



February 8, 2011

Regulation Package # 1110-08

CDSS MANUAL LETTER NO. CWS-11-01

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

**Regulation Package # 1110-08**

**Effective 1/31/11**

**Section 31-021**

This Manual Letter restores the phrase "...at least ten (10) business days prior to the hearing" to subsection .621. The phrase was mistakenly and unintentionally deleted during the prior rulemaking process. This manual letter has been posted on the Office of Regulations Development website at <http://www.dss.cahwnet.gov/ord/PG603.htm>.

**FILING INSTRUCTIONS**

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-10-01.

| <u>Page(s)</u> | <u>Replace(s)</u>   |
|----------------|---------------------|
| 24.3 and 24.4  | Pages 24.3 and 24.4 |

Attachment

KJ

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- .542 If, at the beginning or during the hearing, the grievance review officer upholds a party's motion for disqualification, the matter shall be postponed. A postponement due to a disqualification of a grievance review officer shall be considered a postponement with good cause. If, after the hearing, but before the close of the record the grievance review officer determines that disqualification is appropriate, the provisions of Section 31-021.55 shall apply.
  
- .55 A staff or other person who is available to prepare the proposed decision. If the grievance review officer who heard the case is unavailable to prepare the proposed decision, the County Director or his or her designee shall contact the claimant and the county and notify each party that the case is being assigned to another grievance hearing officer for preparation of the decision on the record.
  
- .551 The notice shall inform the claimant that her or she may elect to have a new grievance hearing held in the matter, provided that he or she agrees to waive the ten (10) day or sixty (60) day period set forth in Section 31-021.4.
  
- .552 A grievance review officer shall be considered unavailable within the meaning of this section if he or she:
  - (a) Is incapacitated.
  - (b) Has ceased employment as a grievance review officer.
  - (c) Is disqualified under Section 31-021.54-542.
  
- .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 records and evidence related to the county's investigative activities and investigative findings associated with the original referral that prompted the CACI listing, except for information that is otherwise made confidential by law.
  
  - .621 The county and the complainant shall make available for inspection all records and evidence related to the original referral that prompted the CACI listing, except for information that is otherwise made confidential by law, at least ten (10) business days prior to the hearing.
    - (a) The county shall redact such names and personal identifiers from the records and other 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.

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| <b>31-021</b> | <b>CHILD ABUSE CENTRAL INDEX (CACI) GRIEVANCE PROCEDURES</b> | <b>31-021</b> |
|---------------|--|---------------|

(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 unless otherwise required by law. No information presented at the grievance hearing shall be disclosed to any person other than those directly involved in the matter. Any records and 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.