



January 11, 2011

Regulation Package # 0508-03

ERRATA FOR CDSS MANUAL LETTER NO. CWS-10-01

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

Regulation Package # 0508-03

Effective 9/3/10

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

Clerical errors contained in the above referenced package were corrected. 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-09-03.

<u>Page(s)</u>	<u>Replace(s)</u>
24.1 and 24.2	Pages 24.1 and 24.2
24.3 and 24.4	Pages 24.3 and 24.4
109.1 and 109.2	Pages 109.1 and 109.2

Attachment

KJ

This page is intentionally left blank

31-020	GRIEVANCE PROCEDURES (Continued)	31-020
---------------	--	---------------

- .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 of 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.

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, pursuant to section .213 above, 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.)

- .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.
- (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.

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 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.

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 actively investigates of known or suspected child abuse that it has determined to be inconclusive or substantiated as defined in Penal Code Section 11165.2.
- .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 not submit a report to the DOJ for referrals it investigates and that are determined to be unfounded.
- .43 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.

HANDBOOK BEGINS HERE

- .431 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 BCIA 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 BCIA 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 BCIA 8583 when submitting the report to DOJ." The BCIA 8583 form is maintained by DOJ and may be obtained by contacting that department.

HANDBOOK ENDS HERE

- .44 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.