violation of due process guarantees of the California Constitution. In addition, the lawsuit challenged the accuracy of information retained on the CACI, alleging that a significant number of listings were maintained on the CACI without adequate underlying files to support the listing. This lawsuit was settled in October 2007 and as part of the agreement between the parties, CDSS agreed to amend current regulations to reflect the new grievance hearing procedures as required by the settlement.

Pursuant to Penal Code Section 11169, an individual's name is submitted to the CACI whenever a county child welfare services agency determines that a child abuse and/or neglect (excluding general neglect) allegation regarding that individual is found to be inconclusive or substantiated. Prior to *Gomez v. Saenz*, individuals with due process by allowing them to dispute their listing on the CACI. The settlement agreement further stipulates that county CWD agencies are to furnish a request for grievance hearing and notice of listing on CACI forms to persons subject to listing on CACI.

The stipulation to create regulations based on *Gomez v. Saenz* requires the adoption of a new section in the Manual of Policies and Procedures, Division 31 regulations. In addition, amendments to other portions of Division 31 were necessary to provide consistency and to accurately reflect the due process requirements pursuant to the *Gomez v. Saenz* settlement agreement.

These regulations were adopted on an emergency basis effective August 31, 2009 and are scheduled to be heard at a public hearing held on January 13, 2010.

FILING INSTRUCTIONS

Revisions to all manuals are indicated by a vertical line in the left margin. The attached pages are to be entered in your copy of the Manual of Policies and Procedures. The latest prior manual letter containing Child Welfare Services Manual changes was CWS-09-01.

<u>Page(s)</u>	<u>Replace(s)</u>
3 and 4	Pages 3 and 4
18.1 and 18.2	Pages 18.1 and 18.2
24.1 through 24.5	Insert after page 24
25 and 26	Pages 25 and 26
101 through 102.2	Pages 101 through 102.2
109.1 through 109.3	Insert after page 109
110 and 110.1	Pages 110 and 110.1

Attachment

RG

**CHILD WELFARE SERVICES PROGRAM
GENERAL REQUIREMENTS**

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31-003 DEFINITIONS – FORMS **31-003**

- (a) (Reserved)
- (b) (Reserved)
- (c) (Reserved)
- (d) (Reserved)
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- (n) (Reserved)
- (o) (Reserved)
- (p) (Reserved)
- (q) (Reserved)
- (r) (Reserved)
- (s) (1) SOC 826 (Rev. 11/08) Child Fatality/Near Fatality County Statement of Findings and Information.
- (s) (2) SOC 832 (Rev. 5/08) Notice of Child Abuse Central Index Listing, hereby incorporated by reference, is used for the purpose of notifying individuals that their name has been submitted to the Department of Justice (DOJ) for listing on the Child Abuse Central Index (CACI).

31-003	DEFINITIONS – FORMS (Continued)	31-003
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(3) SOC 833 (Rev. 3/08) Grievance Procedures for Challenging Reference to the Child Abuse Central Index, hereby incorporated by reference, is used for the purpose of informing individuals of the requirements for requesting a grievance hearing, as well as providing information regarding timeframes and all required components of a grievance hearing.

(4) SOC 834 (Rev. 6/08) Request for Grievance Hearing, hereby incorporated by reference, is used for the purpose of providing individuals with a mechanism for requesting a grievance hearing to challenge their listing on the CACI.

(t) (Reserved)

(u) (Reserved)

(v) (Reserved)

(w) (Reserved)

(x) (Reserved)

(y) (Reserved)

(z) (Reserved)

NOTE: Authority cited: Sections 10553, 10554, and 10850.4, Welfare and Institutions Code. Reference: *Gomez v. Saenz* Settlement Agreement and Court Order, Case No: BC284896; Section 11169, Penal Code and Sections 827 and 10850.4, Welfare and Institutions Code and 42 USC 5106.

31-020 GRIEVANCE PROCEDURES 31-020
(Continued)

- .63 The county director's decision shall contain a summary statement of the facts, the issues involved, findings, and the basis for the decision.
- .64 A copy of the decision shall be sent to the following:
 - .641 Each party to the review.
 - .642 Every representative of each party.
 - .643 The California Department of Social Services.
- .7 Unless the child is in immediate danger, he/she shall remain with the foster parent(s), pending decision of the county director, when removal is the basis for a complaint.
- .8 The review record shall be retained for one year from the decision date, and shall include all documents, copies of documents, and physical evidence accepted as review evidence.

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Section 16503, Welfare and Institutions Code.

31-021 CHILD ABUSE CENTRAL INDEX (CACI) GRIEVANCE PROCEDURES 31-021

- .1 Within five (5) business days of submitting an individual's name to the Department of Justice (DOJ) for listing on the CACI pursuant to Section 31-501.4, the following forms shall be sent to the individual at his/her last known address:
 - .11 The Notice of Child Abuse Central Index Listing (SOC 832),
 - .12 Grievance Procedures for Challenging Reference to the Child Abuse Central Index (SOC 833), and
 - .13 Request for Grievance Hearing (SOC 834).
- .2 Request for a Grievance Hearing
 - .21 The complainant shall send by mail, fax or in person, a completed SOC 834 form, or a written request for grievance hearing that includes all of the information required under Section 31-021.213, signed by the complainant to request a grievance hearing. This must be received by the county within thirty (30) calendar days of the date of notice. Failure to send the completed SOC 834 form or written request within the prescribed timeframe shall constitute a waiver of the right to a grievance hearing.

**CHILD WELFARE SERVICES PROGRAM
GENERAL REQUIREMENTS**

31-021 (Cont.)

Regulations

31-021 CHILD ABUSE CENTRAL INDEX (CACI) GRIEVANCE PROCEDURES 31-021
(Continued)

- .211 For purposes of this section, a complainant is deemed aware of the county decision when the county mails the notification as specified in Section 31-021.1 to the complainant's last known address.
 - .212 For individuals to whom no prior notification was mailed regarding his or her submission to the CACI, the individual shall file the completed SOC 834 form within thirty (30) calendar days of becoming aware that he or she is listed in CACI and becoming aware of the grievance process.
 - .213 A completed SOC 834 form or a written request for grievance hearing shall include the referral number, name of county, complete contact information, date of birth, a reason for grievance which the complainant believes provides a basis for reversal of the county decision, and if represented, the name of the representative and contact information for the representative.
 - .214 The county shall assist the complainant in preparation of the request for grievance hearing if assistance is requested.
- .3 The following grievance hearing procedures shall only apply for challenges to county submission for listing individuals on the CACI.
- .31 A grievance hearing request shall be denied when a court of competent jurisdiction has determined that the suspected child abuse and/or neglect has occurred, or when the allegation of child abuse and/or neglect resulting in the referral to CACI is pending before the court.
 - .311 If Section 31-021.31 no longer applies, a complainant can submit the completed SOC 834 form or written request within thirty (30) calendar days of the conclusion of the judicial matter to request a grievance hearing.
 - .312 Timeframes for conducting and completing a grievance hearing will remain as specified in Sections 31-021.4 through .85.
- .4 The grievance hearing shall be scheduled within ten (10) business days and held no later than sixty (60) calendar days from the date the request for grievance is received by the county, unless otherwise agreed to by the complainant and the county.
- .41 Notice of the date, time and place of the grievance hearing shall be mailed by the county to the complainant at least thirty (30) calendar days before the grievance hearing is scheduled, unless otherwise agreed to by the complainant and the county.
 - .42 The complainant may have an attorney or other representative present at the hearing to assist him or her.

**CHILD WELFARE SERVICES PROGRAM
GENERAL REQUIREMENTS**

Regulations

31-021 (Cont.)

**31-021 CHILD ABUSE CENTRAL INDEX (CACI) GRIEVANCE PROCEDURES 31-021
(Continued)**

- .43 Either party may request a continuance of the grievance hearing not to exceed ten (10) business days. Additional continuance or dismissal of the hearing shall be granted with mutual agreement of all parties involved or for good cause.
- .44 The county may resolve a grievance at any point by changing a finding of inconclusive or substantiated child abuse and/or neglect to unfounded and notifying the DOJ of the need to remove the individual's name from the CACI.
- .5 The grievance review officer conducting the grievance hearing shall be:
 - .51 A staff or other person not directly involved in the decision, or in the investigation of the action or finding, that is the subject of the grievance hearing.
 - .52 Neither a coworker nor a person directly in the chain of supervision of any of the persons involved in the finding, or in the investigation of the action or finding, that is the subject of the grievance hearing unless the grievance review officer is the director or chief deputy director of the county.
 - .521 For the purposes of this section, a coworker includes a staff person who has regular direct contact with the staff involved in the finding related to the grievance, and this person is unable to separate themselves as an impartial reviewer.
 - .53 A staff or other person who is knowledgeable of the child welfare services field and capable of objectively reviewing case information pertaining to the grievance.
- .6 The grievance review hearing shall be conducted in the following manner:
 - .61 The grievance hearing shall, to the extent possible, be conducted in a non-adversarial environment.
 - .62 The county, complainant and his or her representatives, if any, shall be permitted to examine all documents and relevant evidence that is not otherwise made confidential by law, which the opposing party intends to introduce at the grievance hearing.
 - .621 The county and the complainant shall make available for inspection the documents and other evidence they intend to rely upon at the grievance hearing at least ten (10) business days prior to the hearing, to the extent permitted by law.
 - (a) The county shall redact such names and personal identifiers from the documents and evidence as required by law and to protect the identity, health, and safety of those mandated reporters of suspected child abuse and/or neglect pursuant to Penal Code Section 11167. The county may further redact information regarding the mandated reporter's observations of the evidence indicating child abuse and/or neglect.

**CHILD WELFARE SERVICES PROGRAM
GENERAL REQUIREMENTS**

31-021 (Cont.)

Regulations

31-021 CHILD ABUSE CENTRAL INDEX (CACI) GRIEVANCE PROCEDURES 31-021
(Continued)

- .622 The county shall release disclosable information to the complainants' attorney or representative only if the complainant has provided the county with a signed consent to do so.
- .623 Witness lists shall be available for exchange in advance of the hearing. The county and the complainant shall provide a list of witnesses they intend to call at the grievance hearing at least ten (10) business days prior to the grievance hearing.
- .624 Failure to disclose evidence or witness lists in advance of the grievance hearing can constitute grounds for objecting to consideration of the evidence or allowing testimony of a witness during the hearing.
- .63 Each party and their attorney or representative, and witnesses while testifying, shall be the only persons authorized to be present during the grievance hearing unless all parties and the grievance review officer consent to the presence of other persons.
- .64 The information disclosed at the grievance hearing may not be used for any other purpose. No information presented at the grievance hearing shall be disclosed to any person other than those directly involved in the matter. Any documents or other evidence disclosed by the county to the complainant or the complainant's representative shall be returned to the county at the conclusion of the hearing.
- .65 All testimony shall be given under oath or affirmation.
- .66 The grievance review officer has no subpoena power. However, the parties may call witnesses to the hearing and question the witnesses called by the other party.
- .661 The grievance review officer may limit the questioning of the witness to protect the witness from unwarranted embarrassment, oppression, or harassment.
- .662 The grievance review officer may prevent the presence and/or examination of a child at the grievance hearing for good cause, including but not limited to protecting the child from trauma or to protect his or her health, safety, and/or well-being.
- .663 The grievance review officer may permit the testimony and/or presence of a child only if the child's participation in the grievance hearing is voluntary and the child is capable of providing voluntary consent.
 - (a) The grievance review officer may interview the child outside the presence of county staff, complainant and/or any other party in order to determine whether the participation of the child is voluntary, or whether good cause exists for preventing the child from being present or testifying at the grievance hearing.

**CHILD WELFARE SERVICES PROGRAM
GENERAL REQUIREMENTS**

Regulations

31-021 (Cont.)

31-021 CHILD ABUSE CENTRAL INDEX (CACI) GRIEVANCE PROCEDURES 31-021
(Continued)

- .67 The county employee(s) who conducted the investigation that is the subject of the grievance hearing shall be present at the hearing if that person is employed by the county and is available to participate in the grievance hearing.
 - .671 For purposes of this paragraph, a conflict in work assignments shall not render the county employee who conducted the investigation unavailable to participate in the hearing.
- .68 The county shall first present its evidence supporting its action or findings that are the subject of the grievance. The complainant will then provide evidence supporting his or her claim that the county's decision should be withdrawn or changed. The county shall then be allowed to present rebuttal evidence in further support of its finding. Thereafter, the grievance review officer may, at his or her discretion, allow the parties to submit any additional evidence as may be warranted to fully evaluate the matter under review.
 - .681 The grievance review officer shall have the authority to continue to review for a period not to exceed ten (10) calendar days if additional evidence or witnesses are necessary to make a determination on the issue.
- .7 The county shall have the proceedings of the grievance hearing audio recorded as part of the official administrative record. The county shall possess and maintain the administrative record of the grievance hearing.
 - .71 The complainant or the complainant's attorney and/or representative shall be entitled to inspect the recording and any transcripts made thereof, however the county shall keep possession of the recording and transcript and its contents will remain under seal.
 - .711 Where the complainant seeks to inspect the transcript, the costs for transcribing a recording of the hearing shall be assessed to the complainant.
 - .72 The county shall lodge the administrative record with the court if any party seeks judicial review of the final decision of the county director.
- .8 Grievance hearing decisions shall be rendered as follows:
 - .81 The grievance review officer shall make a determination based upon the evidence presented at the grievance hearing, whether the allegation of child abuse and/or neglect is unfounded, inconclusive, or substantiated as defined by the Penal Code Section 11165.12.
 - 82 The grievance review officer shall render a written recommended decision within thirty (30) calendar days of the completion of the grievance hearing. The decision shall contain a summary statement of facts, the issues involved, findings, and the basis for the decision.

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31-021	CHILD ABUSE CENTRAL INDEX (CACI) GRIEVANCE PROCEDURES	31-021
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(Continued)

- .83 The county director shall issue a final written decision adopting, rejecting, or modifying the recommended decision within ten (10) business days after the recommended decision is rendered. The final written decision shall explain why a recommended decision was rejected or modified by the county director.

- .84 A copy of the decision shall be sent to the following:
 - .841 The complainant that requested the grievance hearing;
 - .842 The complainant's attorney or representative, if any; and
 - .843 The California Department of Social Services.

- .85 If the complainant chooses to challenge the final decision of the county director, the evidence and information disclosed at the grievance hearing may be part of an administrative record for a writ of mandate and kept confidential. The administrative record shall be kept confidential, including, if any of the parties request, that it be filed with the court under seal.

- .86 The grievance hearing administrative record shall be retained for a length of time consistent with current law, regulations, or judicial order which governs the retention of the underlying record, but not less than one year from the decision date in any circumstance, and shall include the documents and other information accepted as evidence at the hearing.

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: *Gomez v. Saenz*, Settlement Agreement and Court Order, Case No: BC284896; Sections 11165.12, 11166(g) and 11167, Penal Code and Sections 827, 10850, and 16503, Welfare and Institutions Code.

31-025 ADMINISTRATIVE REVIEWS 31-025

- .1 Administrative reviews shall be conducted as specified in Welfare and Institutions Code Sections 366.3, 16503, and 16507.3; and 42 USC 675(6).

HANDBOOK BEGINS HERE

- .11 These statutes identify the children in foster care placement who are to receive administrative reviews and specifies that each child's status is to be reviewed periodically, but no less frequently than once every six months.

HANDBOOK ENDS HERE

- .2 Administrative reviews shall not be required for children for whom a legal guardian has been appointed as a permanent plan unless the child has been removed from the guardian pursuant to Welfare and Institutions Code Section 300.

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 366.3, 16503, and 16507.3, Welfare and Institutions Code and 42 USC Section 675(6).

31-410 TEMPORARY PLACEMENT (Continued)**31-410****HANDBOOK BEGINS HERE**

- (a) Welfare and Institutions Code Section 309(d) provides:

“(d)(1) If an able and willing relative, as defined in Section 319, or an able and willing nonrelative extended family member, as defined in Section 362.7, is available and requests temporary placement of the child pending the detention hearing, the county welfare department shall initiate an assessment of the relative’s or nonrelative extended family member’s suitability, which shall include an in-home inspection to assess the safety of the home and the ability of the relative or nonrelative extended family member to care for the child’s needs, and a consideration of the results of a criminal records check and a check of allegations of prior child abuse or neglect concerning the relative or nonrelative extended family member and other adults in the home. Upon completion of this assessment, the child may be placed in the approved home.

“(2) The standards used to evaluate and grant or deny approval of the home of the relative and of the home of a nonrelative extended family member, as described in Section 362.7, shall be the same standards set forth in regulations for the licensing of foster family homes which prescribe standards of safety and sanitation for the physical plant and standards for basic personal care, supervision, and services provided by the caregiver.

“(3) If a relative or nonrelative extended family member meets all other conditions for approval, except for the receipt of the Federal Bureau of Investigation’s criminal history information for the relative or nonrelative extended family member, and other adults in the home, as indicated, the county welfare department may approve the home and document that approval, if the relative or nonrelative extended family member, and each adult in the home, has signed and submitted a statement that he or she has never been convicted of a crime in the United States, other than a traffic infraction as defined in paragraph (1) of subdivision (a) of Section 42001 of the Vehicle Code. If, after the approval has been granted, the department determines that the relative or nonrelative extended family member or other adult in the home has a criminal record, the approval may be terminated.”

HANDBOOK ENDS HERE

- .512 As assessment of the relative's ability to provide temporary care for the child.
- .513 The results of a criminal records check conducted through the California Law Enforcement Telecommunications System (CLETS) on all persons 18 years of age or older residing in the home, pending the receipt of DOJ fingerprint clearance.

HANDBOOK BEGINS HERE

- (a) Penal Code Section 16504.5 specifies in pertinent part:

(a) Notwithstanding any other provision of law, pursuant to subdivision (b) of Section 11105 of the Penal Code, a child welfare agency may secure from an appropriate governmental agency the state summary criminal history information, as defined in subdivision (a) of Section 11105 of the Penal Code, through the California Law Enforcement Telecommunications System for the following purposes: ...

(f) Nothing in this section shall preclude a relative or other person living in a relative's home from refuting any of the information obtained by law enforcement if the individual believes the criminal records check revealed erroneous information.

HANDBOOK ENDS HERE

- .514 The results of a Child Abuse Central Index (CACI) check conducted on all persons 18 years of age and older residing in the home.

HANDBOOK BEGINS HERE

- (a) Penal Code Section 11170(c) in summary states that when Child Abuse Central Index information is released by the Department of Justice for the temporary placement of a child, the child protective services agency or court investigator is responsible for notifying, in writing, the person listed in the Child Abuse Central Index that he/she is in the index. The notification shall include the name of the reporting agency and the date of the report.

- (b) Penal Code Section 11170(b)(10)(A) in summary requires persons or agencies who receive Child Abuse Central Index information for purposes of licensing, adopting or placing a child to obtain the underlying report from the reporting agency and make their own independent assessment regarding the quality of the evidence disclosed and its sufficiency for making decisions regarding the placement of a child which will be the most appropriate placement and in the best interest of the child.

HANDBOOK ENDS HERE

- .515 A CACI listing does not necessarily preclude placement with a relative or non-related extended family member. Instead, the relative or non-related extended family member may still be entitled to placement upon consideration of all relevant factors. These factors include but are not limited to the following:

31-410	TEMPORARY PLACEMENT (Continued)	31-410
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- (a) The nature of the substantiated or inconclusive child abuse/neglect report that led to the CACI listing;
- (b) The period of time that has elapsed since the substantiated or inconclusive child abuse/neglect was committed and the number of offenses;
- (c) The circumstances surrounding the commission of the substantiated or inconclusive child abuse/neglect that would demonstrate the likelihood of repetition; and
- (d) Character references.

HANDBOOK BEGINS HERE

.52 A copy of the written assessment may be made available to the appropriate adoption agency in the event that the relative(s) considered is assessed as being able and willing to provide a legally permanent home for the child, so that an abbreviated adoption assessment may be made if adoption becomes the permanency alternative implemented for the child.

HANDBOOK ENDS HERE

- .6 The temporary placement shall be based on the following needs of the child including, but not limited to:
- .61 The least restrictive, most family-like environment.
 - .62 The child's age and sex.
 - .63 The child's health and any special needs of diet, medical or psychological care.
 - .64 The possible need for access to or protection from the child's parent(s)/guardian(s).
 - .65 The protective needs of the community.
 - .66 The most appropriate placement selection.

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code and Assembly Bill 1695, Section 21. Reference: Sections 309 (as amended by Assembly Bill 1544, Chapter 793, Statutes of 1997), 319 (as amended by Senate Bill 2232, Chapter 1530, Statutes of 1990), 319(d) (as amended by Assembly Bill 1544, Chapter 793, Statutes of 1997), 309, 309(d), 319, 319(f), 361.2(h), 362.7, 727, 11402, and 16507.5(b) (as amended by Assembly Bill 1695, Chapter 653, Statutes of 2001), 361.2(b) and (g), 366(c), 11467.1, and 16501.1(c), Welfare and Institutions Code; Section 1530.8, Health and Safety Code; Sections 11170(b)(10)(A) and 11170(c), Penal Code; and 42 U.S.C. Section 675(1)(A), and *Gomez v. Saenz* Settlement Agreement and Court Order, Case No: BC284896.

31-415 **EMERGENCY SHELTER CARE** **31-415**

- .1 Provision of emergency shelter care shall not exceed 30 calendar days in any one episode that requires removal of the child except as follows:
 - .11 The county shall be permitted to provide emergency shelter care beyond 30 calendar days only when the case record documents the existence of one of the following circumstances:
 - .111 Emergency shelter care is necessary to meet the continuing protective needs of the child, and there is no other location wherein these protective needs can be met.
 - .112 The child has special needs which render him/her extremely difficult to place, and there is no other location available wherein these special needs can be met.
 - .12 The circumstances permitting extension of emergency shelter care beyond 30 calendar days shall be reviewed and the extension approved in writing by an administrative official higher than a first-level supervisor.
- .2 In no event shall federal and/or state funds appropriated for the purpose of providing any of the child welfare services specified in Division 31 be provided for emergency shelter care beyond 30 calendar days in any one episode except as follows:
 - .21 Each county is permitted to utilize county-only funds to draw down federal financial participation under the Emergency Assistance program, with no state share of cost, in order to provide emergency shelter care beyond 30 calendar days in any one episode if:
 - .211 the child is from a needy family authorized to receive Emergency Assistance funding in accordance with provisions in the Title IV-A State Plan implementing 45 CFR 233.120; and
 - .212 the circumstances specified in Section 31-415.1 are documented in the child's case record.

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Section 16501(a)(3), Welfare and Institutions Code and 45 CFR 233.120.

CHAPTER 31-500 SPECIAL REQUIREMENTS**31-501 CHILD ABUSE AND NEGLECT REPORTING REQUIREMENTS****31-501**

- .1 The county shall report by telephone, fax or electronic submission every known or suspected instance of child abuse and/or neglect as defined in Penal Code Section 11165.6, to law enforcement departments and the District Attorney's Office as specified in Penal Code Section 11166(j).

HANDBOOK BEGINS HERE

Penal Code Section 11165.6 defines child abuse or neglect to include physical injury or death inflicted by other than accidental means upon a child by another person, sexual abuse as defined in Section 11165.1, neglect as defined in Section 11165.2, the willful harming or injuring of a child or the endangering of the person or health of a child, as defined in Section 11165.3, and unlawful corporal punishment or injury as defined in Section 11165.4. "Child abuse or neglect" does not include a mutual affray between minors. "Child abuse or neglect" does not include an injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his or her employment as a peace officer.

HANDBOOK ENDS HERE

- .2 When the county receives a report of known or suspected child abuse and/or neglect that has allegedly occurred in a licensed facility, the county shall notify the licensing office with jurisdiction over the facility, as specified in Penal Code Sections 11166.1 and 11166.2.
- .3 When the county receives a report of known or suspected child "abuse or neglect in out-of-home care," including a child placed in the home of a relative or non-related extended family member, the county shall create a new referral.
- .31 The county shall respond to all referrals of "abuse or neglect in out-of-home care" in accordance with the provisions of Section 31-101.
- .32 A disposition of the investigation shall be recorded in the child's case record.
- .4 The county shall submit a report to the Department of Justice (DOJ) pursuant to Penal Code Section 11169 of every case it investigates of known or suspected child abuse that it has determined to be inconclusive or substantiated as defined in Penal Code Section 11165.12.
- .41 The county shall not submit a report to the DOJ for referrals it investigates and the only allegation substantiated is general neglect or the only incident is a positive toxicology screening at the time of delivery, as specified in Penal Code Sections 11165.2(b) and 11165.13.
- .42 The county shall ensure that the report submitted to the DOJ is complete and is in conformity with the California Code of Regulations, Title 11.

31-501 CHILD ABUSE AND NEGLECT REPORTING REQUIREMENTS
(Continued)

31-501

HANDBOOK BEGINS HERE

- .421 The California Code of Regulations, Title 11, Standard Reporting Form for Reports of Child Abuse Maintained in the Automated Child Abuse System (ACAS) states:
- (a) The "Child Abuse Summary Report: Form SS 8583 is the standard reporting form required to report investigative summaries of suspected incidents of child abuse and severe neglect to ACAS. Reporting agencies shall submit Form SS 8583 to DOJ after an active investigation has been conducted and the incident has been determined not to be unfounded. Reporting agencies must obtain and use the most recent version of the SS 8583 when submitting the report to DOJ." The SS 8583 form is maintained by DOJ and may be obtained by contacting that department.

HANDBOOK ENDS HERE

- .43 The county shall make information received from DOJ pursuant to Penal Code Section 11170(b)(1) available to the persons or agencies as specified in that section.
- .5 Within five (5) business days of the county submitting information to the DOJ to list an individual's name on the Child Abuse Central Index (CACI), the county shall provide to that individual written notification, which shall contain the following information and materials:
- .51 The completed SOC 832, as found in Section 31-003(s)(2), notification that the county has completed an investigation of suspected child abuse and/or severe neglect, which the county has determined to be either inconclusive or substantiated, and has submitted the individual's name to the DOJ for listing on the CACI;
- .511 The completed SOC 832 shall include the victim's name, and a brief description of the alleged abuse and/or severe neglect, and the date and location where this occurred;
- .52 The SOC 833, as found in Section 31-003(s)(3), information explaining the individual's right to request a grievance hearing, and the procedures for the hearing;
- .53 The SOC 834, as found in Section 31-003(s)(4), a request for grievance hearing;
- .531 A completed SOC 834 shall include the referral number, name of county, complete contact information, date of birth, reason for grievance, information regarding an attorney or representative for the individual if any, and the address where to submit the request for grievance hearing.

31-501	CHILD ABUSE AND NEGLECT REPORTING REQUIREMENTS (Continued)	31-501
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- .54 The SOC 832, 833 and 834 shall be mailed to the last known address where the notice and request for grievance are most likely to be received by the individual.

- .6 An individual wishing to challenge his or her referral to the CACI may request a grievance hearing utilizing the procedures under Section 31-021. The county may initiate an internal review relating to the matter identified in the request prior to the hearing.

- .7 Where the county's finding of inconclusive or substantiated for abuse and/or severe neglect is changed to unfounded as a result of the grievance hearing or internal review, or a judicial determination of factual innocence of all of the investigated allegations that supported the county's decision to refer the individual's name to the DOJ for listing on CACI, the county shall within five business days submit to the DOJ a revised DOJ form SS 8583 containing the change in finding.
 - .71 Where the county's finding of inconclusive or substantiated child abuse and/or neglect is changed to a finding other than unfounded as a result of the grievance hearing, the county shall within five business days submit to the DOJ a revised Form SS 8583 containing the change in finding.

- .8 The county shall document the outcome of the grievance hearing and any change in the finding of an allegation, if any, within the child's case record.

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: *Gomez v. Saenz* Settlement Agreement and Court Order, Case No: BC284896 and Sections 11165.12, 11165.5, 11165.6, 11166, 11166.1, 11166.2, 11166.3, 11169, and 11170(b)(1), Penal Code.

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31-502 CHILD FATALITY REPORTING AND DISCLOSURE REQUIREMENTS 31-502

- .1 The county shall submit a report to the Department for all child fatalities when there is reasonable suspicion, as defined in Penal Code Section 11166(a)(1), that a child fatality was caused by abuse and/or neglect.
- .11 When the county learns that a child fatality has occurred and there is reasonable suspicion that the fatality was caused by abuse and/or neglect, the county shall notify the Department by submitting the Child Fatality/Near Fatality County Statement of Findings and Information (SOC 826) form within five (5) business days.

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- .111 The county may "learn" of the fatality in ways that may include, but not be limited to, a formal report, emergency response referral, a cross report from a law enforcement agency or a private party. Once this information is learned the standard condition of reasonable suspicion is applied.
- (a) Penal Code Section 11166(a)(1) defines "reasonable suspicion" and states in pertinent part: "'reasonable suspicion' for the purposes of this section means that it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing, when appropriate, on his or her training and experience, to suspect child abuse or neglect.

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31-502 CHILD FATALITY REPORTING AND DISCLOSURE REQUIREMENTS 31-502
(Continued)

- .112 Once information regarding a child fatality is learned and there is reasonable suspicion that the cause was due to abuse and/or neglect, the county shall generate a referral within the Child Welfare Services/Case Management System, and the county shall respond to the referral as described in Section 31-101.
- (a) If the county finds an allegation to be inconclusive or substantiated, they shall complete the reporting requirements as described in Section 31-501.
- .113 The following information shall be reported to the Department, using the SOC 826 form:
- (a) The age and gender of the child.
- (b) The date of death.
- (c) Residence of child at the time of death.
- (1) Foster care placement as defined by Section 31-002(f)(8).
- (2) Parent or Guardian as defined by Sections 31-002(p)(1) and (g)(3).
- (d) Whether an investigation is being conducted by a law enforcement agency and/or the county child welfare agency.
- .2 The county shall report additional information to the Department, using the SOC 826 form, upon the completion of the child abuse and/or neglect investigation of the deceased child. The subsequent report shall include the information listed in Section 31-502.113 as well as the following:
- .21 Whether the child fatality was or was not determined to be a result of abuse and/or neglect.
- .22 The agency that made the determination whether the child fatality was or was not the result of abuse and/or neglect:
- .221 CWS or Probation
- A "determination" of abuse and/or neglect by CWS or Probation is the substantiation of abuse and/or neglect allegations as the direct cause of the fatality.
- .222 Law Enforcement
- A law enforcement investigation concludes that the child's death was a direct result of abuse and/or neglect.